

Pension Board Agenda



To: Michael Ellsmore (Chair)
Co-optees: Richard Elliott, Teresa Fritz, Daniel Pyke, Ava Payne and David Whickman
Councillor Andrew Pelling

A meeting of the **Pension Board** which you are hereby summoned to attend, will be held on **Thursday, 15 October 2020 at 2.00 pm**. This meeting will be held remotely. Pension Board members will be provided with a link to remotely attend the meeting.

PLEASE NOTE: Members of the public are welcome to remotely attend this meeting via the following web link: <http://webcasting.croydon.gov.uk/meetings/10948>

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www.croydon.gov.uk/meetings
Wednesday, 7 October 2020

N.B This meeting will be paperless. The agenda can be accessed online at www.croydon.gov.uk/meetings

AGENDA – PART A

1. Apologies for Absence

To receive any apologies for absence from any members of the Board.

2. Minutes of the Previous Meeting (Pages 5 - 12)

To approve the minutes of the meeting held on 16 January 2020 as an accurate record.

3. Disclosure of Interests

In accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, Members and co-opted Members of the Council are reminded that it is a requirement to register disclosable pecuniary interests (DPIs) and gifts and hospitality to the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. In addition, Members and co-opted Members are reminded that unless their disclosable pecuniary interest is registered on the register of interests or is the subject of a pending notification to the Monitoring Officer, they are required to disclose those disclosable pecuniary interests at the meeting. This should be done by completing the Disclosure of Interest form and handing it to the Democratic Services representative at the start of the meeting. The Chair will then invite Members to make their disclosure orally at the commencement of Agenda item 3. Completed disclosure forms will be provided to the Monitoring Officer for inclusion on the Register of Members' Interests.

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. Key Performance Indicators for the Period 1 June to 31 August 2020 (Pages 13 - 24)

For members of the Board to receive a report on the Key Performance Indicators for the administration of the Croydon Council Local Government Pension Scheme for the period from 1 June to the end of August 2020.

6. Update on the McCloud Case (Pages 25 - 36)

For members to receive an update on the McCloud case and the implications of this for the administration of the Croydon Council Local Government Pension Scheme.

- 7. Pension Board Annual Report (Pages 37 - 42)**
For members to receive the Pension Board Annual Report for 2019/20.
- 8. Reporting Breaches of the Law (Pages 43 - 56)**
For members to review the Fund's Reporting Breaches of the Law Policy and the Breaches of the Law Log.
Appendix E to follow.
- 9. Pension Fund Governance Review - Action Plan Progress**
For members to receive an update on the implementation of the findings from the Aon Governance Review.
Report to follow.
- 10. Pension Board Forward Plan 2020/21 and 2021/22 (Pages 57 - 60)**
For members to receive a report on the Board's forward plan looking at its schedule of work for the remainder of this municipal year and activity scheduled for 2021/22.
- 11. Remuneration Report**
Report to follow.
- 12. Pension Regulator**
For members to receive a verbal update.
- 13. Exclusion of the Press and Public**
The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

"That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended."

PART B

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Pension Board

Meeting held on Thursday, 16 January 2020 at 2.00 pm in F10, Town Hall, Katharine Street, Croydon CR0 1NX

MINUTES

Present: Michael Ellsmore (Chair);
Co-optees: Richard Elliott, Teresa Fritz, Daniel Pyke and David Whickman
Councillor Jerry Fitzpatrick

Also Present: Councillor Simon Brew, Yvette Hopley and Andrew Pelling. Co-opted Members Gill Driver and Peter Howard.
Nigel Cook (Head of Pensions and Treasury) and Victoria Richardson (Head of HR and Finance Service Centre). The following officers attended for the item from the Secretary to the LGP Scheme Advisory Board: Claire Agbaba (Pensions Team Leader), Matthew Hallett (Pension Fund Investment Manager), Alison Fisher (Pensions Administrator) and Ian Talbot (Pension Fund Investment Manager).

Apologies: Ava Payne

PART A

1/20 Minutes of the Previous Meeting

The minutes of the meeting held on 17 October 2019 were agreed as an accurate record.

With regard to item 43/19, the Independent Chair of the Pension Board noted that the Governance Review Report had not yet gone to the Pension Committee for its consideration. However, reassurance was provided by the Chair of the Pension Committee (who was in attendance at the meeting) that an additional meeting of the Committee was scheduled for 11 February 2020 to specifically receive a report on how the Pension Committee planned to respond to the Governance Review. The Independent Chair of the Pension Board welcomed this update and noted that the work of the review had been ongoing for more than a year and that with 11 out of the 80 requirements on the dashboard not being met, he was sure the review would be of interest to the Committee.

The Head of Pensions and Treasury committed to provide a remuneration strategy for Board Members at the Board's meeting in April 2020.

2/20 Disclosure of Interests

There were no disclosures of interests.

3/20 Urgent Business (if any)

There were no items of urgent business.

4/20 Presentation from Bob Holloway, Secretary to the LGP Scheme Advisory Board

The Members of the Pension Board welcomed Bob Holloway, Secretary to the LGP Scheme Advisory Board. Mr Holloway began his presentation by providing some context and background highlighting that he had worked within the Local Government Pension Scheme (LGPS) for some 35 years and that this was a very technical and complex area.

Following the 2010 General Election and the formation of the Coalition Government there had been a complete review of public sector pension schemes. This had been undertaken by Lord John Hutton of Furness resulting in 26 recommendations that had in the main been accepted. Mr Holloway highlighted that Lord Hutton's key recommendations were:

- to establish a Scheme Advisory Board with responsibility to recommend changes to the responsible authority; and
- for every scheme to set up a Pension Board. These were recommended to assist the Scheme Manager/Administrating Authority. The role of Pension Boards was set out in regulations in 2013 mirroring the recommendations of the review and established their role in scrutiny (compliance checking) and assisting the Administering Authority to improve the effectiveness of the administration and governance of the scheme.

Mr Holloway provided the Board with an overview of compliance within statutory regulation. It was highlighted that there is a legal duty to abide by the code of practice published by the Pensions Regulator. It was noted that the code of practice was being rewritten with a modular approach being produced. The importance of the code was stressed; Board Members needed knowledge and understanding of the scheme in addition to public sector pensions and how they operate.

It was noted that the Pensions Regulator could fine individuals and Boards for non-compliance against the code. This was reflected in the increased desire by Boards and their Members to have indemnity insurance. Mr Holloway acknowledged that it would be unusual for individuals to be subject to a fine by the Regulator. Additionally, The Head of Pensions and Treasury confirmed that indemnity insurance was in place for the Croydon Pension Board and its Members.

It was acknowledged that it was likely Boards would not always be happy with actions taken by the Administering Authority. However, whilst they had the opportunity to whistleblow this was described as a last resort. Other options for resolution included informal discussions and engaging with the Monitoring Officer and/or Section 151 officer.

If a Board was not satisfied then there would be a need to look at the formal powers to report. Mr Holloway acknowledged that there was a lack of clarity

on what constitutes a formal or material breach with no definition being available. He advised that Boards should record every breach in order to establish an audit trail and to document why a breach had not been reported should this become necessary. It was noted that the Pensions Regulator was as interested in processes and record keeping as the outcome arrived at in any given scenario.

The Independent Chair of the Board noted the difficulty of determining what constituted a material breach; the Board was in large part dependent on the advice of officers who had loyalty to their employer making it difficult for Boards to obtain independent advice. It was confirmed that a register of breaches was in place.

Mr Holloway emphasised the fiduciary duty of Councillors on the Pension Committee. It was stressed that the focus should be on the duty of care but to whom this should be applied was more difficult to determine with the Council, its employees, council tax payers and electors all vying for pre-eminence. There was also a lack of clarity on who could be the ultimate guarantor of the Fund.

In response to a question from a Member of the Pension Board regarding what would happen should the Pension Fund no longer have access to sufficient funds, Mr Holloway stressed that as a statutory scheme there would have to be a final guarantor. Legal opinion was yet to determine the final guarantor as there was nothing in law to state that this would be guaranteed by the Government. It was noted that should an authority run out of funds, its functions would have to continue for example through the formation of another local entity or the Government exercising its rights to send in Commissioners.

Board Members asked about the treatment of orphaned liabilities with Mr Holloway agreeing that these would fall on the Fund with the Government's response to the consultation on these issues awaited.

Replicating the levy to the Pension Protection Fund in the private sector was suggested by a Board Member as a possibility for third tier employers. Mr Holloway agreed that there was the possibility of establishing a lifeboat fund rather than orphaned liabilities being picked up by the Fund. However, it was noted that LGPS was not a member of the Pension Protection Fund because it was a statutory scheme and guaranteed.

A Pension Committee Member asked for an update on the McCloud Case and its likely ramifications for the LGPS. Mr Holloway explained that whilst there was protection in law against discrimination it was permitted for pensions to discriminate on grounds of age as long as this was done objectively. In principle discrimination in pensions was undertaken in order not to give any detriment to those close to retirement age as it was difficult to change financial planning at the last minute. However, transitional protection offered to some employees when changes were made to public sector pension schemes was subject to legal challenge by the Fire Brigade Union and the Police with the case being won on the grounds of equality of benefits. As a

result it was likely that the same approach would have to be applied to all who were active members of the scheme in April 2012. It was highlighted that the ramifications of the court's decision would take time to unfold. The Independent Chair of the Pension Board noted that it would have to be accepted that it was going to cost more to deliver the scheme.

The Chair of the Pension Committee asked for clarification regarding any legislative initiatives coming forward that might affect the scheme. Mr Holloway thought it likely that the new Government would undertake to continue with the Pension Bill to increase the powers of the Pensions Regulator. Judgement was also awaited on whether a pension fund could boycott nations in their entirety and/ or the UK defence industry. It was thought that the outcome of this judgment might need to be reflected in legislation and guidance.

Lastly, Mr Holloway noted that as part of his remit he would continue to collect data from triennial valuations and to annually publish a national list of the results. This had shown in 2016 that funding was improving with some having 110% funding.

In closing, Mr Holloway gave an open offer to return to the Pension Board to provide more formal training on specific issues and noted that he was trying to establish a network of local pension boards.

RESOLVED: The Independent Chair offered his thanks to Mr Holloway and thanked the Members of the Pension Committee for their attendance.

5/20 Key Performance Indicators for the Period Ended 31 October 2019

The report was introduced by the Head of HR and Finance Service Centre. It was noted that calculation of benefits in cases of death and retired members remained 100% against target. A report was also provided on successful recruitment with three positions having been filled: pensions team leader, pensions administrator and pensions governance team manager. There remained three vacancies in the team to be filled.

Work was continuing to put in place an external provider to clear the backlog of deferred benefits. Internal approval has been gained to use the national framework to appoint an external provider. Tender documents had been drafted and were with lawyers. It was anticipated that the tender would be live by the end of January 2020 and the external provider in place by the end of Spring 2020. The Independent Chair of the Board welcomed this progress but anticipated that it would be some time before the benefit of this would be seen on the backlog of deferred cases. It was made clear that new deferred cases were being maintained (100% against target) so that the backlog was not growing.

In response to a question from the Board Member, the Head of HR and Finance Service Centre committed to provide figures on the number of members accessing their annual pension statements online.

The Independent Chair of the Pension Board reported that he had written to the Director of Finance, Insurance and Risk (and Section 151 Officer) and had received a positive response regarding recruitment and resourcing. The Head of HR and Finance Service Centre noted that additional resourcing would be required to deal with the impact of the McCloud case. Mr Holloway explained that it was not known when the ruling on the McCloud case was likely to be implemented for the LGPS. Pension Board Members noted that the McCloud Case judgement would need to be applied to those who had left the scheme since April 2012 which may be problematic in terms of having up-to-date contact information.

A Pension Board Member highlighted that the Pensions and Lifetime Savings Association was a representative on the dashboard coordination committee and aimed to feed into the Government consultation. This provided Croydon with an opportunity to contribute. It was noted that the Pension Board Member was concerned that the LGPS wasn't being heard as part of this consultation. Mr Holloway concurred as the Local Government Association hadn't been invited to contribute. Action was being taken to try and rectify this situation.

RESOLVED: the Board agreed that a report on the pension's dashboard should be provided to its meeting in April 2020. Additionally that in the future, the Key Performance Indicators report should include three months of trend data to allow Board Members to undertake a better analysis.

6/20 Review of Risk Register

The Head of Pensions and Treasury highlighted that there were three changes to the Risk Register:

- Changes to US foreign policy but to a large extent the market was becoming inured to this and building this into its pricing;
- The funding strategy statement which was a component part of triennial valuation and was a work in progress. This was an essential part of considering what had to be done to meet liabilities; and
- The risk on cybercrime with a paper on this coming to the Board at its meeting in April 2020.

A Pension Board Member highlighted the risk of academies not paying their contributions. Whilst it was known that this was being addressed by the Pensions Regulator it was questioned if there was enough knowledge of which academies were in arrears. This was thought of greater importance because the Fund would act as the guarantor. It was agreed that the Board would be provided with a list of those in arrears.

The Head of Pensions and Treasury explained that in effect the issue of academies being in arrears had resolved itself over the three year cycle. Academy trusts were in arrears based on a disagreement with the methodology used to calculate the level of their payments. A court case had been initiated and whilst the Pension Ombudsman wanted to examine this issue this was yet to happen. However, this would in effect start all over again

with the triennial valuation taking place and the actuary advising on the payments required to close the gap over a 22 year period. This made the court case less relevant to the main Scheme employer. However, it also meant that these Academies had missed out on the growth that had been achieved over the last three years. The Head of Pensions and Treasury expressed his concern that these Academies may not have adequate reserves in place to address the deficit. A Pension Board Member asked for clarification on whether this was reportable as a breach. There was a desire expressed to ensure that the Board be seen to have done all that was reasonable in the circumstances.

7/20 Good Governance in the LGPS - Scheme Advisory Board

The report was introduced by the Head of Pensions and Treasury and described as a roadmap of activity being undertaken or awaiting action.

The Independent Chair of the Board highlighted the guidance on needing to treat the Fund as separate from the Council. The Chair of the Pension Committee asked if the Chair of the Board had felt misinformed at the last meeting. The Independent Chair explained that it had seemed as if the Council's freeze on recruitment was being applied to the administration of the Fund. However, the Head of HR and Finance Service Centre explained that as soon as it had been explained the recruitment was for the Pension Fund, it had been actioned without delay.

A Pension Board Member asked when the anticipated new guidance on conflicts of interests would be forthcoming. Mr Holloway explained the process that was being undertaken to provide this but wasn't able to provide any detail on timings.

The Independent Chair of the Pension Board noted Appendix B to the report (Croydon's compliance against the Scheme Advisory Board Recommendations) and recommended it would be of interest to the Pension Committee.

8/20 Local Pension Board Training Plan

The Independent Chair of the Pension Board noted the thoroughness of the report and the reassurance provided by all the training and other activity that was happening. It was noted that the Board would take training on cyber security at its April 2020 meeting. The interest of the Pensions Regulator in cyber security was noted.

Pension Board Members noted two potential sources of high quality relevant training: the Centre for Public Administration and Management and the Pensions Policy Institute. The latter was highlighted as providing discounts for members and training thought suitable for new staff.

It was noted that the triennial valuation would come to the Board's meeting in April 2020 which would provide a further opportunity for training.

9/20 Scheme Advisory Board Responsible Investment Guidance Consultation

The report was introduced by the Head of Pensions and Treasury.

Pension Board Members noted that the new guidance would lead to a lot more detail on funding decisions than had previously been the case. There was agreement with the need to be more open on what was being considered in taking decisions. Additionally, that research had shown that Environment, Social and Governance (ESG) Policies were proving successful in gaining engagement with pensions especially from those who were younger.

The Head of Pensions and Treasury described how a pause had been placed on developing a more detailed ESG Policy because of lack of a clarity on the relationship with London CIV. The dynamic was different and it was no longer clear what sits with the Fund as opposed to London CIV. This was highlighting the importance of the governance of the CIV. Mr Holloway cautioned against allowing the CIV to dictate on ESG policy.

The Chair of the Pension Committee asked Mr Holloway if he was aware of other local authority funds finding it difficult when approaching the London CIV as it didn't have the products in place that were being sought. Rather, funds were having to wait for the desired products to become available as they were no longer able to act independently.

Mr Holloway advised that it was the role of the Shareholder Committee to ensure that the London CIV develop desired products. However, the Chair of the Pension Committee noted that the role of the Shareholder Committee was to find products in which there was interest from several funds and that this forced funds to act with others. This did not address the situation where there was not a critical mass for some products. This was causing frustration.

10/20 The Pensions Regulator: Governance and administration risks in public service pension schemes

The Head of Pensions and Treasury introduced the report noting that this had been provided previously but was included in the agenda for the meeting to provide context for the Board's discussions.

In response to concern expressed by a Pension Board Member regarding the difficulties faced in recruiting key persons, Mr Holloway noted that good governance could mitigate the effect; having good procedures and policies in place would provide protection against the loss of key personnel.

11/20 London CIV

The item was introduced by the Head of Pensions and Treasury who suggested it was good for the Board to continue to have oversight of the London CIV and its operation. It was highlighted that it was important for the Fund to consider carefully all investments but that it was a Government

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requirement that investments be made through the CIV. It was noted that the CIV would have benefitted from being more transparent in how investment decisions were made. It was suggested that the CIV needed to respond more to the demand of stakeholders, based on the principle of commonality. There was also concern about the CIV's staff retention.

Mr Holloway stressed that the fund operators were the share owners and that it was not the intention that the pool operators should make investment decisions. It was intended that the Scheme Advisory Board would meet with Chairs to remind them where responsibility lay. Mr Holloway advised that the Pensions Regulator did not have any remit over pooling authorities.

The Head of Pensions and Treasury tabled a paper at the meeting providing Members with a staffing update from the London CIV. An update on the products being developed by the CIV and latest fund that had been launched was being developed to share with the Board.

12/20 Property Transfer

The Head of Pensions and Treasury updated the Board that a report on the Property Asset Transfer had been provided to the Pension Committee.

13/20 Exclusion of the Press and Public

This item was not required at the meeting.

The meeting ended at 4.00 pm

Signed:

Date:

Croydon Council

For General Release

REPORT TO:	Local Pension Board 15 October 2020
SUBJECT:	Croydon Pensions Administration Team Key Performance Indicators for the Period 1 June 2020 to 31 August 2020
LEAD OFFICER:	Vicki Richardson Head of HR & Finance Service Centre

1. RECOMMENDATIONS

The Board is asked to:

Note the Key Performance Indicators and the performance against these indicators set out in Appendix A to this report.

2. EXECUTIVE SUMMARY

- 2.1 This report sets out Key Performance Indicators for the administration of the Local Government Pension Scheme for the three month period up to the end of August 2020.

3. DETAIL

- 3.1 Good governance suggests that the performance of the administration of the Local Government Pension Scheme should be monitored. This report has been developed using the guidance published by CIPFA (Administration in the LGPS: A Guide for Pensions Authorities) and is reporting to the committee on the LGPS administration performance for the period 1 June 2020 to 31 August 2020. The indicators cover legal deadlines; team performance targets, case levels and take up of member self-service and the indicators and performance against these are detailed more fully in Appendix A to this report.

Commentary

- 3.2 Priority is always given to the life events that most impact scheme members which are retirements and deaths. Performance against target remains strong in this area.
- 3.3 A high number of joiners and leavers were notified by employers to the pension team as part of the year end process during the first quarter of the 2020/21 financial year, which has impacted performance against target.

- 3.4 There was an increase in the number of requests for pension estimates during July and August as the team supported staff impacted by the Council's staffing review.
- 3.5 At end August there were 5459 workflow tasks outstanding. 59% of these outstanding tasks relate to a historical backlog of deferred benefit cases. A procurement exercise is underway to seek support from a specialist provider to clear this historical backlog, tender submissions have now been received and are being evaluated. Award of contract is expected to take place in the Autumn.
- 3.6 There are currently vacancies in the Pensions Administration Team for a pension support officer and senior pension officer, which is impacting upon performance. These vacancies were offered internally as redeployment opportunities but were not filled so approval to recruit externally is now being sought. There was a further vacancy for a pension support officer which was successfully filled through redeployment.
- 3.7 Performance information on member take-up for online self-service has now been included in the report which shows that only 25% of active and deferred pensioner members have registered. The Pension team plan to write to scheme members to further promote take-up of the service.

4. DATA PROTECTION IMPLICATIONS

- 4.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

CONTACT OFFICER:

Victoria Richardson - Head of HR & Finance Service Centre
ext. 62460.

BACKGROUND DOCUMENTS:

None

Appendices

Appendix A: Croydon Pensions Admin Team Performance Report, August 2020

Croydon Pensions Admin Team

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Reference Key Table

Direction of travel reference table	
	100% achieved against target performance improved
	100% achieved on target and performance static
	>90% achieved against target and performance improved
	>90% achieved against target and performance static
	>90% achieved against target and performance declined
	<90% achieved against target and performance improved
	<90% achieved against target and performance static
	<90% achieved against target and performance declined

Legal Deadlines

Process	Legal Requirement	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Direction of Travel	Comments
		June 2020		July 2020		August 2020			
Send a notification of joining the LGPS to a scheme member	Two months from the date of joining the scheme or earlier if within one month of receiving jobholder information where the individual is being automatically enrolled/re-enrolled	291	71.13%	28	100%	6	100%	↕	Large number of new starters were identified as part of year end process which impacted on June performance due to increased volume.
Inform a scheme member of their calculated benefits (refund or deferred) – backlog cases	As soon as practicable and no more than two months from the date of notification (from employer or scheme member)	58	29.31%	81	58.02%	26	15.38%	↓	Historical backlog is impacting performance. Steps are being taken to engage additional resources to address the backlog
Inform a scheme member of their calculated benefits (refund or deferred) – new cases	As soon as practicable and no more than two months from the date of notification (from employer or scheme member)	42	80.95%	48	95.83%	37	64.86%	↓	

Legal Deadlines

Process	Legal Requirement	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Direction of Travel	Comments
		June 2020		July 2020		August 2020			
Obtain transfer details for transfer in, calculate and provide quotation to member	Two months from the date of request	10	100%	7	100%	15	66.67%	↓	
Notify the amount of retirement benefits	One month from the date of retirement if on or after normal pension age or two months from the date of retirement if after normal pension age	25	100%	27	100%	33	100%	→	
Provide a retirement quotation on request	As soon as practicable but no more than two months from the date of request unless there has already been a request in the last 12 months	30	90%	58	98.28%	54	100%	↑	There has been an increase in demand in July/August due to the staffing reduction consultation

Legal Deadlines

Process	Legal Requirement	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Total Number Completed	% Achieved in legal deadline	Direction of Travel	Comments
		June 2020		July 2020		August 2020			
Calculate and notify (dependent(s) of amount of death benefits	As soon as possible but in any event no more than two months from date of becoming aware of death or from date of request from a third party (e.g. personal representative)	25	100%	24	100%	16	100%	→	
Provide all active and deferred members with annual benefit statements each year	By 31 st August	n/a	n/a	n/a	n/a	16300	97.84%		Work in underway to go back to employers to confirm missing information required to be able to run annual benefit statement or process as leaver.

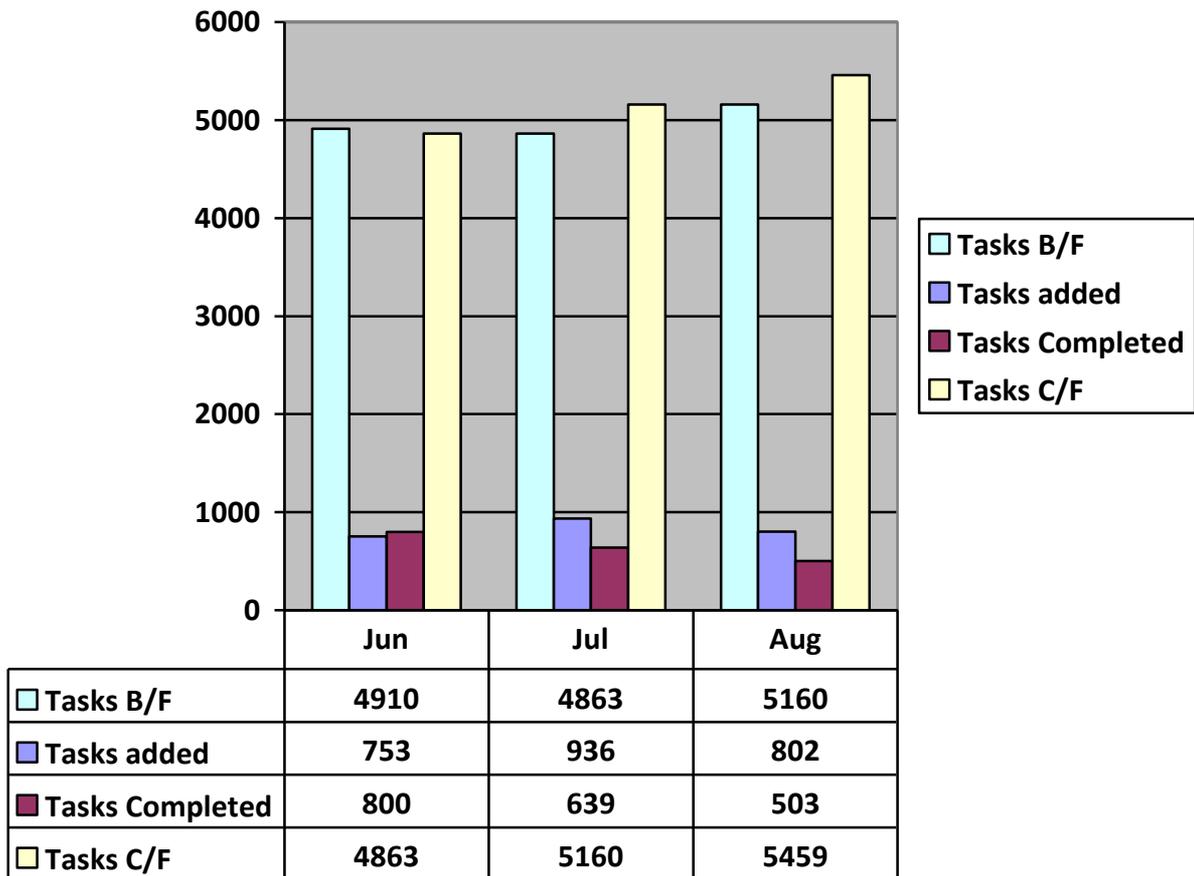
Team Performance Targets

Process	Team Target	Total Number Completed	% Achieved against target	Average days to process	Total Number Completed	% Achieved against target	Average days to process	Total Number Completed	% Achieved against target	Average days to process	Direction of Travel	Comments
		June 2020			July 2020			August 2020				
		Send a notification of joining the LGPS to a scheme member	30 days from date of notification of joining member	291	62.23%	48	28	96.43%	3	6		
Inform a scheme member of their calculated benefits (refund or deferred) – backlog cases	40 working days from date of notification (from employer or scheme member)	58	25.86%	502	81	18.52%	308	26	11.54%	891	↓	Historical backlog is impacting performance. Steps are being taken to engage additional resources to address the backlog
Inform a scheme member of their calculated benefits (refund or deferred) – new cases	40 working days from date of notification (from employer or scheme member)	42	71.43%	36	48	95.83%	15	37	62.16%	50	↓	
Obtain transfer details for transfer in, calculate and provide quotation to member	40 working days from the date of request	10	100%	15	7	100%	16	15	66.67%	42	↓	

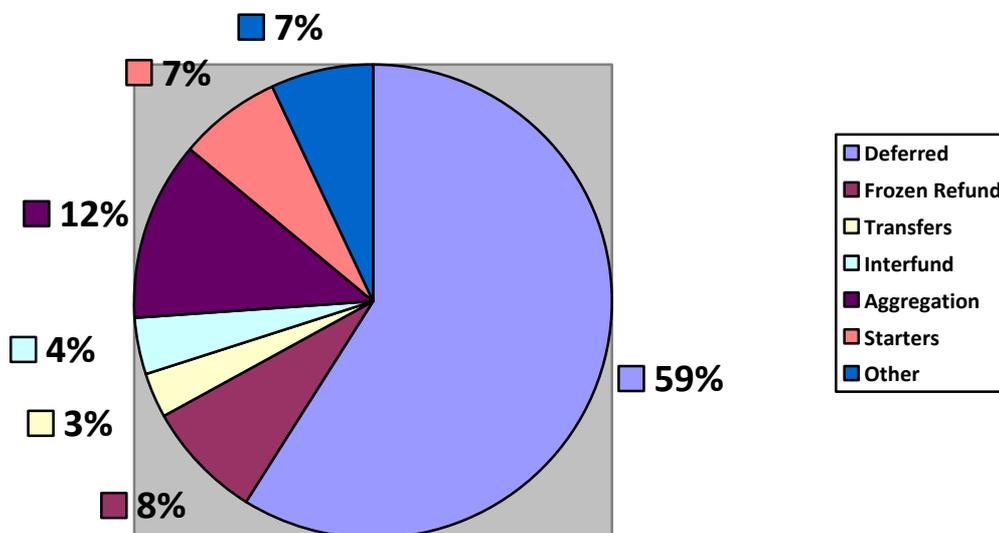
Team Performance Targets

Process	Team Target	Total Number Completed	% Achieved against target	Average days to process	Total Number Completed	% Achieved against target	Average days to process	Total Number Completed	% Achieved against target	Average days to process	Direction of Travel	Comments
		June 2020			July 2020							
Notify the amount of retirement benefits	20 working days from date of retirement	25	100%	3	27	100%	5	33	100%	3	→	
Provide a retirement quotation on request	15 working days from date of request	30	86.67%	30	58	98.28%	9	54	100%	3	↑	There has been an increase in demand in July/August due to the staffing review consultation
Calculate and notify (dependent(s) of amount of death benefits	20 working days from receipt of all information	25	96%	7	24	95.83%	9	16	93.75%	7	↓	

Case levels



Outstanding Cases by Type



Member self-service

Scheme members registered	4124 (25%)
Number scheme members who accessed annual benefit statement Q1 Apr - Jun 2020.	392

Croydon Council

For General Release

REPORT TO:	Local Pension Board 15 October 2020
SUBJECT:	Croydon Pensions Administration McCloud Initial Analysis Report
LEAD OFFICER:	Vicki Richardson Head of HR & Finance Service Centre

1. RECOMMENDATIONS

The Board is asked to:

Note the McCloud initial analysis report set out in Appendix A to this report.

2. EXECUTIVE SUMMARY

- 2.1 This report sets out an initial assessment of the number of members of the Croydon Pension fund who could be impacted by the McCloud ruling. .

3. DETAIL

Background

- 3.1 In April 2014 and 2015, following an extensive review of all public service pension schemes including the Local Government Pension Scheme (LGPS) the Government introduced new career average (or CARE) pension scheme arrangements across all public services. As part of this change, a “transitional protections” underpin was implemented for those within 10 years of retirement. The underpin ensured that members would receive the better of the final salary benefits under the previous scheme, or else the CARE benefits from the new Scheme, for service up to 31 March 2022.
- 3.2 Soon after the reforms were introduced a number of legal challenges were made against the transitional protections on various grounds, including age discrimination (the protections were seen to favour older scheme members). These challenges, and eventual ruling, have become known as the “McCloud” case.
- 3.3 The Court of Appeal has ruled in the McCloud case that the Government’s 2015 public sector pension reforms unlawfully treated existing public sector

employees differently based upon members' ages on the 1 April 2012. This ruling has meant that all members, regardless of age, who fit the specified criteria are now eligible for this underpin

- 3.4 The McCloud ruling applies across all Public Sector pension Schemes. The impact on the LGPS has arisen due to the move to the 2014 Scheme in England and Wales. On 17 July 2020 the Ministry of Housing, Communities and Local Government (MHCLG) published a consultation on a possible amendment to the existing underpin in order to comply with the Court of Appeal ruling on McCloud.

Initial Analysis

- 3.5 As an administering authority Croydon needs to consider the impact any remedy might have in terms of their scheme membership.
- 3.6 Hymans Robertson, the scheme actuaries have undertaken an initial analysis on behalf of the administering authority and have identified that in the region of 5,000 records are likely to be affected by McCloud and will require some sort of review. This is around 15% of the fund.
- 3.7 Whilst active scheme members are the most affected group it is expected that the cases that could pose the biggest problems are those where benefits are currently in payment/have been paid – current pensioners and any deaths, as well as any members who have elected to transfer benefits to another scheme. There are over 1,250 of these cases in Croydon Pension Fund.
- 3.8 Additional resources will be required within the Pension Administration Team to perform the following tasks:
- Liaise with employers to query data/request supplementary data
 - Upload any revised data onto your administration system
 - Run the underpin check for “in scope” members
 - Perform calculation of the updated benefits
 - Notify impacted pensioners of changes to their benefits
- 3.9 On the assumption that 50% of in-scope records might need some form of data update, all in-scope leavers will require recalculation and only 2% of recalculated member records will lead to amended payments to pensioners/dependents or third parties, the expected level of resource is 584 man hours. There is insufficient capacity within the current Pension Administration Team to meet this requirement and additional staffing resources will be needed.
- 3.10 The next step is to commence the collection of any supplementary data from employers e.g. service breaks and changes in working hours. The Pensions Administration Team are currently awaiting further details from Aquila Heywood, the Pensions Administration System Software provider on reports and interfaces they will be making available to support this activity.

4. DATA PROTECTION IMPLICATIONS

4.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

CONTACT OFFICER:

Victoria Richardson - Head of HR & Finance Service Centre
ext. 62460.

BACKGROUND DOCUMENTS:

None

Appendices

Appendix A: McCloud Initial Analysis Report

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London Borough of Croydon Pension Fund – McCloud initial analysis

Background

In April 2014 and 2015, following an extensive review of all public service pension schemes including the Local Government Pension Scheme (LGPS) the Government introduced new career average (or CARE) pension scheme arrangements across all public services.

As part of this change, a “transitional protections” underpin was implemented for those within 10 years of retirement. The underpin ensured that members would receive the better of the final salary benefits under the previous scheme, or else the CARE benefits from the new Scheme, for service up to 31 March 2022.

Soon after the reforms were introduced a number of legal challenges were made against the transitional protections on various grounds, including age discrimination (the protections were seen to favour older scheme members). These challenges, and eventual ruling, have become known as the “McCloud” case.

The Court of Appeal has ruled in the McCloud case that the Government’s 2015 public sector pension reforms unlawfully treated existing public sector employees differently based upon members’ ages on the 1 April 2012. This ruling has meant that all members, regardless of age, who fit the specified criteria are now eligible for this underpin. As such, at the point in which benefits are calculated or crystallised, a check needs to be performed to see which are the more generous benefits. This check must also be done retrospectively.

The McCloud ruling applies across all Public Sector pension Schemes. The impact on the LGPS has arisen due to the move to the 2014 Scheme in England and Wales and the 2015 Scheme in Scotland.

On 17 July 2020 the Ministry of Housing, Communities and Local Government (MHCLG) published a consultation on a possible amendment to the existing underpin in order to comply with the Court of Appeal ruling on McCloud. The ruling covers active, deferred, leavers and pensioners and so will require administering authorities to revisit decisions made since the introduction of the CARE scheme in 2014. As well as responding to the various questions set out in the consultation paper, therefore, LGPS administering authorities also need to consider the impact any remedy might have in terms of their own membership.

Overview

We have been asked to complete an initial assessment on the number of members of the London Borough of Croydon Pension Fund who could be impacted by the McCloud ruling. That is members who were active on 1 April 2012 and who accrued any benefits on or after 1 April 2014. This group of members includes various types of records ranging from those who are currently active, to those who are now pensioners, and includes leavers and deaths.

This report provides an estimate of the numbers of members who fall into various categories, which are affected by the McCloud ruling. The intention is that the London Borough of Croydon Pension Fund can use this information as the basis of formulating a detailed and targeted plan to deal with the different groups of affected members.

Analysis approach

We have prepared a report-writer to extract the necessary information from the Altair system. We have then distilled this data down, using various criteria to filter out members who are not in scope (e.g. those not active at 31 March 2012 or those who have not accrued benefits since 1 April 2014). This leaves a core population of members we think will be in scope and will need a check on their benefits.

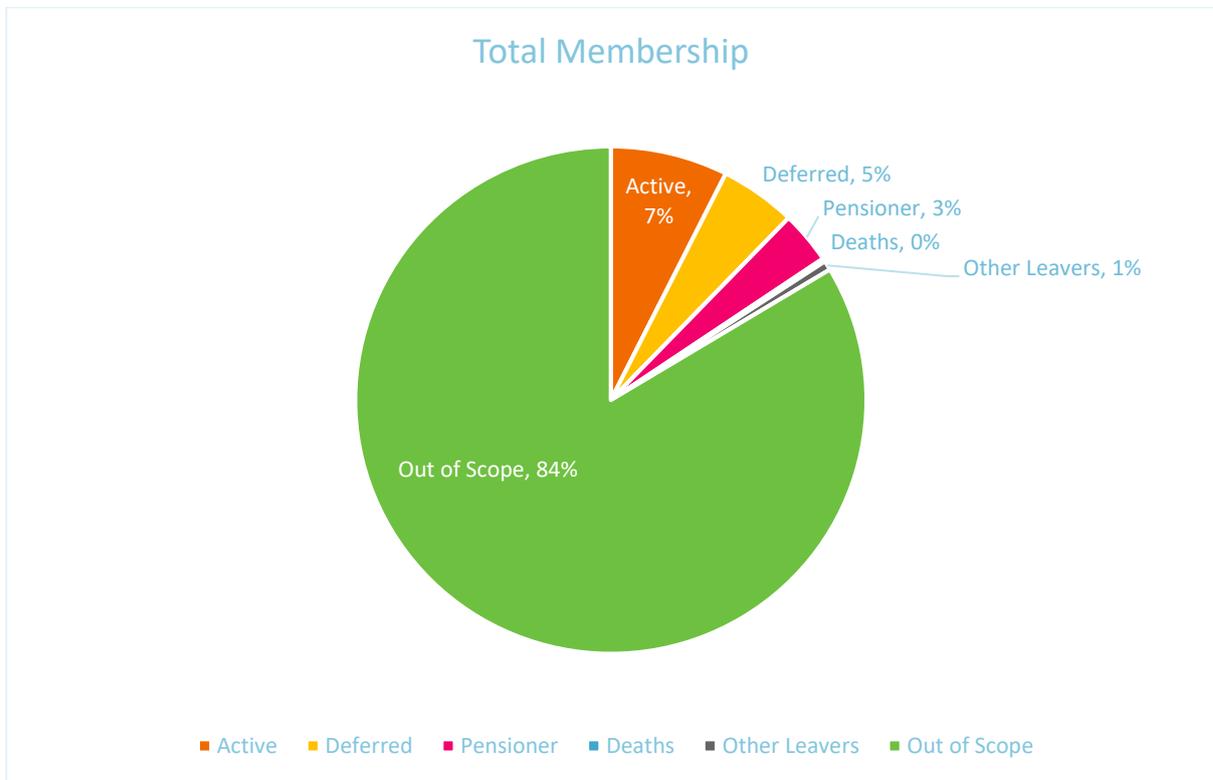
We have then summarised these by status (e.g. active, deferred, pensioner, leaver, death). We have also picked out those pensioners who are now captured following the change to regulations. Furthermore, we have broken the analysis down by employer and shown this separately, to allow you to begin discussion with individual employers, and communicate the scale of the issue to them.

Transfers in

We are aware that there will be members who have transferred in from other Funds, who may be impacted by the McCloud ruling. This report does not explicitly consider those members. Further work would be required to identify these members. We would be happy to discuss this with you in further detail if required.

Results

Based on the data provided to us, we have identified in the region of 5,000 records that we believe will be affected by McCloud and will require some sort of review. This is around 15% of the fund. The breakdown between the various status types is shown in the charts below.



The above suggests that a large portion of the fund is unaffected, which is good news. The fact that 5,000 records are likely to need reviewed does, however, still pose a significant administration burden on the administering authority and employers.

In terms of actual numbers in each section, the chart below quantifies the numbers of members in each of these categories.



It is evident that, while the active members are the most affected group, as would be expected, the cases which could pose the biggest problems to Funds are those where benefits are currently in payment/have been paid – current pensioners and any deaths, as well as any members who have elected to transfer benefits to another scheme. There are over 1,250 of these cases in the London Borough of Croydon Fund.

Of the affected pensioners, the table below shows the effect of extending the underpin.

Pensioner type	Number affected
Originally affected pensioners	766
Newly affected pensioners	246

“Originally affected pensioners” refers to those active members who were within 10 years of retirement age at 31 March 2012 and remained active members as at 1 April 2014, but have subsequently retired and been measured against the original underpin.

“Newly affected pensioners” refers to members who were active on 1 April 2012 and 1 April 2014 who were not covered by the original underpin but have since retired after 1 April 2014.

Numbers in scope across Fund employers

We have also provided a breakdown of the number of in scope members by employer. This might help you to identify any particular employer more adversely affected than the others.

Employer	Number of impacted members
Croydon Council	3,113
STEP Academy Tudor	13
Croydon College	132
Forest Academy	10
Greenwich Leisure Ltd (GLL)	18

Pegasus Academy Trust	96
St Marys Catholic Infant	12
Meridian High Academy	28
St Chad's	20
Shirley High School Academy	22
Woodcote High	33
West Thornton Primary School	38
Applegarth Academy	22
Oasis Academy Byron	10
Good Shepherd (A)	12
Gilbert Scott Primary School	8
STEP Gonville Academy (A)	51
Fairchildes Primary School	50
Collegiate Trust-Riddlesdown	47
South Norwood (Pioneer)	25
Crescent Academy	14
Croydon Vol Action	14
Oasis Academy Coulsdon	26
Kensington Primary (A)	18
AXIS Europe plc	13
Veolia	6
NorburyáManor BE College	30
Kingsley Academy	46
Orchard Park High School (A)	30
Brit School	25
Harris City Acad.CrystalPalace	39
Monks Orchard	12
Beckmead Academy Trust	12
Harris Academy South Norwood	33
Courtwood School	9
Chipstead Valley Primary	24
Broadmead Primary School	45
Folio Education Trust	19
St Aidans	9
keyRing	3
St Marys Catholic Junior (A)	14
Harris Academy Purley	33
Atwood Primary School	19
Keston Primary School	11
ARK Oval Primary Academy	33
St James the Great R.C Primary	15
St Joseph's College	17
WALLINGTON CARS	4
The Quest Academy	14
Harris Primary Academy Benson	21
STEP - Heathfield Academy	1
Woodside Primary (A)	19
Winterbourne Junior Boys	8
Churchill Croydon	7
Oasis Academy Shirley Park	58

St Thomas Becket RC Primary	22
Aerodrome Primary School	9
OLYMPIC SOUTH LTD	3
New Valley Primary School	10
St Cyprian's Greek Orth Prim	11
F M Conway	6
Oasis Ryelands	25
Carillion Services	27
St Mark's CoE Primary School	8
Harris Primary Academy Kenley	16
The Archbishop Lanfranc School	19
Veolia SLWP2 Sutton & Merton	15
Coloma Convent	13
Octavo Partnership	39
Castle Hill Primary	23
Arthur McKay	1
London Hire Services	10
STEP David Livingstone Academy	10
Vinci Facilities	2
Davidson Academy	21
Harris Invictus Acad. Croydon	4
Churchill Services	1
Rowdown Primary School	9
Sodexo Limited	3
Virgo Fidelis	10
Croydon Community Mediation	1
Skanska Construction UK Ltd	2
Impact Group	6
RC Archdiocese of Southwark	1
Paxton Academy	1
Capita Secure Information	17
Test Employer	3
John Ruskin College	14
Cabrini Children's Society	52
Coulsdon College	14
FUSION	7
STEP Wolsey Junior Academy	15
Creative Env Networks	1
Croydon Care Solutions (LATC)	6
Location:	2
INTERSERVE	18
Turning Point	1
EnterpriseMouchel	8
QUADRON SERVICES LIMITED	14
Brick by Brick	2
Croydon Equip Svces (Ex LATC)	3
Eldon Housing Association Ltd	10
Fairfield (Croydon) Ltd	9
Apetito	2

Oasis Academy Arena	1
Ground Control Limited	1
Harris Academy Upper Norwood	1
Busy Bee Cleaning Services Ltd	1
STEP Wolsey Infants (A)	1
Krishna Avanti Primary School	1
Croydon CAB	1
SLWP Idverde	3
Grand Total	4,997

Potential resource implications

We have also considered the resource which might be required to undertake the administration work relating to McCloud. Our estimate is based on the number of employers affected in your fund, as well as an estimation of how long it might take to resolve the specific number of in scope cases (allowing for the different types of cases e.g. active, deferred, pensioners, deaths etc) your fund has. We have shown the amount of resource you might require to perform the following tasks:

- Liaise with employers to query data/request supplementary data
- Upload any revised data onto your administration system
- Run the underpin check for “in scope” members
- Perform calculation of the updated benefits
- Notify impacted pensioners of changes to their benefits

To quantify this required resource, we have provided an indication of the amount of “man hours” which could be required under 2 scenarios, depending on the number of cases which might require updates to records.

Scenario 1 assumes that 25% of records which fall in scope, might require some form of update following queries with employers. Scenario 2 assumes that 50% of records may require updating.

Scenario 1

Based on the tasks detailed above, and assuming that 25% of in-scope records might need some form of data update, all in-scope leavers will require recalculation and only 2% of recalculated member records will lead to amended payments to pensioners/dependents or third parties. The following table shows the level of resource which might be required.

Required man-hours	Full time (35 hour) working weeks	Weeks to complete with 2 full-time staff	weeks to complete with 3 staff, 2 days per week
457	13.1	6.5	10.9

We estimate that it could take 457 hours, equivalent to one full-time member of staff working on this exclusively, for over 13 weeks, or alternatively, 3 staff members each working 2 days per week for almost 11 weeks.

Scenario 2

Scenario 2 assumes that 50% of in-scope records might need some form of data update, all in-scope leavers will require recalculation and only 2% of recalculated member records will lead to amended payments to pensioners/dependents or third parties. The following table shows the level of resource which might be required in this case.

Required man-hours	Full time (35 hour) working weeks	Weeks to complete with 2 full-time staff	weeks to complete with 3 staff, 2 days per week
584	16.7	8.3	13.9

We estimate that it could take 584 hours, equivalent to one full-time member of staff working on this exclusively, for more than 16 weeks, or alternatively, 3 staff members each working 2 days per week for almost 14 weeks.

Assumptions

Please note that under both scenarios, we have assumed full 7 hour working days, and do not allow for holidays, training days etc.

We also assume that employers are compliant with providing any data requested without much further correspondence, and that any data updates can be made efficiently without follow-up queries.

In terms of correspondence with members, the projected level of resource allows for communication with affected pensioner members or dependents. It does not allow for a communication exercise to all members notifying whether or not they are impacted.

If a full data cleanse exercise is required, significant levels of liaison with particular employers or there are backlogs of unprocessed cases to complete, then the time spent on this project by your administration team could be significantly higher.

If you would like to discuss this in more detail, or do some further, more in-depth analysis on the potential resource implications, we can discuss the analysis and options with you further.

Next steps

Having uncovered the scale of the problem in the London Borough of Croydon pension Fund, the next stage is to collect any missing data (e.g. relating to part time hours worked and service breaks etc.). You can also start to implement a detailed plan for the key components of the project.

One of those components will be to begin testing the underpin on records and then correcting records where required. This will involve identifying which cases are most pressing, and prioritising these. Different funds might have different priorities in terms of which records to look at first. We would suggest the order of priority might look like that below, but bearing in mind this is for each Fund to decide individually:

- Deaths
- Pensions in payment
- Transfers out
- Deferred members
- Actives

The project-planning stage will also involve projecting the timescale within which you want to complete the process, and balancing this with the resource you have available.

You may also wish to analyse individual employers in more detail and get a more comprehensive breakdown of the categories of affected members at employer level.

To complete these suggested next steps, it is advisable to put in place a comprehensive project plan. This would clearly set out all actions and timescales needed to implement your remedial plan, within your own Fund's timeline. Our team of project managers would be happy to assist with this if required, while our Governance and Administration Consultants are on hand to help with any other aspects of this critical project. Please do get in touch to discuss any concerns or ways in which we can help.

Prepared by:-

Alan Johnson & Claire McDines

For and on behalf of Hymans Robertson LLP

8 September 2020

Croydon Council

REPORT TO:	Pension Board 15 October 2020
SUBJECT:	Pension Board Annual Report 2019/20
LEAD OFFICER:	Nigel Cook Head of Pensions Investment and Treasury

1. RECOMMENDATION

- 1.1 The Board is invited to note the Pension Board Annual Report 2019/20 prepared by the Chair of the Board.

2. EXECUTIVE SUMMARY

- 2.1 This report asks the Board to note the Pension Board Annual Report 2019/20 (Appendix A).

3. DETAIL

- 3.1. This report highlights the Pension Board Annual Report 2019/20 drafted by the Chair of the Board (Appendix A). The Report sets out the work of the Board over the past year and its plans for the future. The final version of the Report will be published on the Council's LGPS website.
- 3.2. The Board is invited to note this report.

CONTACT OFFICER:

Nigel Cook, Head of Pensions Investment and Treasury,
Finance, Investment and Risk
Resources Department, ext. 62552.

BACKGROUND DOCUMENTS:

None

APPENDIX:

A: Draft Pension Board Annual Report 2019/20

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LONDON BOROUGH OF CROYDON PENSION FUND

Pension Board Annual Report 2019/20

Introduction

Local Pension Boards were established under the 2013 Pensions Act. Each Local Government Pension Scheme Administering Authority is required to establish a Board to assist with the effective and efficient governance and administration of the Local Government Pension Scheme. The Croydon Board is tasked with assisting the Pension Committee in ensuring compliance with legislative requirements and those of The Pensions Regulator. The Board has an oversight role, with the decision making body remaining the Committee.

The Board is now established as an important part of the governance structure of the Fund. Board members take their responsibilities seriously and have particularly highlighted their wish to be seen to be properly fulfilling their role in the eyes of The Pensions Regulator.

Membership

The Board consists of 6 voting members comprising 3 member representatives and 3 employer representatives and an independent chair. During 2019/20 these posts were held by:

Chair: Michael Ellsmore

Employer Representatives:

Richard Elliott (The BRIT School for Performing Arts and Technology until 17 October 2019)

Richard Elliott

Councillor Jerry Fitzpatrick

Daniel Pyke (The Collegiate Trust)

Member Representatives:

Teresa Fritz

Ava Payne (Union representative)

David Whickman (Union representative)

The Board is supported by the Director of Finance, Investment and Risk and s151 Officer, Lisa Taylor, the Head of Pensions and Treasury, Nigel Cook and the pensions teams.

Activity during 2019/20

Last year we commissioned Aon Hewitt to carry out a follow up to the Governance Review they presented three years ago and we considered this at our October meeting. The Board endorsed the findings of the Review having particularly emphasised the need for the Committee to manage any potential conflicts of interest

and to ensure that sufficient resources are allocated to enable the recommendations to be implemented. With the encouragement of the Board the Committee held an additional meeting to those scheduled when they agreed the Review and asked for regular updates on the implementation of the action plan and for a specific report on conflicts of interest.

Other significant items considered formally by the Board during the year included:

- Fund Annual Report 2018/19 – the Board asked that the Report specifically acknowledged the property asset transfer;
- Local Government Pension Scheme Advisory Board’s consultation on “Good Governance in the LGPS” which covered the separation of responsibilities between the “host authority” and the Pension Fund. The Chair of the Board was interviewed as part of the consultation process;
- Scheme Advisory Board’s Annual Report and other matters raised by them including the Code of Transparency and Responsible Investment Guidance consultation;
- The Pensions Regulator’s report on “Governance and administration risks in public service pension schemes;”
- Developments in the “McCloud” Case;
- Administration Team’s Key Performance Indicators;
- Risk Register;
- Governance Policy and Compliance Statement;
- Communications Policy Statement; and
- Training Policy and Training Plan.

One of the highlights of the year was a presentation to the Board on 16 January 2020 by Mr Robert Holloway, Secretary to the Scheme Advisory Board. The aim of the session was to provide Board members with training on the role of the Scheme Advisory Board and its views on the role of Pension Boards. He specifically covered the following:

- Background, statutory basis and duties and responsibilities of the Pension Board;
- Ways for the Board to carry out its duties and guide the Administering Authority;
- Ultimate funding source of the Local Government Pension Scheme;
- The “McCloud” Case; and
- Investment policy initiatives.

Mr Holloway was invited to participate in the Board’s consideration of the items on the Agenda and made a number of helpful contributions.

Looking Ahead

This Report has been written during the summer of 2020 at which time, as with all other aspects of our lives, the Covid-19 pandemic had had a severe impact on the Board’s work. Our meetings in April and July have been cancelled and we are expecting a busy time when we meet in October and for the rest of the year.

Training and keeping our knowledge and skills up-to-date will remain important to us and we shall be looking to take advantage of opportunities that become available. We have specifically asked for training on cyber security to take place as early as possible.

Following on from the work done in 2019/20 the Board will take a keen interest in the implementation of the Action Plan arising from the Aon Hewitt Governance Report and will receive an update towards the end of the year. We shall also take a great interest in the Fund's latest Governance and Compliance Statement and the "Good Governance" Review commissioned by the Scheme Advisory Board.

Pensions administration will continue to attract attention from The Pensions Regulator and the Board will be taking a particular interest in the administration of the Fund and the service provided to both employers and members. In particular we expect to review the Fund's Administration Strategy and matters arising including the Discretionary Policy, the development of the Key Performance Indicators, the Data Improvement Plan and Record Management Policy and self-service facilities for members.

Having received a positive response from the Director of Finance we shall pay particular attention to the resources made available for the management of the Fund. We plan to review the Budget, compliance with pooling requirements and savings arising therefrom, staffing resources, training and succession planning.

The implications of the "McCloud" case for the LGPS are still being considered and we are keen to be involved in considering its effect on the Croydon Fund.

Whilst recognising that every Fund in the Local Government Pension Scheme is, and should be, managed in accordance with its own strategies, policies and priorities we shall consider with interest the findings of the Government Actuary's Department after their review of the 2019 triennial valuations of all the funds in the Scheme.

Whilst the Board is expecting 2020/21 to be another busy year for the Croydon Fund it may also see developments to the Scheme at a national level. We shall look at the implications of all the relevant reports and guidance issued by the Scheme Advisory Board and The Pensions Regulator.

We are looking forward to receiving a more extensive Medium Term Business Plan than we have seen before and expect to have a significant input. At each alternate meeting we shall consider the Risk Register, in particular the changes thereto.

In its last meeting of 2019/20 the Board considered a consultation document on responsible investments and expect this to play an increasingly important part in the management of the Fund.

Finally, 2020/21 may see further transfers of assets to the London CIV and developments in its governance arrangements. The Board will continue to monitor and support the Council as these developments unfurl.

Michael Ellsmore
Chair
October 2020

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Croydon Council

REPORT TO:	Pension Board 15 October 2020
SUBJECT:	Reporting Breaches of the Law
LEAD OFFICER:	Nigel Cook Head of Pensions Investment and Treasury

1. RECOMMENDATION

- 1.1 The Board are asked to note revisions to the Fund’s “Reporting Breaches of the Law Policy” and to note the Fund’s Breaches of the Law log.

2. EXECUTIVE SUMMARY

- 2.1 This report advises the Board that on 15 September 2020 the Pension Committee considered a report on the existing procedure for reporting breaches of the law in the administration of the Fund and were asked to agree revisions to the Policy and note the log. The Committee agreed the revisions and noted the log and the Board are asked to note the revisions (Appendix E) and the log (Appendix F).

3. DETAIL

- 3.1. On 2 July 2015 the Board received a draft Policy entitled “Reporting Breaches of the Law” and resolved as follows:

Approve the Breaches of Law policy, subject to stronger wording being inserted at page 4 asserting the right of the Board to report breaches directly to the Pensions Regulator. Such wording to be approved by the Chair.

- 3.2 The finalised Policy is attached as Appendix A. Appendices B, C and D detail the reporting process as follows:

- Appendix B Breaches Reporting Form – to be completed by anyone wishing to report a breach;
- Appendix C Breaches Flowchart – the process of investigation
- Appendix D Breaches Risk Process – how the seriousness of a breach is evaluated

- 3.3 In their Governance Review of the Fund Aon Hewitt note that the current procedure “appears to be focussed on Local Pension Board members” and the agreed action arising from the Review is:

Review current Pension Board breaches procedure but, in doing so, expand to cover all of those involved with the management of the Fund (ie Committee and senior officers).

- 3.4 A revised Policy was presented to the Committee on 15 September as Appendix E (with proposed changes in red).

- 3.5 The current procedure does not require that the Committee or the Board be advised of a record of reported breaches but the action agreed arising from the Aon Hewitt Review is that the Fund “Introduce a system to record and monitor breaches and introduce reporting of these to Committee and Board via a clear and regular updates breaches log.”. The recommended new Policy includes such a process.
- 3.6 Attached as Appendix F is a log on which the Board are invited to comment and to note.

4 DATA PROTECTION IMPLICATIONS

- 4.1 Will the subject of the report involve the processing of ‘personal data’?

No.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk, S151 Officer

CONTACT OFFICER:

Nigel Cook, Head of Pensions Investment and Treasury,
Finance, Investment and Risk, Resources Department, ext. 62552.

BACKGROUND DOCUMENTS:

None.

APPENDICES:

Appendix A: Reporting Breaches of the Law
Appendix B: Breaches Reporting Form
Appendix C: Breaches Flowchart
Appendix D: Breaches Risk Process
Appendix E: Reporting Breaches of the Law (revised)
Appendix F: Breaches Log

Reporting Breaches of the Law

This document should be read in conjunction with the Terms of Reference for the Local Pension Board of Croydon Council Pension Fund dated 2 July 2015. Unless stated otherwise, the defined terms used in this document have the same meaning as attributed to them under the Terms of Reference document.

Legal requirements

Certain people are required to report breaches of the law in writing to the Compliance and Governance Manager as soon as reasonably practicable and where they have reasonable cause to believe that:

- A legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with, e.g. keeping records/internal controls; and
- The failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions.

Those subject to the reporting requirements in the context of public service pension's schemes are as follows:

- A Scheme Manager
- Members of Local Pension Boards ("LPB's")
- Any person who is otherwise involved in the administration of a public service pension scheme
- Employers. In the case of a multiemployer scheme, any participating employer who becomes aware of a breach should consider their duty to report, regardless of whether the breach relates to, or affects members who are its employees or those of other employers
- Professional advisers including auditors, actuaries, legal advisers and fund managers.
- Any person who is otherwise involved in advising the scheme manager in relation to the scheme.

Implementing adequate procedures

Identifying and assessing a breach of law is important in reducing risk and providing an early warning of possible malpractice. Those people with a responsibility to report breaches, including Scheme Managers and LPB members (reporters) should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters

Procedures will include the following features:

- Obtaining clarification of the law where it is not clear to those responsible for reporting
- Clarifying the facts around the suspected where they are not known
- Consideration of the material significance of the breach taking into account its cause, effect, the reaction to it, and its wider implications, including where appropriate, dialogue with the Scheme Manager or LPB
- The breach will be reported to the Governance and Compliance manager in the first instance, who will assess the cause, effect and the wider implications and determine if it is likely to be of material significance to the Pension Regulator and/or the Scheme Manager.
- A timeframe of 14 days for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable

Judging whether a breach must be reported

Breaches can occur in relation to a wide variety of the tasks normally associated with the administration function of the scheme such as keeping records, internal controls, calculating benefits, making investments, or investments related decisions.

Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated. Therefore, it is imperative that where a breach is suspected, reporters still refer the matter to the Compliance and Governance Manager so that investigations can be undertaken to establish whether or not a breach has in fact occurred and if the matter requires escalation to the Scheme Manager.

In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Scheme Manager or the Pension Regulator may require before taking legal action.

It is also important that a reporter is aware that any delay in reporting any potential breach may exacerbate or increase the risk of the breach causing further and more significant issues.

The cause of the breach

The breach is likely to be of material significance to the Scheme Manager or the Pension Regulator where it is for example, caused by (but not limited to):

- Dishonesty
- Poor governance, inadequate controls resulting in deficient administration, or slow or inappropriate decision-making practices
- Incomplete or inaccurate advice
- Acting (or failing to act) in deliberate contravention of the law

A breach will not normally be regarded as materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances.

The effect of the breach

Evidence in relation to any of the following matters is particularly important and likely to be of material significance to the Scheme Manager and the Pension Regulator:

- Local Pension Board members not having the appropriate degree of knowledge and understanding
- Local Pension Board members having a conflict of interest
- Adequate internal controls not being established and operated
- The right money/contributions not being paid to the scheme at the right time
- Internal Dispute Resolution Procedures (IDRP) not having been made and/or implemented
- Information about benefits and other information about scheme administration not being disclosed to scheme members and others
- Information about Local Pension Boards not being published
- The scheme not being administered properly
- Appropriate records not being maintained
- Local Pension Board members having misappropriated any assets of the scheme or being likely to do so
- Repeated miscalculations or incorrect payment of benefits which have a detrimental impact on scheme members

The reaction to the breach

Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Pension Regulator will not normally deem it to be materially significant.

A breach is likely to be of concern and material significance to the Pension Regulator where a breach has been identified and those involved:

- Do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence.
- Are not pursuing corrective action to a proper conclusion or
- Fail to notify affected scheme members where it would have been appropriate to do so.

Submitting a report to the Scheme Manager

All reports of possible breaches must be submitted in writing to the Compliance and Governance Manager. However, if the matter is considered particularly serious by the reporter it can be preceded by a telephone call, and brought directly to the Scheme Manager's attention (if appropriate).

Reporting more serious concerns

Where sufficiently serious concerns exist or where a concern has been raised with the Pension Committee and the LPB consider that the Pension Committee have not taken appropriate action to rectify the issue it may be more appropriate for the LPB to report these directly, to the Pensions Regulator. Such concerns could include (but are not limited to) fundamental breaches of the Regulations or a fundamental failure by Croydon Council to ensure the effective governance of the fund.

In such situations reports should be made directly to the Governance and Compliance Manager who will then take the appropriate action and may refer the matter to the Pensions Regulator.

Reporting Procedure

Any member of the Scheme or member of staff is able to report a breach. The individual reporting such a breach will be referred to as the 'reporter'.

The reporter should, in the first instance, bring any concerns that a breach of the law has occurred to the Governance and Compliance Manager within 3 working days. To bring a suspected breach to the attention of the Governance and Compliance Manager, the reporter must submit the details of the suspected breach in writing by hard copy by post or by electric submission to the Governance and Compliance Manager.

Once received, the Governance and Compliance manager will undertake the necessary review of the reporting document and then decide whether this represents a breach in considering the above.

In line with guidance issued by the National Standards Board and any other guidance that may be applicable and introduced from time to time, the Governance and Compliance manager is able to:

1. Obtain clarification of the law if it is not clear;
2. Clarify the facts where they are not known; and
3. Consider the material significance of the breach.

This procedure allows for no more than 14 days to elapse from the time that the suspected breach is raised until the Governance and Compliance manager decides whether the breach must be reported further to the Scheme Manager and/or Pensions Regulator.

Breach Reporting Form

Name of reporter

Date of breach

Why do you think this is breach?			
Details of breach			
Implications of breach			
Actions to rectify breach			
Has the breach been rectified?	Yes	<input type="text"/>	Date <input type="text"/>
	No	<input type="text"/>	Expected resolution date <input type="text"/>

Ongoing actions to rectify	
Other relevant information	
Changes to practice / procedures	

Ref to Governance Manager Date (within 3 days of breach)

Ref to Head of Pensions Date

Ref to S151 Officer Date

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Breaches Flowchart

1	a	Possible Breach identified	Complete form within 3 days	
	b	Serious Breach raised with Head of Pensions	Head of Pensions to complete stage 3	
	c	Breaches have been raised with the Pension Committee	Head of Pensions to complete stage 3	
2		Breach form completed	Pass to Governance and Compliance Manager	
3		Form received by Governance and Compliance Manager	Check facts	
			Check requirements of the law	
4		Has a breach occurred	No	Refer to Head of Pensions to sign off
			Yes	Enter in Breaches log
5		Is the breach Material	No	Refer to Head of Pensions to sign off
			Not clear	Refer to Head of Pensions to make recommendation
			Yes	Refer to Head of Pensions to make recommendation
6		Head of Pensions receives referral	Not clear if Breach is Material	Make recommendation and refer to S151 Officer for decision
			Breach is Material	Make recommendation and refer to S151 Officer for decision
7		S151 Officer decides breach is Material	Scheme Manager reports Breach to the Pensions Regulator	Update Breaches Log

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APPENDIX D

Breaches Process

Type of Breach	Timescale for reporting	Internal actions	Further actions
Urgent and Material	Responsible officer informs Head of Pensions and Treasury and the governance team, the breach is reported immediately to The Pensions Regulator	Governance team to keep record of the breach and investigate options to prevent further occurrence	Report urgent and material breaches to Section 151 officer, Chair and Vice Chair of Committee and Local Pension Board. Full report to be submitted at the next available meeting
Non urgent and Material	Responsible officer informs Head of Pensions and Treasury and the governance team, the breach is reported to the Pensions Regulator within 30 days	Governance team to keep record of the breach and investigate options to prevent further occurrence	Report non urgent and material breach at next Pension Committee and Pension Board meeting
Immaterial	Responsible officer informs Head of Pensions and Treasury and the governance team within 30 days	Governance team to keep record of the breach and investigate options to prevent further occurrence	Report immaterial breach at next Pension Committee and Pension Board meeting

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Date	Category	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to the breach	Reported/Not reported (with justification if not reported and dates)	Traffic light colour	Outcome of report and or investigations	Outstanding actions
09-Apr-15	Administration Immaterial	Failure of the Scheme employer (not the Council) to obtain a report from an Registered Medical Practitioner (IRMP). Failure of employer to decide whether to refer the employee to an Independent IRMP and to make a decision within a reasonable timescale. Failure to make a decision on their entitlement under reg 35. Failure to notify the member of any decisions made.	Failure of the employer to follow the correct procedures in relation to the LGPS has prevented timely and appropriate action under the regulations.	Member contacted the Pensions Team on 9 April 2015. Deferred benefits sent out until 26 April 2017. Internal Dispute Resolution Procedure application received on 19 January 2018.	The matter was referred to the Pensions Ombudsman. No referral has been made to The Pensions Regulator.		Stage 1 complaint upheld on 1 May 2018. Compensation payment £500.00 made 28 March 2019 for failure to notify benefits within required timescales. Stage 2 complaint upheld on 1 November 2019. Pension Ombudsman has closed the case as the member has now settled with her employer.	

Aug-19	Administration	Failure to produce 100% of Annual Benefit Statement notifications	Members and former members do not receive have up to date information on the value of their LGPS benefits affecting their ability to make informed decisions around pension provision. Non-compliance with LGPS regulations timescales. Member has been unable to check personal data is complete and accurate or that the correct contributions have been credited.	Error reports identified members without statements which the technical team checked. Some had not required a statement as they had not passed an increase date. The remainder had the issues resolved and statements were sent out.	The matter was not referred to The Pensions Regulator. All the issues were identified through error reports and resolved. Statements were sent to all individuals where a statement was required. No further action was needed.		Not reported. Only 3.36% for active members and 2% for deferred members not issued. The issues are being addressed so that notifications can be sent.
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Croydon Council

REPORT TO:	Pension Board 15 October 2020
SUBJECT:	Pension Board Forward Plan 2020/21 and 2021/22
LEAD OFFICER:	Nigel Cook Head of Pensions Investment and Treasury

1. RECOMMENDATION

- 1.1. The Board is asked to note the contents of this report, to comment and to suggest amendments as necessary

2. EXECUTIVE SUMMARY

- 2.1. This report sets out a suggested work plan for the Board, inviting suggestions for amendments or additions.

3. DETAIL

- 3.1. The responsibility of the Board, as defined by section 5(1) and (2) of the Public Services Pensions Act 2013, is to assist the Administering Authority (Croydon Council) in its role as a Scheme Manager of the Scheme in relation to the following matters:
- To secure compliance with the Scheme Regulations and other legislation relating to the governance and administration of the Scheme;
 - To secure compliance with requirements imposed in relation to the Scheme by the Pensions Regulator;
 - In such other matters as the Scheme regulations may specify.
- 3.2. In order for the Board to carry out this role it is necessary to maintain a work plan which identifies which key activities the Board should be carrying out (and when) in order to demonstrate effective performance.
- 3.3. Subject to the considerations of the Board, the following is a suggestion for the topics to be covered over the next year. At each meeting the Board will also be able to review the papers presented to the Pension Committee at meetings since the Board last met.

14 January 2021

Key Performance Indicators
Risk Management Policy and Register
Breaches of the law log
Fund Annual Report and Annual Accounts
Pension Board Annual Report
CIV: Review of savings and compliance with pooling requirements
Results of review of actuarial valuation information by Government Actuary's Department
Procurement of Pensions Administration System
Conflicts of Interests Policy
Governance Policy, Functions of Pension Board and Compliance Statement
Administration Strategy
Administering Authority Discretionary Policy
Data Improvement Plan
Issues raised by Scheme Advisory Board and/ The Pensions Regulator
Knowledge and Skills Policy
Training Plan

March 2021

Key Performance Indicators
Risk Register
Breaches of the law log
Progress on Aon Hewitt Governance Review Action Plan
Budget review including CIV costs
Business Plan
Forward Plan
Resources and Succession Planning
Record Management Policy
Reporting and Monitoring Contributions
ESG issues
Issues raised by Scheme Advisory Board and/ The Pensions Regulator
Scheme Advisory Board Code of Transparency

July 2021

Key Performance Indicators
Risk Register
Breaches of the law log
Draft Fund Annual Report and Annual Accounts
Draft Pension Board Annual Report
CIV: Review of savings and compliance with pooling requirements
Issues raised by Scheme Advisory Board and/ The Pensions Regulator

October 2021

Key Performance Indicators
Risk Register
Breaches of the Law log
Progress on Aon Hewitt Governance Review Action Plan
Fund Annual Report and Annual Accounts
Pension Board Annual Report
Forward Plan
Issues raised by Scheme Advisory Board and/ The Pensions Regulator
ESG issues

Training records update

- 3.4. The Board is invited to add any items to this schedule that they feel should be included.
- 3.5. A key component of the work of the Board is the maintenance of relevant knowledge, refreshing skills and access to informed experts. To this end training opportunities will be offered to the Board throughout the year. The Board is invited to offer ideas for subjects and officers will develop these into sessions which will be open to the Board and to Pension Committee members.

4. DATA PROTECTION IMPLICATIONS

Will the subject of the report involve the processing of ‘personal data’?

No.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk, S151 Officer

CONTACT OFFICER:

Nigel Cook, Head of Pensions Investment and Treasury,
Finance, Investment and Risk
Resources Department, ext. 62552.

BACKGROUND DOCUMENTS:

None

