

## Minutes of the Pensions Committee Meeting held on 20 October 2017

Present:

### Attendance

Ben Adams	Peter Noskiw (Co-opted Member)
Derek Davis, OBE	Mike Sutherland
Ann Edgeller (in the Chair)	Stephen Sweeney
Colin Greatorex	Martyn Tittley
Sue Insull (Co-opted Member)	Kevin Upton (Co-opted Member)
Geoff Locke (Co-opted Member)	

**Also in attendance:** Gordon Alcott, Corrina Bradley and Ian Jenkinson (Local Pensions Board Members).

**Apologies:** Robert Marshall

### PART ONE

#### 21. County Councillor Robbie Marshall

The Chairman reported that County Councillor Robbie Marshall was seriously ill and was currently in the Queen Elizabeth Hospital. The Committee extended their thoughts and prayers to Mr Marshall and to his family.

#### 22. Declarations of Interest

There were no declarations of interest on this occasion.

#### 23. Minutes of the meeting held on 7 July 2017

The Director of Finance and Resources informed Members that the Local Pensions Board had agreed to the Committee's request to undertake a detailed review of the Pension Fund's Risk Register.

**RESOLVED** – That the minutes of the meeting of the Pensions Committee held on 7 July 2017 be confirmed and signed by the Chairman.

#### 24. Minutes of the Pensions Panel held on 5 September 2017

**RESOLVED** – That the minutes of the meeting of the Pensions Panel held on 5 September 2017 be noted.

#### 25. Staffordshire Pension Fund Annual Report and Accounts Audit 2016/17

The Committee were informed that, under regulations, the Pension Fund had to publish an annual report which included the accounts. The external auditors were also obliged to issue a statement on the accounts.

The Director of Finance and Resources submitted the draft Annual Report and Accounts 2016/17 for the Staffordshire Pension Fund, explaining the need for formal approval of its contents by members prior to its publication.

The Pension Fund accounts were included within the County Council's Statement of Accounts and were reported to the County Council's Audit Committee on 25 September 2017.

The Director summarised the Funds accounts and made particular reference to the inclusion in the document of the independent auditors report on those accounts which stated that they were consistent with those included within Staffordshire County Council's Statement of Accounts for the year ended 31 March 2017.

**RESOLVED** – (a) That the 2016/17 Pension Fund Annual Report and Accounts (Appendix 1 to the report) be approved and that the external auditor's statement on page 74 be noted.

(b) That the separate report from the external auditors entitled: Staffordshire Pension Fund – Audit Results Report Year ended 31 March 2016 (Appendix 2 to the report), be noted.

## **26. Implementation of the Markets in Financial Instruments Directive (MiFID II)**

The Committee considered a report of the Director of Finance and Resources outlining the impact of the implementation of the European Markets in Financial Instruments Directive 2014/65 (MiFID II), and in particular, the risk to Staffordshire County Council as the administering authority for the Staffordshire Pension Fund of becoming a retail client on 3 January 2018.

The Committee were informed that under the current UK regulatory framework, local authorities were automatically categorised as 'per-se professional' clients in respect of non-MiFID scope business and were categorised as 'per-se professional' clients for MiFID scope business if they satisfied the MiFID Large Undertakings test. Local authorities that did not satisfy the Large Undertakings test may currently 'opt up' to elective professional client status if they fulfilled certain 'opt-up criteria'.

Following the introduction of MiFID II from 3 January 2018, local authorities would lose the automatic right to be categorised as per-se professional clients by banks, investment managers, brokers and advisors. Instead, all local authorities must be classified as 'retail clients' by these firms, unless they were 'opted up' by the firms to 'elective professional client' status. The criteria for 'opting up' in the UK was specified by the Financial Conduct Authority (FCA) and required an assessment of quantitative factors (relating to the nature and scale of the client's business); and qualitative factors (relating to the expertise, experience and knowledge of key decision makers).

The assessment aimed to demonstrate whether the client was capable of making its own investment decisions and had an understanding of the risks involved. It was for the service provider to determine whether or not, based on the information submitted by clients, the appropriate 'opting up' criteria were met.

A move to retail client status would mean that all financial services firms like banks, investment managers, brokers and advisors would have to treat local authorities in the same way they did non-professional individuals and small businesses. This entails providing a raft of protections to ensure the suitability of investment products and the evidence that all risks and product features have been fully explained. Whilst this would provide a higher standard of protection for the client, it also involved more work and potentially cost, for both the firm and the client (investor), for the purpose of satisfying the regulator that all such requirements had been met.

These protections would ultimately mean that the Fund would be prevented from accessing a wide range of products and financial instruments which were deemed unsuitable for retail investors and yet essential for the Fund to implement and deliver an effective and diversified investment strategy. The Fund would also have fewer options in terms of which financial institutions or investment managers it could appoint, as many institutions currently serving local authorities were not licensed for retail business and might not wish to incur the costs involved in seeking additional regulatory permissions.

In electing for professional client status, the Fund would effectively forego the protections afforded to retail clients. The Committee noted that these protections were not currently enjoyed by the Fund anyway albeit the associated risks were mitigated through a range of different controls, including:

- access to independent actuarial and investment advice;
- the LGPS investment regulations;
- the Fund's own governance and policy framework;
- the County Council's Constitution and Scheme of Delegation;
- access and membership of professional networks; and
- an experienced and well qualified officer team

The Director explained that the Local Government Pension Scheme Advisory Board (SAB) and the Local Government Association (LGA), along with the Department for Communities and Local Government (DCLG) and the Investment Association (IA), had successfully lobbied the FCA to make the opt up 'test' better suited to the unique situation of local authorities. The latest guidance recognised the status of LGPS administering authorities as providing a 'pass' for the quantitative test while the qualitative test could now be performed on the administering authority as a collective, rather than on an individual basis.

The election to professional status must be completed with all financial institutions prior to the change of status on 3 January 2018. Failure to do so by local authorities would result in the financial institution having to take 'appropriate action' in accordance with their own internal compliance procedures, which could include terminating their relationship with the Fund.

SAB and the LGA had worked with the investment industry representative bodies, including the Investment Association (IA) and the British Venture Capital Association (BVCA), to develop a standard opt up process including supporting information templates and pro-forma correspondence. This should enable a consistent approach to assessment and avoid authorities having to submit different information, in different formats to the various different financial institutions they used.

Applications for professional client status could be made in respect of either all services offered by an institution (irrespective of whether they were currently used), or a particular service only. Given that all future procurement would be undertaken by LGPS Central Ltd on the Fund's behalf, wherever possible, it made sense to limit applications to cover only those services currently used, particularly if this was likely to speed up the assessment process. It was therefore recommended that the Director of Finance and Resources be given delegated authority to determine the most appropriate basis of the application; either via full or single service.

In response to a question from Mr Greateorex in relation to the impact of other Funds in LGPS Central deciding not to opt up, the Director of Finance and Resources confirmed that it was the intention of all of the Funds within the pool to opt up. It was also noted that LGPS Central Ltd would be professional investors in their own right so would not need to opt up with the financial institutions they appoint. Staffordshire Pension Fund would however need to opt up with LGPS Central in order to access the full range of services and sub-funds on offer. In response to a question from Mr Adams concerning the position nationally, the Director indicated that all local government pension schemes wanted the ability to opt up.

In response to a question from Mr Tittley concerning Staffordshire Fire and Rescue and whether they were able to opt up, the Director indicated that the Staffordshire County Council Treasury Services Team was in the process of facilitating that for them.

The Committee noted that elections to professional status would still be required for every financial institution the Fund used outside the pool. This would include investment managers who were retained to manage legacy assets pending their transition into the pool.

**RESOLVED** – (a) That the requirements of MiFID II and the potential impact on the Staffordshire Pension Fund of losing professional client status from 3 January 2018 be noted.

(b) That it be noted that in electing for professional client status, the Staffordshire Pension Fund will automatically forego the protections afforded to retail clients as set out in Appendix 2 to the report.

(c) That delegated authority be given to the Director of Finance and Resources to apply for elective professional client status for the Staffordshire Pension Fund with all relevant investment and financial institutions and determine the most appropriate basis of the application, either via full or single service.

## **27. Exclusion of the Public**

**RESOLVED** - That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 indicated below

## **PART TWO**

The Committee then proceeded to consider reports on the following issues:

**28. Exempt minutes of the meeting held on 7 July 2017**

(Exemption paragraph 3)

**29. Exempt minutes of the Pensions Panel held on 5 September 2017**

(Exemption paragraph 3)

**30. Local Government Pensions Scheme Administration**

(Exemption paragraph 3)

**31. Monitoring of Fund Liabilities**

(Exemption paragraph 3)

**32. Local Government Pension Scheme Regulations**

(Exemption paragraph 3)

**33. Pooling of LGPS Investments**

(Exemption paragraph 3)

**34. Janet Caiazza**

**Chairman**