

# Public Document Pack



## PENSION FUND COMMITTEE AND PENSION BOARD FRIDAY, 11 DECEMBER 2020

A MEETING of the PENSION FUND COMMITTEE AND PENSION BOARD will be held on FRIDAY, 11 DECEMBER 2020 at 10.00 AM. The meeting will be conducted by Microsoft Teams Live Event.

The meeting will be live streamed to the public and a link will be on the Council website.

J. J. WILKINSON,  
Clerk to the Council,

4 December 2020

<b>BUSINESS</b>		
1.	<b>Apologies for Absence</b>	
2.	<b>Order of Business</b>	
3.	<b>Declarations of Interest</b>	
4.	<b>Presentation</b>  Presentation by Actuary, Hymans Robertson.	30 mins
5.	<b>Minutes</b> (Pages 3 - 10)  (a) Minute of Meeting held on 24 September 2020 to be noted and signed by the Chairman (copy attached).  (b) Minute of Special Meeting held on 26 November 2020 to be noted and signed by the Chairman (copy attached).	5 mins
6.	<b>Pension Fund Investment and Performance Sub-Committee</b> (Pages 11 - 12)  To note the Minute of the Pension Fund Investment and Performance Sub-Committee held on 29 September 2020 (copy attached).	2 mins
7.	<b>Risk Register Update</b> (Pages 13 - 20)  Consider report by Executive Director Finance & Regulatory (copy attached).	5 mins
8.	<b>Business Plan Performance Update</b> (Pages 21 - 30)  Consider report by Executive Director Finance & Regulatory (copy attached).	10 mins
9.	<b>Pension Fund Budget Monitoring to 30 September 2020</b> (Pages 31 - 34)	5 mins

	Consider report by Executive Director Finance & Regulatory (copy attached).	
10.	<b>Investment Taxation Review</b> (Pages 35 - 40)  Consider report by Executive Director Finance & Regulatory (copy attached).	10 mins
11.	<b>Information Update</b> (Pages 41 - 58)  Consider briefing paper by Executive Director Finance & Regulatory (copy attached).	10 mins
12.	<b>Any Other Items Previously Circulated</b>	
13.	<b>Any Other Items which the Chairman Decides are Urgent</b>	
14.	<b>Items Likely To Be Taken In Private</b>  Before proceeding with the private business, the following motion should be approved:-  “That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 8 of Part 1 of Schedule 7A to the aforementioned Act.”	1 mins
15.	<b>Minutes</b> (Pages 59 - 62)  (a) Private Section of Minute of Meeting held on 24 September 2020 to be noted and signed by the Chairman (copy attached).  (b) Private section of Minute of Special Meeting held on 26 November 2020 to be noted and signed by the Chairman (copy attached).	5 mins
16.	<b>Pension Fund Investment and Performance Sub-Committee</b> (Pages 63 - 66)  Private section of Minute held on 29 September 2020 to be noted and signed by the Chairman (copy attached).	5 mins
17.	<b>Quarter Performance Update</b> (Pages 67 - 106)  Consider report by Isio Investment Advisory (copy attached).	30 mins

#### NOTES

- Timings given above are only indicative and not intended to inhibit Members' discussions.**
- Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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**Membership of Committee:-** Councillors D. Parker (Chairman), J. Brown, G. Edgar, C. Hamilton, D. Moffat, S. Mountford, S. Scott, S. Aitchison, Mr D Bell, Mr M Drysdale, Mr M Everett, Ms K M Hughes, Ms L Ross, Ms C Stewart and Ms H Robertson

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**SCOTTISH BORDERS COUNCIL  
PENSION FUND COMMITTEE AND PENSION BOARD**

MINUTES of Meeting of the PENSION FUND  
COMMITTEE AND PENSION BOARD held  
Via Microsoft Teams on Thursday, 24  
September 2020 at 10.00 am

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Present:- Councillors S Mountford (Chairman), S Aitchison, J Brown, G Edgar, C Hamilton, D Moffat, S Scott, Mr D Bell, Mr M Drysdale, Mr M Everett Ms K Hughes and Ms L Ross

Apologies:- Councillor D Parker, Ms H Robertson, Ms C Stewart,

In Attendance: Executive Director Finance & Regulatory, Pensions and Investment Manager, HR Shared Services Manager, Chief Officer Audit & Risk. Principal Consultant (KPMG), Democratic Services Officer (J Turnbull).

Also in Attendance: Ms G Woolman, Ms A Fitzpatrick, Mr A Haseeb, Mr G Samson (Audit Scotland).

1. **WELCOME**

The Chair opened the meeting and welcomed Members of the Pension Fund Committee, Pension Board and members of the public to the Scottish Borders Council's open on-line meeting. The meeting was being held remotely in order to adhere to guidance on public meetings and social distancing currently in place, due to the Covid-19 pandemic. The Chair welcomed Mr David Bell, new Pension Board member to his first meeting.

2. **MINUTE**

There had been circulated copies of the Minute of the Meeting of 22 June 2020

**DECISION**

**NOTED for signature by the Chairman.**

3. **EXTERNAL AUDITORS ANNUAL AUDIT REPORT**

There had been circulated copies of report by Audit Scotland, the Council's external auditors. The report explained that Audit Scotland had now completed the audit of the Council's Annual Accounts for 2019/20 and had given an unqualified audit opinion in all cases. In addition Audit Scotland had reached positive conclusions in respect of financial sustainability, financial management, governance, transparency and value for money. Ms Woolman, Audit Scotland was in attendance and summarised the report; in addition she advised that there were no material adjustments or unadjusted errors arising from the audit. Ms Woolman highlighted the property portfolio valuations as an emphasis of matter, explaining that this did not detract from the clean audit opinion. Members noted that the Annual Accounts would be presented to the Council meeting on 5 November for approval. In response to a question regarding materiality, Ms Woolman explained that this related to investments and therefore no adjustment to the accounts was required. Regarding capacity challenges and increasing demands on staff, Mr Robertson advised that he would provide the Pension Fund Committee and Pension Board with regular updates in relation to the HR and Finance Teams resource requirements.

**DECISION**

**NOTED the report.**

4. **ANNUAL REPORT AND ACCOUNTS 2019/20**

There had been circulated copies of a report by Executive Director Finance and Regulatory presenting for scrutiny and approval the final Annual Report and Accounts for the Pension Fund for 2019/20 prior to submission to Scottish Borders Council for

signature. The Local Government Pension Scheme Amendment (Scotland) Regulations 2010 specified the elements which must be contained in the Annual Report and Accounts, the list of these were contained in paragraph 4.1 of the report. The draft Report and Accounts, contained in Appendix 1 to the report, fully met these requirements. Audit Scotland had completed their audit and had provided an unqualified independent audit opinion. They had identified two new recommendations and three recommendations from the 2018/19 audit requiring action and these had been accepted by management and would be enacted within the agreed timescales.

#### **DECISION**

**AGREED the Pension Fund Annual Report and Accounts 2019/20, for Officer signature and Council approval.**

#### **5. RISK REGISTER UPDATE**

With reference to paragraph 9 of the Minute of 22 June 2020, there had been circulated copies of a report by Executive Director Finance and Regulatory which formed part of the risk review requirements and provided the Pension Fund Committee and Pension Board with an update on the progress of the actions taken by management to mitigate these risks, a review of any new risks and highlighted changes to any of the risks contained in the Risk Register. Identifying and managing risk was a corner stone of effective management and was required under the Council's Risk Management Policy and process guide and CIPFA's guidance "Delivering Governance in Local Government Framework 2007". It was further reflected and enhanced in the "Local Government Pension Scheme" published by CIPFA. A full risk review was undertaken on 15 May 2020 and the revised Risk Register approved by the joint Pension Fund Committee and Pension Board on 22 June 2020. Appendix 1 to the report detailed the risks within the approved Risk Register which had identified management actions and the progress of these actions to date. In response to a question, Mrs Robb explained that new regulations were monitored on an ongoing basis by the Finance and HR Team.

#### **DECISION**

- a) **NOTED:**
  - (i) **the management actions progress as contained in Appendix 1, to the report; and**
  - (ii) **no new quantifiable risks had been identified since the last review.**
- b) **AGREED to an update on progress of management actions to be presented in December 2020**

#### **6. PENSION ADMINISTRATION STRATEGY**

There had been circulated copies of a report by Service Director HR and Communications proposing the revised Pension Administration Strategy for the Scottish Borders Council Pension Fund. The report explained that the Pension Fund was required by the Local Government Pension Scheme (Scotland) Regulations 2018 to have an up-to-date Pension Administration Strategy. Appendix 1 to the report, contained the revised Pension Administration Strategy which had a number of amendments made to the previously approved version. These were mainly in Section 1 where the statutory regulations have been listed along with other relevant legislation and bodies where codes of practice was adhered to. Other changes were in post titles for officers and updates to the list of Employers within the Fund. In response to a question, Mr Angus confirmed that SB Cares employees had transferred to Scottish Borders Council on 1 December 2019.

#### **DECISION**

**AGREED the Pension Administration Strategy as set out in Appendix 1 to the report.**

#### **7. COMMUNICATION POLICY REVIEW**

There had been circulated copies of report by Service Director HR and Communications providing a review of the Communication Policy and an update on the review of forms and communication, including Annual Benefit Statements. The report explained that in line with the Pension Fund Business Plan the Policy should be reviewed on an annual basis. This report discharged that requirement. Appendix 1 to the report, contained the revised Communication Policy which had a number of amendments made to the previously approved version, these were mainly in Section 1 where other regulations and codes of practice had been updated. Other changes were in regard to the availability of online payslip access and the use of Microsoft Teams to host virtual meetings. Mr Angus highlighted that during lockdown, the Pension Fund website had proven to be a useful resource and has been visited on a regular basis. The website continued to be updated to reflect current regulations and any relevant documents or news stories. The Pensions Administration team had carried out a review of supporting information provided along with the Annual Benefit Statements for this year. Work was ongoing to review processes and associated forms. In response to a question, Mr Angus advised that communication information was issued with the Annual Benefit Statements. Consideration would be given to also including such information along with pension increase notifications for those in receipt of a pension.

#### **DECISION**

**(a) AGREED the Communication Strategy set out in Appendix 1.**

**(b) NOTED:**

**(i) the website performance over the last 14 months; and**

**(ii) that work had commenced on the review of Forms and the Annual Benefit Statement documentation had been reviewed prior to issue.**

#### **8. BUDGET MONITORING TO 30 JUNE 2020**

There had been circulated copies of a report by Executive Director Finance and Regulatory providing the Pension Fund Committee and Pension Board with an update position on the Pension Fund budget to 30 June 2020, including projections to 31 March 2021. The Local Government Pension Scheme (Scotland) Regulation 2014 required Administering Authorities to ensure strong governance arrangements and set out the standards they were to be measured against. To ensure the Fund met the standards, a budget was approved on 10 March 2020 following the recommendations within the CIPFA accounting guideline headings. This report was the first quarterly monitoring report of the approved budgets. The report detailed the total expenditure to 30 June 2020 was £0.014m, with a projected total expenditure of £6.901m against a budget of £6.894m. This projected a budget variance of £7k which represented additional work required to complete the GMP reconciliation. In response to a question, Mrs Robb clarified that any costs were incurred by the Pension Fund and not Scottish Borders Council.

#### **DECISION**

**(a) NOTED the actual expenditure to 30 June 2020.**

**(b) AGREED the projected out-turn as the revised budget.**

#### **9. RESPONSIBLE INVESTMENT MANAGEMENT**

With reference to paragraph 11 of the Minute of 12 September 2019, there had been circulated copies of a report by Executive Director Finance and Regulatory providing the Committee and Board with a report detailing the extent to which the Fund's Investment Managers have complied with the requirements of the agreed Statement of Responsible Investment Policy. The report explained that the Pension Fund, as part of its fiduciary duties, was required to ensure appropriate consideration was given to Environmental, Social and Governance (ESG) issues as part of its investment decisions, whilst acting in the best interest of the scheme beneficiaries. The Pension Fund approved a Responsible Investment Policy on 30 November 2018. Annual monitoring was required under the terms of this policy. 99.5% of the assets held by the Fund were managed by fund

managers who were signatories to the United Nations Principles of Responsible Investment Code (UNPRI). Information had been provided by Fund Managers and scored against questions listed in paragraph 4.6 of the report, with scores for each manager shown in paragraph 4.7. Officers worked with Fund Managers, who scored 15 or less, to improve their performance and fully meet the objectives of the ESG policy. As agreed, the Fund was a supporter of Climate Action 100+ and had been active and successful in achieving a number of key commitments in a number of sectors to reduce carbon emissions. Officers were now actively working with Scottish Responsible Investors roundtable group to share good practice and investigate possible areas of improvement in the Funds responsible investment. Mrs Robb highlighted that Brookfield and Gaia GP Ltd were managers who had not signed to UNPRI. However, both had clear ESG policies and adhered to other ESG frameworks. Amendments to their scoring would reflect this. Ms Woolman added that because of schools' interest in climate change, consideration be given to communicating the Pension Funds' commitment to reducing carbon emissions and encouraging responsible investment.

## **DECISION**

### **NOTED:**

- (a) **the annual performance report regarding compliance with the Pension Fund's policy on responsible investment and the scores for each of the managers; and**
  
- (b) **the engagement and participation work completed by the Fund.**

## **10. INFORMATION UPDATE**

- 10.1 There had been circulated copies of a briefing paper by Executive Director Finance and Regulatory providing an update on a number of areas which were being monitored and where work was progressing. Full reports on individual actions would be tabled as decisions and actions were required. In summary:-
  
- 10.2 **GMP Reconciliation**  
HMRC had provided ITM limited with the final data for the GMP reconciliation. Due to the requirement to carry out a further review this had increased the cost of the project by £7k. The target date for completion was 31 October 2020.
  
- 10.3 **Annual Benefit Statements**  
All Annual Benefit Statements were issued in advance of the 31 August deadline. The Chair congratulated the team on their work providing Statements during the pandemic.
  
- 10.4 **Visit Scotland Transfer**  
16 members would be moving to Lothian Pension Fund, any costs in connection would be reimbursed. In response to a question, Mrs Robb advised that the implication for the Fund was minor as there was only one active member. An update would be provided at the next meeting.
  
- 10.5 **SPPA Valuation Guidance**  
Appendix 1 to the report gave information on Age Discrimination and Employer Cost Cap.
  
- 10.6 **McCloud Consultation**  
Appendix 2 to the report summarised the proposed changes. The impact on resources required and the most appropriate course of action would be reported to the next joint meeting.
  
- 10.7 **Scheme Advisory Board**  
The Chair advised that at the last meeting of the Scheme Advisory Board (SAB) it was requested that all managers produced transparency fees by the end of the financial year. Regarding the structure review, the SAB had rejected the tender process and requested the SAB Joint Secretaries arrange for input into the procurement process from Scotland

Excel. The next meeting was scheduled for 28 October when the SAB would assess the process towards tender.

10.8 **Training Opportunities**

Training sessions via Microsoft Teams had been organised on: 1 October – Governance and Investment; and, 8 October – Pension Administration. Mrs Robb confirmed that the sessions would be recorded and could be accessed following the live event to assist with training requirements.

**DECISION**

**NOTED** the briefing paper.

11. **PRIVATE BUSINESS**

**AGREED** under Section 50A(4) of the Local Government (Scotland) Act 1973 to excluded the public from the meeting during consideration of the business contained in the following items on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 6 and 8 of Part 1 of Schedule 7A to the Act.

**ADJOURNMENT**

The meeting was adjourned at 11.20 am and reconvened at 11.30 am.

12. **MINUTE**

The Committee and Board noted the Private Minute of the meeting of 22 June 2020.

13. **QUARTER PERFORMANCE TO 30 JUNE 2020**

The Committee and Board considered a private report by Isio.

14. **INFRASTRUCTURE UPDATE**

The Committee and Board noted a private report by Executive Director Finance and Regulatory updating on infrastructure investments made by the Fund under delegated authority.

***The meeting concluded at 12.10 pm.***

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# SCOTTISH BORDERS COUNCIL PENSION FUND COMMITTEE AND PENSION BOARD

MINUTES of Meeting of the SPECIAL  
PENSION FUND COMMITTEE AND  
PENSION BOARD held Via Microsoft  
Teams on Thursday, 26 November 2020 at  
2.00 pm

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Present:- Councillors D Parker (Chairman), J Brown, G Edgar, C Hamilton, D Moffat, S Scott, Mr D Bell, Mr M Drysdale, Ms L Ross and Ms C Stewart.  
In Attendance: Executive Director Finance & Regulatory, Pensions and Investment Manager, HR Shared Services Manager, Chief Officer Audit & Risk. Investment Advisory (Isio), Democratic Services Officer (J Turnbull).

1. **CHAIRMAN**

The Chairman clarified the special circumstances which required the arrangement of this special meeting. He explained that a response to the Scheme Advisory Board consultation was required to be submitted by 27 November for consideration at their meeting on 9 December 2020.

2. **PRIVATE BUSINESS**

**AGREED** under Section 50A(4) of the Local Government (Scotland) Act 1973 to excluded the public from the meeting during consideration of the business contained in the following items on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 6 and 8 of Part 1 of Schedule 7A to the Act.

3. **SCHEME ADVISORY BOARD CONSULTATION**

The Committee and Board discussed a private report by the Executive Director Finance and Regulatory.

*The meeting concluded at 2.45 pm.*

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**SCOTTISH BORDERS COUNCIL  
PENSION FUND INVESTMENT AND PERFORMANCE SUB-COMMITTEE**

MINUTES of Meeting of the PENSION FUND INVESTMENT AND PERFORMANCE SUB-COMMITTEE held Via Microsoft Teams on Tuesday, 29 September 2020 at 1.00 pm

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Present:- Councillors D Parker (Chairman), J Brown, G Edgar, D Moffat, S Mountford, S Scott, Ms K M Hughes and Ms L Ross.  
Apologies:- Councillor C Hamilton.  
In Attendance:- Director of Finance and Regulatory, Pension & Investments Manager, Mr A Singh and Mr A Ross (Isio) and Democratic Services Officer (J Turnbull).

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1. **WELCOME**

The Chairman welcomed everyone to the online meeting.

2. **MINUTE**

The Committee noted the Minute of the meeting of 10 February 2020.

**DECISION**

**NOTED for signature by the Chairman.**

3. **PRIVATE BUSINESS**

**AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business contained in the following items on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 6 and 8 of part 1 of Schedule 7A to the Act.**

**SUMMARY OF PRIVATE BUSINESS**

4. **PRIVATE MINUTE**

The Sub-Committee noted for signature the Private Minute of 10 February 2020.

5. **ISIO MANAGER BRIEFING**

The Sub-Committee noted a Manager Briefing Paper by Isio.

6. **PRESENTATION - BAILLIE GIFFORD**

The Sub-Committee noted a presentation by Baillie Gifford.

7. **PRESENTATION - MORGAN STANLEY**

The Sub-Committee noted a presentation by Morgan Stanley.

8. **PRESENTATION - MACQUARIE INFRASTRUCTURE DEBT INVESTMENT SOLUTIONS**

The Sub-Committee noted a presentation by Macquarie Infrastructure Debt Investment Solutions.

*The meeting concluded at 4.00 pm*

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## **RISK REGISTER UPDATE**

**Report by Executive Director Finance and Regulatory**

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### **JOINT MEETING OF PENSION FUND COMMITTEE AND PENSION BOARD**

**11 December 2020**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report forms part of the risk review requirements of the pension Fund. It provides the Members of the Pension Fund Committee and Pension Board with an update of the progress of the actions taken by Management to mitigate the risks previously identified, a review of any new risks and highlights changes to any of the risks contained in the Risk Register.**
- 1.2 Identifying and managing risk is a corner stone of effective management and is required under the Council's Risk Management Policy and process guide and CIPFA's guidance "Delivering Governance in Local Government Framework 2007". It is further reflected and enhanced in the "Local Government Pension Scheme" published by CIPFA.
- 1.3 A full risk review was undertaken on 15 May 2020. The revised Risk Register was subsequently approved by the Joint Pension Fund Committee and Pension Fund Board on 22 June 2020, with an update of the actions undertaken on 24 September 2020.
- 1.4 Appendix 1 details the risks within the approved risk register which have been identified management actions and the progress of these actions to date.

#### **2 RECOMMENDATIONS**

##### **2.1 It is recommended that the Committee:**

- (a) Note the management action progress as contained in Appendix 1;**
- (b) Notes no new quantifiable risks have been identified since the last review; and**
- (c) Agrees to a key risk review being undertaken in March 2021 and report of progress on the risk management actions.**

### 3 BACKGROUND

- 3.1 Identifying and managing risk is a corner stone of effective management and is required under the CIPFA guidance "Delivering Governance in Local Government Framework 2007". This requirement is further reflected and enhanced in the "Local Government Pension Scheme" published by CIPFA.
- 3.2 The Risk Register has been developed in line with the Council's approach to risk management as set out in the "Risk Management process guide" and assesses risks using a risk score based on likelihood and impact. It has been further refined to reflect best practice "Managing Risk in the Local Government Pension Scheme" published by CIPFA.
- 3.3 The Pension Fund's Business Plan 2020/21 – 2022/23 was approved on 22 June 2020, setting out the aims and objectives of the Pension Fund. These aims and objectives recognised in the formation and approval of the Pension Funds risk register.
- 3.4 The Council's revised Risk Management process guide uses the following risk scoring:

Level of risk	Risk score
 <b>RFD</b>	High – Risk Score Range 15-25
 <b>AMBER</b>	Medium – Risk Score Range 6 – 12
 <b>GREEN</b>	Low – Risk Score Range 1 - 5

- 3.5 To comply with the Council's revised policy of risk management and best practice, a Risk Management reporting cycle was developed around the performance and business plan reporting of the Pension Fund. As a result the following cycle of reporting was adopted:

- |             |   |
|-------------|---|
| Quarterly   | <ul style="list-style-type: none"><li>• Quarterly Investment Performance Report;</li><li>• Key risks, escalation of any risks that are perceived to have changed adversely and any new risks need to be considered by the Committee;</li><li>• Update on progress of risk management action delivery.</li></ul>   |
| Bi-Annually | <ul style="list-style-type: none"><li>• Mid-Year Progress report on Business Plan Actions;</li><li>• Key risks, escalation of any risks that are perceived to have changed adversely and any new risks need to be considered by the Committee;</li><li>• Update on progress of risk management action delivery.</li></ul>   |
| Annually    | <ul style="list-style-type: none"><li>• Annual Governance Meeting with Annual Report and Policy/Strategy Performance Reports;</li><li>• Annual reporting on progress with Business Plan and approval of updated Business Plan;</li><li>• Annual reporting on progress with Risk Management Actions and approval of fully reviewed Risk Register including</li></ul> |

consideration of any new risks.

#### **4 RISK REGISTER UPDATE**

- 4.1 A full risk Workshop was undertaken on 15 May 2020 by Officers in order to ensure that the Risk Register's contents were still relevant and up to date. The outcome of the Workshop was then considered and approved at the Committee/Board meeting on 22 June 2020.
- 4.2 The progress of the individual management actions identified in the current risk register is detailed in Appendix 1.
- 4.3 No new risks have been identified during the period.

#### **5 IMPLICATIONS**

##### **5.1 Financial**

There are no direct financial implications of this report.

##### **5.2 Risk and Mitigations**

The purpose of providing the update to the Committee and Board is to improve the risk management framework for the Pension Fund and demonstrate that the Members of the Pension Fund Committee and the Pension Board understand the risks faced and how it is proposed to manage, mitigate or tolerate these risks. The Additional Proposed Actions as contained in Appendix 1, and recommended for approval by the Committee and Board in this report, are designed to directly enhance the management of risks.

##### **5.3 Integrated Impact Assessment**

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine good governance required under the Local Government Pension Scheme (Governance) (Scotland) Regulations 2014. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio-economic factors have duly been considered when preparing this report.

##### **5.4 Acting Sustainably**

There are no direct economic, social or environmental issues with this report which would affect the Council's sustainability policy.

##### **5.5 Carbon Management**

There are no direct carbon emissions impacts as a result of this report.

##### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

**5.7 Changes to Scheme of Administration or Scheme of Delegation**

No changes to the Scheme of Administration of Scheme of Delegation are required as a result of this report.

**6 CONSULTATION**

6.1 The Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR, the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**David Robertson**

**Signature .....**

**Executive Director Finance and Regulatory**

**Author(s)**

Name	Designation and Contact Number
Kirsty Robb	Pension & Investment Manager, 01835 825249

**Background Papers:**

**Previous Minute Reference:** Pension Fund Committee and Pension Board, 24 September 2020

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Pension & Investment Team can also give information on other language translations as well as providing additional copies.

Contact us at Pension & Investment Team, Council Headquarters, Newtown St Boswells, Melrose, TD6 OSA Tel: 01835 825249 Fax 01835 825166. email: [t&cteam@scotborders.gov.uk](mailto:t&cteam@scotborders.gov.uk)

# Pension Fund - Full Risk Register

APPENDIX 1

No.	Category	Risk	Risk Factor/Cause	Effect/Consequences	Proximity	Risk Owner	Controls		Current Risk			Progress
							Current Controls	Control Assessment	Impact	Likelihood	Score	Actions as at 11/12/20
1.4	Asset & Investment	Failure to take expert advice or risk of poor investment/actuarial advice may lead to the Fund's assets not being properly managed resulting in inappropriate investment decisions and poor returns and/or insufficient funding levels	Committee ignores advice provided by expert adviser; External adviser provides inappropriate/inaccurate/ insufficient advice to Committee/Officers.	Wrong or inappropriate decisions resulting in inadequate investment returns and/or insufficient funding levels potentially increasing employers contribution rates.	Ongoing	Pension Fun Committee/Exec Dir Finance & Regulatory	Robust procurement processes around the recruitment and appointment process; Investment Adviser in place and performance reviewed annually Benchmark performance against other LAs; Regular benchmarking and cross verification of advice with other LAs through Local Govt. Pension Scheme(Scotland) Investment & Governance Group; Other info sources and discussions with non-Fund investment managers/advisers to validate advice and performance of Fund; Pension Fund Board provides scrutiny role <b>TREAT</b> Ongoing training for elected members of the Pension Board and Committee	Effective	4	2	8	Training requirements being actioned as part of Training plan to ensure have required skills and knowledge to enable challenge.
1.9	Asset & Investment	Investment Strategy is inconsistent with Funding Strategy may lead to the fund not being managed properly through setting employer contribution rates incorrectly resulting in the future liabilities of the Fund not being able to be covered by its assets and requiring employers to increase contribution rates to address any funding gap.	Investment Strategy for Fund set without appropriate consideration of the requirements of the Funding Strategy	future liabilities of the Fund not being able to be covered by its assets; Employers increase contribution rates to address any funding gap.	Ongoing	Pension Fun Committee/Exec Dir Finance & Regulatory	Full actuarial valuation undertaken on Triennial basis. Funding Strategy Statement and Statement of Investment Principles updated and approved at the same time. As part of this assess requirement for Investment strategy to be reviewed and updated accordingly.  <b>TREAT</b> - Undertake a full investment strategy review following 2020 valuation.	Effective	2	2	4	Initial valuations results reported at 11 Dec meeting, investment strategy to commence after valuation signed off
2.2	Employer	Adoption of either an inappropriately slow or rapid pace of funding rates for different employers may result in improper management of the Fund and result in inappropriate employer contribution rates and a possible shortfall in assets to cover the employer's liabilities.	Failure by employer to notify the fund of significant changes of membership.	Improper management of the Fund; Inappropriate employer contribution rates and a possible shortfall in assets to cover the employer's liabilities.	Ongoing	Pension Fun Committee/Exec Dir Finance & Regulatory	Full actuarial valuation undertaken on Triennial basis, 2020 valuation commenced; Review Pooling arrangements at each Valuation and implement appropriate de-pooling e.g. SBHA & CGI to reflect employer situations; Annual declaration made by each Employer for forthcoming changes Ensure full reporting of options are presented to the Committee and Board when employer circumstances change to ensure decision making fully informed.  <b>TREAT</b> Undertake next valuation for 2020	Effective	2	2	4	Data fully provided and initial valuation results reported at meeting 11 Dec 20
2.3	Employer	Failure of a Scheme Employer may lead to a shortfall in the funding levels of whole Fund resulting in increases for all other employers contributions	Scheme employer ceasing to operate	Shortfall in fund as a whole with increases required in all other employers contributions	Ongoing	Pension Fun Committee/Exec Dir Finance & Regulatory	Full actuarial valuation undertaken on Triennial basis; Bonds in place for Amey, and Council agreement in place for Live Borders and CGI ; Guarantee in place with SG for Visit Scotland; Contribution rates based on open/closed status of employer; Updated Admission Agreement and formal consideration of support at initial set up now implemented; Movement to closed scheme requires actuarial review, results then implemented.  <b>TREAT</b> - Cessation action will be incorporated into Funding Strategy Statement	Effective	3	2	6	Following discussion with Fund Actuary Cessation actions need to be considered at same point as reviewing Funding Strategy Statement, work has commenced on this review, which will be issued for consultation to employers ahead of presentation to the March 2021 meeting

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# Pension Fund - Full Risk Register

No.	Category	Risk	Risk Factor/Cause	Effect/Consequences	Proximity	Risk Owner	Controls		Current Risk			Progress
							Current Controls	Control Assessment	Impact	Likelihood	Score	Actions as at 11/12/20
2.5	Employer	Loss of income for employer resulting in inability to fund contributions	Global pandemic resulting in closure of facilities Loss of income due to global economy crash	Failure of employer to pay contributions loss of cash flow to pay pensioners	ongoing	Exec Dir Finance & Regulatory/ Service Dir HR & Comms	Annual Employers Liaison group established to improve two-way communication; Borders College and 2 Admitted Bodies representatives on Pension Board; Active involvement of actuary in projects affecting membership structures; Low number of admitted and scheduled bodies and any new admitted bodies are carefully considered before admission. Annual Declaration to include changes of scheme membership for current and future year.  <b>TREAT</b> ; undertake review of admission agreements and guarantees	Partial Effective	2	5	10	Review of Admission agreements and guarantees scheduled to commence in coming months in line with COVID safe office preparation (need to access office to get historical agreements from paper files), agree time line with Actuary who will undertake the review.
3.2	Resources & skills	Failure to provide appropriate training and support and/or secure Board/Committee Member engagement in Training Programme may lead to ineffective management of the Fund as a result of poorly informed decision making.	Availability of members to attend training; Inappropriate training programme.	Ineffective management of the Fund as a result of poorly informed decision making.	Ongoing	Pension Fun Committee/Exec Dir Finance & Regulatory	Approved Training Policy; Training assessment informs the annual training plan; Training opportunities are made available to members of Board and Committee; Members have access to External Adviser and Council Officers to help advise and inform them in relation to decisions taken by the Committees; Access to the Pension Regulator's website; Participation in training is published in Annual Report. All new members required to complete Trustee Toolkit within 6 months of joining Committee or Board  <b>TREAT</b> - annual monitoring and reporting undertaken	Effective	3	3	9	Annual review completed and findings reported 13 June 2019. Annual training plan approved 13 June 2019 to address required training areas. All members on target to meet training requirement for 2019/20
3.5	Resources & skills	Failure of Officers to maintain sufficient level of competence to discharge their duties could lead to failure to manage the Fund effectively as a result of their inability to provide appropriate decision making support and advice.	Changes in legislation; New investment types and vehicles; Lack of documented procedures.	Failure to manage the Fund effectively.	Ongoing	Exec Dir Finance & Regulatory/ Service Dir HR & Comms	Use of External Advisers provides additional resilience and resources; Competency appraisal process implemented to identified training and development requirements; Active participation in Scottish Investments and Governance Group (IGG) and Scottish Pensions Liaison Group; Procedural notes completed Regular engagement with external Investment Managers to supplement knowledge.  <b>TREAT</b> - Improvement in quality of procedure notes for officers. Implementation of Competency Framework for all staff	Partially Effective	2	3	6	Continual review of processes and procedural notes to ensure they are compliant with regulations and system requirements (Altair and Business World). Competency Framework implemented for all staff along with new appraisal process
4.5	Liquidity	New pension access reforms ("freedom of choice") may lead to pension fund members electing to transfer all or part of their pension entitlement much earlier than projected resulting in the potential for a significant change in the liability profile for the Fund.	Changes in legislation and increase in awareness.	Requirement to release large amounts of cash to members; Disinvest current assets in a much more unplanned manner with the potential to disadvantage the Funding position; Scheme sanction charges for any transfer to unapproved scheme.	Ongoing	Exec Dir Finance & Regulatory/ Service Dir HR & Comms	Requests for transfers are currently mitigated by obtaining enhanced levels of indemnity for the members, the receiving scheme and written confirmation of the scheme approval from HMRC; Monitoring will be undertaken during the year and reported to Members as part of the annual report. With effect from 1 April 2015 members with funds in excess of £30k must receive professional advice from a Financial Conduct (FCA) regulated adviser, includes signed declaration by individual; Continue to monitor ongoing legislation around this area. Communication Strategy agreed and website launched  <b>TREAT</b> - Review and watch to be placed on advice and guidance issued from The Pension Regulator and Government.	Effective	2	2	4	Continue to monitor advice and information from The Pension Regulator and Government bodies.

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# Pension Fund - Full Risk Register

No.	Category	Risk	Risk Factor/Cause	Effect/Consequences	Proximity	Risk Owner	Controls		Current Risk			Progress
							Current Controls	Control Assessment	Impact	Likelihood	Score	Actions as at 11/12/20
5.3	Administrative	Failure to provide pensions administration service due to major operational disruption could lead to inability to provide a high quality pension service to members	Loss of main office; Computer system; Staff absence.	Ability to process payments on time; Financial distress to members; Reputational risk.	Ongoing	HR Shared Services Manager	Robust business continuity processes in place across the Council around key business processes, including a disaster recovery IT site. Reviewed regularly. Pensions Administration System is hosted system, along with Windows 7 provides improved ability for homeworking; <b>TREAT</b> - in line with core HR risk review full business continuity review to be undertaken.	Effective	2	3	6	Work to commence on business continuity review with Altair a fully hosted solution  Roll out of Windows 10 has been completed for all Pensions Admin Team
5.4	Administrative	Failure to prevent fraud or misappropriation by scheme member, employee or scheme employer within the Fund may lead to loss of funds.	Lack of monitoring; Lack of segregation of duties.	Inability to provide a high quality pension service to members; Financial loss to the Fund; Impact on benefits paid to members.	Ongoing	HR Shared Services Manager	Robust segregation of duties and other internal controls to mitigate against this risk; Immediate action taken upon discovery of fraud; Internal & External Audit programme also picks up the monitoring of this risk. <b>TREAT</b> - to request from each External Employers audited accounts to provide assurance on their internal controls	Effective	2	2	4	Annual assurance review requests scheduled to be issued November 2020.
6.1	Regulatory & Compliance	Failure to administer and manage Fund in line with requirements of legislation and other regulations e.g. LGPS regulations, HMRC may lead to benefits calculated incorrectly and/or breach legislation	Changes to legislation; Lack of staff training; Lack of knowledge and skills	Wrong pension payments made or estimates given; Breach of regulations; Prosecution.	Ongoing	HR Shared Services Manager/ Pension & Investments Manager	Compliance with new accounting standards and pension fund regulations are subject to robust internal and external audit review and reporting; Participation in the active Scottish Pensions networks and CIPFA updates; External Audit review extends beyond financial controls; Pension Board review of decisions; PRD process implemented to identify training and development requirements. <b>TREAT</b> - Implementation of Competency Framework to all staff	Effective	2	2	4	Competency Framework implemented for all staff along with new appraisal process
6.2	Regulatory & Compliance	Changes in legislation and other regulatory frameworks may impact adversely on the Fund in terms of funding levels and governance structures	Central Govt. legislation changes.	Loss of independence in the management of the Fund; Impact on Fund value and benefits; Increased costs to the Fund, employer contributions; Potential loss of active scheme members.	Ongoing	Exec Dir Finance & Regulatory/ Service Dir HR & Comms	Participation in active CIPFA and Scottish Pension network allow changes and impacts to be identified quickly; Involvement with COSLA discussions on Pensions; Monitoring and highlighting actions and decisions from scheme advisory board; <b>TREAT</b> Seek to input into any of the legislative change through active membership of COSLA;	Partially Effective	4	4	16	Responding to all consultations and participating in all national groups. Executive Director Finance & Regulatory active member of Director of Finance group. Monitoring Scheme Advisory Board web site on monthly basis
6.3	Regulatory & Compliance	Failure to produce accounts, notices and publications correctly or on time resulting in inability to manage the fund effectively and compliantly.	Lack of capacity; Conflicting operational demands, including Transformational activity.	Accounts qualified by External Auditors; Referral to Pensions Regulator or Scheme Advisory Board	Ongoing	Exec Dir Finance & Regulatory	Compliance subject to robust internal and external audit review and reporting; Participation in the active Scottish Pensions networks; Staff training requirements identified via PRD and attendance at appropriate training events. <b>TREAT</b> - Implementation of Competency Framework to all staff	Effective	2	2	4	Competency Framework implemented for all staff along with new appraisal process
6.5	Regulatory & Compliance	Changes in LGPS Structures	Review by Scheme Advisory Board on LGPS structures	Fund may cease to exist, assets may be pooled, Administration could be pooled	Ongoing	Exec Dir Finance & Regulatory	Monitoring of political position via Scheme Advisory Board <b>TREAT</b> - Actively engage with Scheme Advisory Board and consultants undertaking review	Partially Effective	3	4	12	Minutes of SAB tabled as meetings for information when available

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# Pension Fund - Full Risk Register

APPENDIX 1

No.	Category	Risk	Risk Factor/Cause	Effect/Consequences	Proximity	Risk Owner	Controls		Current Risk			Progress
							Current Controls	Control Assessment	Impact	Likelihood	Score	Actions as at 11/12/20
7.3	Reputation	Failure to appoint relevant advisers and review their performance may lead to inappropriate management of the Fund resulting from poor advice to decision makers	Lack of capacity of Officers to monitor.	Failure to achieve Pension Fund objectives; Inappropriate management of the Fund resulting from poor advice to decision makers; Legal challenge	Ongoing	Exec Dir Finance & Regulatory/ Service Dir HR & Comms	Identify requirements of external advisers and appoint appropriately. Annual review undertaken with Investment Advisor and Custodian.  <b>TREAT</b> - Implement annual review of Advisers;	Effective	2	2	4	Review meetings held with Northern Trust and Isio

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## **BUSINESS PLAN PERFORMANCE UPDATE**

**Report by Executive Director Finance & Regulatory**

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### **JOINT MEETING OF PENSION FUND COMMITTEE AND PENSION FUND BOARD**

**11 December 2020**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report is to provide members of the Committee and the Board with an update on delivery of the actions within the approved Business Plan.**
- 1.2 The 2020/21 – 2022/23 Business Plan for the Pension Fund was approved by the Committee/Board on 22 June 2020. Included within the plan were key objectives and actions with target dates. A summary of the progress on the actions are included in Appendix 1.
- 1.3 As part of the risk register update approved at Committee/Board on 24 September 2020 it was agreed that a mid-year progress report on the business plan actions would be presented to Members at the December 2020 meeting and a further progress report and update at the June 2021 meeting.
- 1.4 There are 25 key tasks due for completion during 2020/21. Of these 11 are fully complete, 7 are on track to be completed by the approved target date and 7 require revised target dates as detailed below.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Pension Fund Committee:**
  - (a) Notes the progress of the 2020/21 actions within the business plan;**
  - (b) Agrees the revised target date of 31 March 2021 for completion of the Triennial valuation;**
  - (c) Agrees the revised target date of 31 March 2021 for completion of the Cessation and discretion policy which will be included in the Funding Strategy Statement;**
  - (d) Agrees the revised target date of 30 June 2021 for the review of admission agreements;**
  - (e) Agrees the revised target date of 30 June 2021 for the review of employer guarantees;**

- (f) Agrees the revised target date of 31 March 2021 for the implementation of i-Connect;**
- (g) Agrees the revised target date of 30 June 2021 for the review of the Stewardship Code and;**
- (h) Agrees the revised target date of 31 March 2021 for the procurement of Investment Advisor.**

### **3 BACKGROUND**

- 3.1 Local Government Pension Scheme (LGPS) administering authorities are required to prepare, publish and maintain statements of compliance against a set of six principles for pension fund investment, scheme governance, disclosure and consultation. These are referred to as the "Myners Principles" and the reporting on compliance, as required by the LGPS Regulations, must be included in the Statement of Investment Principles.
- 3.2 Best practice indicates that having a business plan for the Pension Fund is a good way of demonstrating compliance with the "Myners Principle" that underpin effective decision making. The Pension Fund Committee and Board approved the 2020/21 – 2022/23 business plan on 22 June 2020.
- 3.3 As part of the risk register update approved by Committee/Board on 24 September 2020 it was agreed a progress report on the actions contained within the business plan would be reported to the Committee and Board at the December 2020 meeting

### **4 ACTION PLAN – PROGRESS UPDATE**

- 4.1 The action plan approved at the joint meeting on 22 June 2020 detailed how the achievement of the objectives within the business plan would be measured. Appendix 1 shows the actions to be completed in 2020/21 and provides an update on each individual action.
- 4.2 There are 25 key tasks due for completion during 2020/21. Of these 11 are fully complete, 7 are on track to be completed by the approved target date and 7 require revised target dates as detailed below.
- 4.3 The Triennial valuation is progressing with findings reported to Committee for consideration on 11 December 2020. The final approval of the valuation along with the required changes to the Funding Strategy Statement will not be presented until 4 March 2021 meeting. It is therefore proposed to amend the target completion date to 31 March 2021.
- 4.4 Following discussion with Hymans Robertson, the Fund Actuary, it has been determined that there is no requirement to have a separate Discretion and Cessation Policy but this should be incorporated into the Funding Strategy Statement (FSS). A review is required of the Funding Strategy Statement to reflect a number of key issues such as McCloud, Cost Cap and GMP as well as the revised approach taken by our new actuary Hymans Robertson. The revised FSS will be issued to Employers as part of the consultation process during January with final approval at 4 March 2021 meeting. It is therefore proposed to amend the target completion date to 31 March 2021.
- 4.5 Due to restrictions on access to the office as a result of COVID the work required to review the admission agreements and the employer guarantees has not yet commenced. It is therefore proposed a revised target date of 30 June 2021 is agreed for these actions.
- 4.6 Due to the impact of COVID and prioritisation of ongoing payment of pensioners and provision of data for the valuation there is going to be a small slippage in the implementation of i-Connect. This now has a target completion date of 31 March 2021 for our largest employers.

- 4.7 Due to resource pressures from the impact of COVID the work to review the Stewardship Code 2020 has not yet fully commenced. It is therefore proposed a revised target date of 30 June 2021 is agreed.
- 4.8 Due to resource pressure from the impact of COVID there has been a slight delay in the commencement of the procurement process for the Funds Investment Advisor. Tender documents have been issued and report will be tabled at meeting on 4 March 2021. It is therefore proposed a revised target date of 31 March 2021 be agree to reflect this.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no financial implications to this report.

### **5.2 Risk and Mitigations**

The monitoring of the delivery of actions within the Business Plan including identification of responsible officer and timescales, as set out in this report, is part of the governance framework to manage the operation of the Pension Fund and ensure effective decision making. Some of the actions are designed to directly enhance the management of risks..

### **5.3 Integrated Impact Assessment**

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine good governance required und the Local Government Pension Scheme (Governance) (Scotland) Regulations 2014. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio –economic factors have duly been considered when preparing this report.

### **5.4 Acting Sustainably**

There are no direct economic, social or environmental issues with this reports which would affect the Council's sustainability

### **5.5 Carbon Management**

There are no direct carbon emissions impacts as a result of this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

### **5.7 Changes to Scheme of Administration or Scheme of Delegation**

No changes are required as a result of this report.



**What we want to achieve ... (Objective)**

Set levels of employer contribution that will build up a fund of assets that will be sufficient to meet all future benefit payments from the Fund, and invest in assets that grows the Fund's assets in a such a way that produces levels of employer contribution that are as stable as possible

**How?**

Action No.	How we will achieve our objective ... (Action)	Key Tasks	PI ref.	Owner	Target	Progress
P 1	<b>Review Pension Strategies informed by 2017 and 2020 Triennial Valuation Results</b>					
	Monitor and report investment performance	Fund Investment Performance at Benchmark	P1-A1	P&I Manager	Ongoing	Reports produced quarterly to Joint Committee and Board. Performance and Sub Committee.
	Undertake and complete Triennial valuation	Triennial Actuarial Valuation Funding Level of assets against liabilities	P1-B1	HRSS Manager	31/12/20	Ongoing, final results will be signed off in March 2021
		Data provision review to meet the requirements of newly appointed Actuary	P1-B2	P&I Manger	31/3/20	Complete, information provided to Actuary to enable them to progress with valuation
	Approval and implementation of 2020 Triennial Valuation employer contribution results, including update of Funding Strategy Statement	Correct employer contribution rates in Pensions System for each employer	P1-C1	HRSS Manager	30/6/20	Actioned within pension admin system
		Pension Fund Committee approval of Funding Strategy Statement	P1-C2	P&I Manager	30/6/20	Funding Strategy Statement approved 22 June 20
P 2	<b>Maximise investment performance</b>					
	Ensure Fund reclaims all tax possible	Undertake review of current taxation position	P2-A1	P&I Manager	30/6/20	Complete, paper to Committee 11 Dec 20
		Implement actions from taxation review	P2-A2		31/12/20	On target
	Review Strategic asset allocation following completion of 2020 valuation outcomes	Undertake full review of strategic asset allocation	P2-B1	P&I Manager	31/3/21	On target, linked to Investment Advisor procurement

**What we want to achieve ... (Objective)**

## Deliver a High Quality Pension Service to Members

How?							
Action No.	How we will achieve our objective ... (Action)	Key Tasks	PI ref.	Owner	Target	Progress30/	
<b>P</b>	<b>3</b>	<b>Develop and Implement an effective Communication Strategy for the Pension Fund</b>					
		Review Communication Strategy and Action Plan in line with best practice and technological advancements	Review of Communications strategy and action plan	P3-A1	HRSS Manager	31/3/21	Complete, approved 24 Sept 2020
		Continue to proactively manage and engage Pension Fund Employers	Hold Annual Employer Liaison Meeting	P3-A2	HRSS Manager	1 meetings by 31/03/2021	Ongoing, will be looking to set a date for this early in 2021 and this will be a virtual event
		Review all forms and communication material, including annual benefit statements	Annual review of all forms, communication material, including annual benefit statements	P3-A3	HRSS Manager	30/9/20	Complete, approved 24 Sept 2020
<b>P</b>	<b>4</b>	<b>Development of Cessation and Discretion Policy</b>					
		Develop and gain approval of Cessation and Discretion Policy	Development of Cessation and Discretion Policy	P4-A1	HRSS Manager/ P&I Manager	31/12/20	Work commenced to be included in Funding Strategy Statement
<b>P</b>	<b>5</b>	<b>Ensure stability of Employers</b>					
		Review of Employer covenants	Review of admission agreement	P5-A1	HRSS Manager	31/3/21	Delayed due current COVID restrictions and requirement to access office for paper files
			Review of employer guarantees	P5-A2		31/3/21	Delayed due current COVID restrictions and requirement to access office for paper files
<b>P</b>	<b>6</b>	<b>Ensure accuracy of Pension Records</b>					

		Complete full reconciliation of Guaranteed Minimum Pension (GMP) amounts between Fund and HMRC	Complete full reconciliation of Guaranteed Minimum Pension between Fund & HMRC	P6-A1	HRSS Manager	31/3/21	Ongoing, waiting on finalised report	
			Review of Common and Specific Data following annual review and return to The Pension Regulator	P6-A2		30/06/21	Ongoing, Data Quality report being run during November which will provide details of any changes required and current measure	
<b>P</b>	<b>7</b>	<b>Implementation of self service facility</b>						
		Implementation of Self Service facility	Implementation and roll out of self service to all members	P7-A1	HRSS Manager	30/6/21	Ongoing discussion with CGI and Aquila Heywood, anticipated meeting initial target date	
<b>P</b>	<b>8</b>	<b>System improvements to support home working</b>						
		Consider implementation of workflow	Implementation of workflow	P8-A1	HRSS Manager	31/12/20	Ongoing as a consideration	
		Implementation of i-Connect for large employers	Implementation of i-Connect	P8-A2	HRSS Manager	31/12/20	Ongoing, will be a short delay due to COVID	
		Digitisation of historical records	Digitisation of historical records	P8-A3	HRSS Manager	30/6/21	Ongoing as a consideration, waiting on outcome of corporate proposal	
		Availably for online payslip and P60's	Implementation of online payslips and P60's	P8 –A4	HRSS Manager	30/6/21	On target	

**What we want to achieve ... (Objective)**

**Ensure that Scottish Borders Pension Fund is managed effectively, transparently and in compliance with regulation**

How?						
Action No.	How we will achieve our objective ... (Action)	Key Tasks	PI ref.	Owner	target	Progress
<b>P 9</b>	<b>Continue to develop robust governance and risk management</b>					
	Review and update Governance Policy and Compliance Statement	Pension Fund Committee approval of Governance Policy and Compliance Statement 2019	P9-A1	P & I Manager	30/6/20	Approved 22 June 20
	Develop and deliver 2020/21 Training Programme	Pension Fund Committee approval of Training Policy 2020 and Training Programme 2020/21	P9-A2	P & I Manager	30/6/20	Approved 22 June 20
		Training Needs Self-Assessment Levels from 2019/20 to 2020/21	P9-A4		30/6/20	Completed 22 June 20
	Review and update Responsible Investment Policy and annual reporting	Review current and developing best practice for responsible investment	P9-A5	P & I Manager	31/12/20	Annual report updated and approved 24 Sept 20
	Review and update Pensions Administration Strategy	Pension Fund Committee approval of Pensions Administration Strategy	P9-A3	HRSS Manager	30/9/20	Complete, approved 24 Sept 2020
	Ensure the Pension Fund in prepared to meet any future reporting requirements from the Stewardship Code 2020	Undertake review of Stewardship Code 2020 and recommendations for adherence	P9-A6	P & I Manager	31/12/20	Work not yet fully commenced, proposed revised date 30/06/20
		Implement recommendation from Stewardship Code review	P9-A7		30/9/21	Dependant of review in P9-A6
<b>P 10</b>	<b>Review services provided externally to ensure that these represent best value to the Fund</b>					
	Undertake procurement exercise for Investment Advisor	Undertake procurement exercise for Investment Advisor (current contract end 31/3/2021)	P10-A1	P & I Manager	31/12/20	Procurement process underway report due to Committee 4 March 21





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## **PENSION FUND BUDGET MONITORING TO 30 SEPTEMBER 2020**

**Report by Executive Director Finance & Regulatory**

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### **JOINT PENSION FUND COMMITTEE AND PENSION FUND BOARD**

**11 December 2020**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to provide the Pension Fund Committee and Pension Fund Board with an update position of the Pension Fund budget to 30 September 2020 including projections to 31 March 2021.**
- 1.2 The Local Government Pension Scheme (Scotland) Regulation 2014 requires Administering Authorities to ensure strong governance arrangements and sets out the standards they are to be measured against.
- 1.3 To ensure the Fund meets the standards a budget was approved on 10 March 2020 following the recommendations within the CIPFA accounting guidelines headings. This report is the second quarterly monitoring report of the approved budgets.
- 1.4 The total expenditure to 30 September 2020 is £0.314m with a projected total expenditure of £6.906m against a budget of £6.901m. This projects a budget variance of £5k which represents the commissioned work to update the Funding Strategy Statement.

#### **2 RECOMMENDATIONS**

**2.1 It is recommended that the Pension Fund Committee:-**

- (a) Notes the actual expenditure to 30 September 2020; and**
- (b) Agrees the projected out-turn as the revised budget.**

### 3 BACKGROUND

- 3.1 The Local Government Pension Scheme (Scotland) Regulation 2014 requires Administering Authorities to ensure strong governance arrangements and sets out the standards they are to be measured against. The Fund is required to report on an annual basis within its Annual Report if it has met these standards. To demonstrate full compliance requires the setting and monitoring of a budget for the Fund.
- 3.2 A budget was approved at the Joint Pension Fund Committee and Pension Fund Board meeting on 10 March 2020 for 2020/21. The approved budget follows the Local Government Pension Scheme management costs guidance issued by CIPFA into the following 3 categories.

Category	Costs included
Investment Management	All expenses incurred in relation to management of pension fund assets. Including costs invoiced direct and fees deducted from fund assets. Custody and performance fees also included
Administration	Costs incurred in administration of the fund including staff, IT costs and associated overheads, benefits consultants.
Oversight and governance	Costs incurred in the selection & appointment of managers, audit fees, investment advisory services, tax advisory, accounting services, banking service and support to the pensions committee and board.

### 4 MONITORING TO 30 SEPT 2020

- 4.1 The table below shows the expenditure to 30 September 2020, projected out-turn to 31 March 2021 and current approved budget for 2020/21.

	Expenditure to 30 June 20 £000's	Projected to 31 March 21 £000's	2020/21 Budget £000's	2020/21 Variance £000's
Investment Management	134	6,198	6,198	
Administration	108	408	408	
Oversight & Governance	72	300	295	5
<b>Total</b>	<b>314</b>	<b>6,906</b>	<b>6,901</b>	<b>5</b>

- 4.2 Investment Management fees are charged on a quarterly basis in arrears based on the value of assets held on a quarterly basis. The second quarters investment management fees are not therefore included in the expenditure to 30 September 2020 totals.

- 4.3 It was anticipated with the launch of the Cost Transparency Initiative (CTI) last year Fund Managers would be able to provide information on costs on a quarterly basis which will allow the Fund to more actively monitor the fees in year. Work has been on going to encourage all Fund Managers to provide information. Fund Managers are finding the quarterly requests difficult but are working with us to resolve the issues. It was anticipated that information will be available for the majority of the Funds' assets managed in the next quarterly report however due to the complexity and variety of information received the information is not yet fully validated.
- 4.4 The additional projected £5k governance cost will allow work to be commissioned to update the Funding Strategy Statement (FSS) which will be submitted for approval in March 2021 with the valuation results. Due a number of issues including the recent change of actuary, McCloud, Cost Cap and GMP the FSS requires a number of changes. The work will also incorporate into the FSS the Funds Discretion and Cessation Policy, which is identified in the Business Plan.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no costs attached to any of the recommendations contained in this report.

### **5.2 Risk and Mitigations**

This report is part of the governance framework to manager the operation of the Pension Fund and reflects the compliance with the best practice recommendations. Risks are managed in line with the Corporate Risk Management framework, with risks and controls monitored and reported on a quarterly basis.

### **5.3 Integrated Impact Assessment**

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine good governance required und the Local Government Pension Scheme (Governance) (Scotland) Regulations 2014. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio –economic factors have duly been considered when preparing this report.

### **5.4 Acting Sustainably**

There are no direct economic, social or environmental issues with this report which would affect the Council's sustainability policy.

### **5.5 Carbon Management**

There are no direct carbon emissions impacts as a result of this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.



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## **INVESTMENT TAXATION REVIEW**

**Report by Executive Director Finance & Regulatory**

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### **JOINT MEETING OF PENSION FUND COMMITTEE AND PENSION FUND BOARD**

**11 December 2020**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 **The purpose of this report is to update the Committee and Board on the findings of a review undertaken by KPMG on the reclaiming of taxation on the Fund's overseas investments.** This review was approved as part of the agreed business plan to ensure the Fund is as tax efficient as possible.
- 1.2 The income generated by these investments can be subject to Withholding Tax (WHT) in the country of origin. The WHT is deducted at different rates depending on the tax regime in the country where the investment is held. This withheld tax can be reclaimed under certain circumstances. To ensure the performance of investments is maximised the Fund needs to ensure it reclaims as much WHT as possible.
- 1.3 KPMG were commissioned to undertake the review which was broken down into 3 parts. Review of the performance of Northern Trust as the Fund's custodian for the segregated funds. Review of the infrastructure investments made in collaboration with Lothian Pension Fund and a review of investments in pooled funds.
- 1.4 The review of the performance of Northern Trust for the segregated funds highlighted a small number of differences in rates reclaimed, which have now been addressed.
- 1.5 The review of the infrastructure investments made in collaboration with Lothian Pension Fund highlighted one investment which has triggered a US filing obligation. The costs and requirements of this is currently under fuller investigation but may result in additional costs for the Fund.
- 1.6 The review of the pooled funds held confirmed all funds are tax efficient.

## **2 RECOMMENDATIONS**

### **2.1 It is recommend the Pension Fund Committee:**

- (a) note the outcome of the taxation review and**
- (b) approve the filing of any required USA tax documents with the assistance of KPMG.**

### **3 BACKGROUND**

- 3.1 The income generated by the Pension Fund's investments can be subject to Withholding Tax (WHT) in the country of origin. This WHT is deducted at different rates per country and can sometimes be reclaimed. To ensure the Fund maximizes the performance of its investments and avoids unnecessary tax leakage the Fund needs to ensure it reclaims as much WHT as possible. The Fund reclaimed £179k of WHT for the year 2019/20 and registered as exempt for a number of its Funds.
- 3.2 As the Pension Fund has grown over the years, the value of investments and the complexity of the investments has increased. Investments are now held over a number of different structures and invested globally.
- 3.3 The investments for taxation purposes are categorised into 3 elements
- Segregated Funds – assets held in name of Scottish Borders Council Pension Fund. These are Baillie Gifford UK and Global equity Funds.
  - Pooled Funds – assets purchase by an Investment Manager, investors purchase units/shares in the fund rather than the direct assets. These include the funds held with Morgan Stanley, LGT, UBS, M&G, Blackrock, Partners and Permira.
  - Private Equity Investments – Investments via private vehicles which can be structured in a number of ways. These investments include the range of Infrastructure investments made in collaboration with Lothian Pension Fund.
- 3.4 To allow the Pension Fund to reclaim any WHT deducted at source requires the Fund to work with both Northern Trust as its custodian and the individual Fund Managers. There is a requirement to complete tax documentation for each country and for each individual manager. The requirement for countries vary greatly and many need renewed on an annual basis.
- 3.5 With the increasing levels of complexity of the investments held and the already complex requirements of ensure the Fund is as tax efficient as possible, the Committee approved a review within the Business Plan of the taxation position of the investments held and instructed a health check on the performance of Northern Trust in taxation reclaims be undertaken. KPMG were commissioned to undertake this work.

### **4 TAXATION REVIEW FINDINGS**

- 4.1 Due to the complexity of Fund the review was completed in 3 parts. The review was carried out by KMPG using data and information from both Northern Trust (NT) and legal documents held by the Fund.
- 4.2 The first part of the review was to ensure any WHT deducted on the segregated holdings held by Baillie Gifford where being reclaimed by Northern Trust correctly and in a timely manner.
- 4.3 The review found that generally Northern Trust had reclaimed the WHT correctly and in a timely manner. There was however nine source

countries identified with differences in rates expected to be used and those used by Northern Trust. Discussions have been held with Northern Trust to investigate and correct these issues.

- 4.4 The second part of the review was to undertake a review of the taxation position of the investments made in infrastructure in collaboration with Lothian Pension Fund. The fund at the time of the review had 16 individual investments with 9 different fund managers. These investments were also structured in a number of different ways and in different countries. The review looked at each individual investment to ensure maximum taxable benefit was obtained.
- 4.5 The review confirmed 15 of the investments are structured in a tax efficient way which ensures no tax leakage from the investments and no obligation for separate USA filing obligations. There is however one investment for £1.5m which may have a USA filing obligation and which WHT has been incurred.
- 4.6 If a USA filing obligation is triggered, it is recommended to do so irrelevant of the value, this is due to the risk of penalties and interest which may be incurred from non compliance. There are two possible options for filing, these are Federal or State filing and on occasion both may be required. Further investigation is currently underway to full ascertain the filing requirements.
- 4.6 The final part of the exercise was to undertake a review of the Pension Fund's pooled investments. The Fund is currently invested in 13 pooled funds with 8 Fund Managers. The review has confirmed all distributions and payments to the Funds do not incur any WHT and are paid gross.
- 4.7 The overall findings of the review are positive demonstrating the Fund is tax efficient.

## **5 IMPLICATIONS**

### **5.1 Financial**

- (a) There are no additional costs identified from the review of the performance of the custodian or the review of the pooled funds.
- (b) If the Fund is confirmed to have a US Filing obligation for the Infrastructure investment which will incur additional costs. To file a US Federal return is around \$5,000 and a State return is \$750. To complete the process specialist taxation assistance would be required. It estimated at £2,000 to £3,000 per return.

### **5.2 Risk and Mitigations**

To ensure the Fund maximizes the investment income it must ensure the Fund is managed in way which allows WHT to be reclaimed or be tax exempt at source. This is a highly specialist area which legislative requirements being different for each Country. If the Fund does not adhere to the requirements it could result in loss of WHT or penalties to be incurred. The review undertaken and the close working with the Custodian both provide mitigation to these risks.

### 5.3 **Integrated Impact Assessment**

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine good governance required under the Local Government Pension Scheme (Governance) (Scotland) Regulations 2014. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio-economic factors have duly been considered when preparing this report.

### 5.4 **Acting Sustainably**

There are no direct economic, social or environmental issues with this reports which would affect the Council's sustainability.

### 5.5 **Carbon Management**

There are no direct carbon emissions impacts as a result of this report.

### 5.6 **Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

### 5.7 **Changes to Scheme of Administration or Scheme of Delegation**

No changes are required as a result of this report.

## 6 **CONSULTATION**

6.1 The Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR & Communications, the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

### **Approved by**

**David Robertson** **Signature** .....

**Executive Director Finance and Regulatory**

### **Author(s)**

Name	Designation and Contact Number
Kirsty Robb	Pension & Investment Manager, 01835 825249

**Background Papers:** Pension Fund Business Plan 2020/21 – 2022/23

**Previous Minute Reference:** Joint meeting Pension Fund Committee and Pension Fund Board, 22 June 2020.

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. The Pensions & Investment Team can also give information on other language translations as well as providing additional copies.

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**INFORMATION UPDATE**
**Briefing Paper by Executive Director Finance & Regulatory Services**


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**JOINT MEETING OF PENSION FUND COMMITTEE AND PENSION FUND BOARD**
**11 December 2020**


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**1 PURPOSE AND SUMMARY**

- 1.1 **This briefing paper is to provide members of the Committee and the Board with an update on a number of areas which are being monitored and areas where work is progressing. Full reports on the individual areas will be tabled as decisions and actions are required.**

**2 DATA QUALITY**

- 2.1 The annual data quality report has been produced for 2019 which measures data against the requirements of the Pension Regulator. There are two different sets of data that are measured and the results for the Fund are as follows: -

	2020 Results	2019 Results
Common Data	98.9%	98.9%
Scheme Specific Data	97.6%	96.7%

- 2.2 We await the detailed analysis report from our software provider, who runs this process on our behalf, and on receipt this will be analysed to determine if there is any specific action required and a rectification plan will be put in place as appropriate. A further update will be provided at the next meeting to advise on any necessary action.

**3 MCLOUD CONSULTATION**

- 3.1 Officers from all Scottish LGPS Funds met to discuss a combined response to the above consultation, this ensured that there was a collective view on the implications that the proposed remedy has on the Funds and provided feedback on areas that further clarification or consideration should be given to. None more so than to

highlight that this adds yet another layer of complexity to the Pensions Administration process.

3.2 Funds also questioned the proposed implementation date of 1 April 2021 and how achievable this was, given the need for significant changes to be made by software suppliers.

3.3 A copy of the full response is attached at Appendix 1.

#### **4 AVC UPDATE**

4.1 In June 2019 Scottish Borders Council and Live Borders implemented a Shared Cost AVC Scheme whereby employees are able to benefit from a reduction in National Insurance contributions in addition to saving Income Tax when compared to a traditional AVC.

4.2 In December 2019 we reported figures for Scottish Borders Council, there has been an increase of 18 employees participating in the Shared Cost AVC scheme and a reduction of 2 employees in the traditional AVC scheme.

	2019	2020
Shared Cost AVC Scheme	58	76
Traditional AVC Scheme	10	8
Total	68	84

#### **5 SCHEME ADVISORY BOARD**

5.1 The Scheme Advisory Board (SAB) met on 16<sup>th</sup> September 2020. The agenda covered the following items, appendix 2 contains the bulletin of the meeting

- Structure review
- Infrastructure Investment
- Cost Cap
- Cessation costs
- Cost transparency
- Support for the SAB

5.2 The SAB undertook a consultation on the procurement specification for the next stage of the Structure Review. A special meeting of the Pension Fund Committee and Pension Fund Board was held on 26<sup>th</sup> November to allow the Funds response to be agreed for submission before the closing date of 27<sup>th</sup> November.

5.3 The next meeting is scheduled for 9<sup>th</sup> December 2020.

## 6 TRAINING OPPORTUNITIES

- 6.1 Two training events were held in October by the LGPS Officers. These were well attended and the sessions were recorded. The slides and recordings were shared with those attending and to those unable to attend on the days.
- 6.2 PLSA and LGC have also both held virtual events which some members attended. There has however been IT issues for some trying to attend. A note of the sessions attended should be sent to Kirsty Robb for the training records.
- 6.3 The annual PLSA Investment conference, which is traditionally held in Edinburgh during March, has been changed to a virtual event on 9<sup>th</sup> to 11 March 2021. Details of the event will be circulated once the agenda is available.
- 6.4 To date 6 of the Pension Fund Committee members have completed the minimum training requirement and 7 of the Pension Fund Board.

## 7 FUTURE MEETINGS

- 7.1 The dates of future meetings are given below for information

### Joint Pension Fund Committee and Pension Fund Board

- Thursday 4 March 2021
- Thursday 10 June 2021

### Pension Fund Investment Performance Sub Committee

- Tuesday 16 February 2021
- Tuesday 29 June 2021

### Author(s)

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### LGPS Consultation: Addressing discrimination – amendments to statutory underpin Scottish Pensions Liaison Group / Investment & Governance Group Response

Below is a group response from the 11 Scottish LGPS Pension Administering Authorities to the SPPA consultation on addressing discrimination in the Local Government Pension Scheme (Scotland).

The response has been reviewed by officers representing all 11 Administering Authorities, including those with governance and administration responsibilities.

In finalising the response, the LGPS (Scotland) Scheme Advisory Board (SAB) have also been made aware of its content.

In summary, the main points are as follows;

1. Concerns that members who joined the LGPS (Scotland) between April 2012 and March 2015 are not covered by the proposals. The group are concerned this omission could lead to future challenge.
2. Scope of work involved for scheme employers and administrators, for what is perceived to be a relatively small number of cases where the updated provisions will apply.
3. Proposed timescale – it has been suggested that the amendment regulations would come into force from April 2021. Whilst the urgency in removing the identified discrimination is appreciated, the group feel this timescale is unrealistic given the scale of the proposed adjustments. April 2022, in line with other Public Service Pension Schemes appears to be a more realistic timescale
4. Ability of software providers to react to additional changes in the benefit structure.
5. Funding in respect of: additional scheme benefits, software enhancements and administrative costs, which are expected to be significant
6. Requirement for a national approach in relation to;
  - prioritisation of adjustments required
  - dealing with missing data
  - Annual benefit statements (if disclosure required)
  - clear guidance for employers and administrators
  - communication to scheme members
7. The group have major concerns regarding the general direction in the increasing complexity of scheme legislation – our closing statement covers these concerns.

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Question	Group response
<p>1 - Do you agree with our proposal to remove the discrimination found in the McCloud and Sergeant cases by extending the underpin to younger scheme members?</p>	<p>Yes.</p> <p>There are however concerns surrounding members who joined between April 12 – March 2015. By excluding these members could the LGPS be open to future challenge on the grounds of discrimination? Clarity would be welcomed that this issue has been considered as part of the equalities impact assessment.</p> <p>The group also believe that alternative approaches could be considered namely;</p> <ul style="list-style-type: none"> <li>a) A simpler rectification method, or</li> <li>b) Fundamental review of the LGPS (Scotland)</li> </ul>
<p>2 - Do you agree that the underpin period should end in March 2022?</p>	<p>Yes. The original underpin commitment by the Government did not extend beyond March 2022. The group are unaware of any reasons to extend the underpin protection beyond this date.</p>
<p>3 - Do you agree that the revised regulations should apply retrospectively to 1st April 2015?</p>	<p>Yes, in order to be fair to all members of the scheme, the revised regulations need to be applied retrospectively to 1 April 2015.</p>
<p>4 - Do the draft regulations implement the revised underpin which we describe in this paper?</p>	<p>Please see annex A for comment on the draft regulations.</p> <p>The group would suggest that when producing draft amendment regulations for review, a draft of the revised set of corresponding regulations is also produced. This would make the task of reviewing a much cleaner process.</p>
<p>5 - Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?</p>	<p><b>Members</b> – provided the revised underpin delivers the policy intent of a ‘no worse off’ position across the board, the group agree the protection works effectively.</p> <p><b>Administrators</b> – The group feel it’s difficult to say whether the regulations are effective for administrators. The proposed changes indicate that an extensive exercise requiring significant resource is required, with no tangible return in respect of member gains. The requirement for clear and concise national guidance should not be underestimated. The approach must be consistent across all funds. Initial views are that said guidance should cover, but not be limited to;</p> <ul style="list-style-type: none"> <li>- priority of administrative action required</li> <li>- Approach where required data is unobtainable</li> <li>- application of early / late retirement factors</li> <li>- transfers out</li> <li>- death &amp; survivor benefits</li> </ul> <p>The heavy reliance of software providers is also a major factor. If the timescale of April 2021 is to be realised, the ability of software providers to deliver is questionable. Some systems also struggle to accurately implement the nuances of some scheme benefits at present. It is expected that the addition of the revised underpin will</p>

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	<p>add to this level of complexity.</p> <p><b>Scheme employers</b> – It is expected that scheme employers will share the views of administrators noted above. In addition, processes may have altered since the introduction of the 2015 scheme, in particular payroll history data, resulting in certain data sets no longer being recorded to administer a CARE only scheme. The challenge to recover said data could be significant.</p>
<p>6 - Do you have other comments on technical matters related to the draft regulations?</p>	<p>See annex A for response to Q6.</p>
<p>7 - Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?</p>	<p>Yes</p>
<p>8 - Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?</p>	<p>As previously noted, The group would ask has consideration been given to active members who joined between April 2012 – March 2015?</p>
<p>9 - Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?</p>	<p>Yes. Most elements of the scheme are post specific – scheme contributions, pensionable pay, Rule of 85 etc. It seems reasonable that the underpin protection should be assessed in the same manner.</p>
<p>10 - Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?</p>	<p>The group agree in principle that active / deferred members should be given an opportunity to review previous elections regarding deferred benefits. This area will prove administratively challenging, as members holding multiple periods of membership is becoming more common place within the membership profile. In some cases, membership is held across multiple funds. The administration is therefore expected to be extensive. In addition, is it fair to require members to make elections in relation to an entitlement yet to be fully realised? As such, there were a number of concerns raised, alongside a number of questions posed, which are detailed below;</p> <ul style="list-style-type: none"> <li>- Identification of cases may prove difficult, resulting in the 12 month timescale adding to the administrative burden</li> <li>- Communication with members within a 12 month window will prove a major challenge</li> <li>- Has consideration been given to an extended period during which a member can elect to aggregate?</li> <li>- Members who have retired without aggregating benefits – is the intention that they will be offered another opportunity?</li> </ul>

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	<p>Suggest that if a 12 month window is the final outcome, it should begin when the Administering Authority write to the member as opposed to commencing from the date regulations become effective.</p>
<p>11 - Do you consider that the proposals outlined in paragraphs 50 to 52 would have 'significant adverse effects' in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?</p>	<p>See response to Q10. Proposals, as currently framed could lead to members claiming to be in a 'worse off' position at retirement as a result of the requirement to make an election when not in possession of full impact on benefits.</p>
<p>12 - Do you have any comments on the proposed amendments described in paragraphs 56 to 59</p>	<p>The proposals contained in paragraphs 56 to 59 seem consistent with the Government's policy intention. Clear guidance at a national level is a must, in the group's collective opinion.</p>
<p>13 - Do you agree with the two-stage underpin process proposed?</p>	<p>In the main, the group agree with this approach. There were concerns however, detailed below (and in response to Q14). - If communication is a requirement at the 'underpin date', it must be consistent and effective– the view being that clarifying a potential benefit before it becomes payable, could lead to an inflated expectation on the part of the scheme member. - Alternatively, should consideration be given to only confirming the underpin amount at the crystallisation date? This approach would allow funds to track any amount due, without potentially misleading scheme members in relation to their eventual benefit.</p>
<p>14 - Do you have any comments regarding the proposed approaches outlined above?</p>	<p>Yes. Responses to each approach as follows; <b><u>In active membership:</u></b> The group agree with the approach in terms of scheme membership i.e. member remains in the 2015 scheme with future underpin test carried out. The group disagree that a check should be carried out automatically when a member attains age 65 (or NRA) – unless they are retiring. What value would sharing this information add for members? Assurances that the test is carried out can be delivered via alternative communications. Systems should be adopted where members who remain in the scheme beyond age 65 (or NRA) have the test carried out when a BCE occurs – with the test being performed as at age 65 (or NRA). <b><u>Concurrent employments:</u></b> The group agree with the proposed approach.  <b><u>At leaving (without taking benefits):</u></b> The group agree with the proposals. Guidance on an agreed approach to delivery of this message would be welcomed.</p>

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	<p><b><u>Whilst a deferred member:</u></b> The group agree that the underpin should be included in annual benefit statements for deferred members.</p> <p><b><u>Re-joiners:</u></b> The group agree that following aggregation of membership underpin protection should follow through to the ongoing membership.</p> <p><b><u>Age retirement:</u></b> The group agree with the proposed approach.</p> <p><b><u>Ill health retirement:</u></b> The group agree that members retiring on ill health grounds should benefit from the underpin protection. There are however major concerns that the added complexity of ill health retirements is rendering the process unmanageable at administrator level. Please see closing statement for further comment.</p> <p><b><u>Death benefits:</u></b> The group agree that the underpin protection should apply to death benefits and as such, flow through to survivor benefits. A realistic approach must however be adopted in terms of backdated cases. The group would also ask whether a tolerance level will be considered, similar to that used in the recent GMP reconciliation project carried out by Administering Authorities. The cost of tracing survivors is also causing some concerns. An agreed approach for fund administrators in relation to contacting survivors would be welcomed.</p> <p><b><u>Club transfers:</u></b> The group agree that underpin protection should apply to club transfers but collectively agree that transfers in general is another area where simplification is required. Please see closing statement for further comment.</p> <p><b><u>Non Club transfers:</u></b> See response above to Club Transfer issue. The group are additionally concerned in relation to situations where an additional payment is due to a personal or private provider, but the provider no longer holds rights for a member i.e. the member has flexibly accessed all benefits. It is anticipated that these scenarios are likely to be in the minority.</p> <p><b><u>Flexible retirement:</u></b> The group agree with the proposed approach.</p> <p><b><u>Redundancy:</u></b> The group agree with the proposed approach.</p> <p><b><u>Trivial commutation:</u></b> The group agree with the proposed approach although have concerns that any additional amount due could be viewed as an unauthorised payment. Possible member tax implications.</p>
15 - Do you consider there to be any notable omissions in our proposals on the changes to the underpin?	<p><b>The group would note that no mention is made in the current proposals of CETV calculations in relation to divorce / pension share arrangements.</b></p>

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<p>16 - Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?</p>	<p>No – the group disagree with the proposed approach. Any benefit arising as a result of underpin protection will not be fully realised until the benefit crystallises. Efforts must be made to simplify the provision of annual benefit statements.</p> <p>The group is therefore of the opinion that the inclusion of provisional underpin amount on active annual benefit statements is <b>not</b> required. The group see no value in providing members with this information. Furthermore the inclusion of an underpin estimate will add to the complexity of system requirements in producing annual benefit statements. The inclusion would also see an increase in member enquiries following provision of said information. The group are of the collective opinion that a clear statement advising members that the underpin test will be carried out when required would suffice. The statement should be agreed at a national level and adopted by all administering authorities. Worked examples would also assist members in understanding both the mechanics of the underpin application along with the likelihood of the test producing an increase in their benefit package. It is anticipated that the volume of cases where the underpin will apply would render the extra administrative requirements unnecessary.</p>
<p>17 - Do you have any comments regarding how the underpin should be presented on annual benefit statements?</p>	<p>Yes – see response to Q16.</p>
<p>18 - Do you have any comments on the potential issue identified in paragraph 109?</p>	<p>Whilst the group appreciate the concerns raised in para 109, it is anticipated that such cases will be in the minority. Any underpin addition can only be truly realised in the year in which the benefit crystallises. To use a notional figure prior to that year could potentially result in a member paying tax on a notional benefit which they never become entitled to. It is also noted that annual allowance tax charges can be mitigated using the scheme pays facility available in the current regulations. These views are also held in relation to any breaches of the Lifetime Allowance.</p>
<p>19 - Do the proposals contained in this consultation adequately address the discrimination found in the 'McCloud' and 'Sergeant' cases?</p>	<p>The group do not feel they are qualified to respond. We will however reiterate concerns in relation to the treatment of members who joined between April 2012 – March 2015.</p>
<p>20 - Do you agree with our equalities impact assessment?</p>	<p>The group do not believe it is for them to comment on the equalities impact assessment. If there is any doubt over the validity of the assessment, it would perhaps be reasonable for the SPPA to approach a third party to review their assessment.</p>
<p>21 - Are you aware of additional data sets that would help assess the</p>	<p>The group do not believe they are in a position to respond.</p>

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<p>potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?</p>	
<p>22 - Are there other comments or observations on equalities impacts you would wish to make?</p>	<p>No</p>
<p>23 - What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?</p>	<p>Clear guidance should be issued at a national level for administrators and employers. A similar approach should be adopted in relation to member communications. The group believe that these features should be agreed by a cross party group (possibly LGA / SPLG), but ultimately issued by the SAB.</p>
<p>24 - Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?</p>	<p>The group have major concerns regarding timescales and resource for this project. There is a belief that the exercise could mirror the requirements when the 2015 scheme was introduced, or the recent GMP rectification exercise. Final proposals should include reasonable timescales in relation to completion dates. Clear direction from the outset will allow scheme employers, software suppliers and administering authorities' time to properly plan and resource the project.</p>
<p>25 - What principles should be adopted in determining how to prioritise cases?</p>	<p>Whilst guidance will be welcomed, individual Administering Authorities must be allowed to plan based on their own level of expertise and resource. The group feels that before prioritisation occurs, major system developments are required. Initial thoughts are that the following order of priority should generally apply;</p> <ol style="list-style-type: none"> <li>1. Systems updated to ensure correct benefit crystallised (thus avoiding further rectification)</li> <li>2. Pensioners in payment (including survivors)</li> <li>3. Transfers out</li> <li>4. Members already deferred – targeted by age (if required)</li> <li>5. Review aggregation cases</li> </ol> <p>It is noted that an initial data collection and validation exercise will be required before the above can commence.</p>
<p>26 - Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators?</p>	<p>Guidance on approach to cases where data is unavailable would be welcomed. A 'tolerance level' approach should also be considered, in the interests of simplification.</p>
<p>27 - What issues should be covered in administrative guidance</p>	<p>The group believe any guidance should cover the following areas;</p> <ul style="list-style-type: none"> <li>- Data gaps / missing data (pay / hours / service breaks)</li> <li>- Tolerance levels</li> </ul>

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<p>issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?</p>	<ul style="list-style-type: none"><li>- Backdated payments, including interest (regulations currently state interest rate but further confirmation helpful)</li><li>- Scheme employer and member communications</li></ul>
<p>28 - On what matters should there be a consistent approach to implementation of the changes proposed</p>	<p>The group feel that where possible, all topics covered in the consultation, including any added as a result of consultation responses, should be tackled in a consistent manner.</p>
<p>29 - Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?</p>	<p>The cost of the remedy will be assessed as part of the actuarial valuation of the Scottish LGPS funds as at 31st March 2020 which is currently drawing towards its conclusion. Estimates of the potential cost in terms of increased liabilities vary from less than £100m to £355m. It is inevitable that this will ultimately be met by the scheme's employers.</p> <p>Funding strategies and the actuarial process incorporate measures to provide stability in employer contribution rates as far as possible. These should minimise the immediate impact of the remedy in terms of contribution rate increases, particularly for long-term employers with strong covenants, including the local authorities which comprise the core membership of the scheme. However, the cost will fall unevenly across employers, depending on individual employer membership profiles (and particularly member age profiles). This raises the potential for some employers to experience quite significant cost and contribution rate increases.</p> <p>There are also other cost pressures in this year's valuation given the current economic climate and the uncertainty surrounding the outcome of the scheme "cost cap" valuation. Any additional cost will be extremely difficult for employers to accommodate given their existing budget pressures.</p> <p>In addition to the actuarial cost, there will be significant administrative costs in terms of time, resource and charges for system developments and other support. These will initially be incurred by administering authorities, but are also ultimately met by the scheme's employers through their contribution rates.</p>

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**Annex A**

6 – Do you have other comments on technical matters related to the draft regulations?

<b>Amendment of the LGPS (Scotland) Regulations 2018</b>		
<b>Draft Regulation No.</b>	<b>Regulation to be Amended</b>	<b>Comment or suggestion</b>
3	84	Propose Regulation 3 is removed so it won't be a requirement to provide underpin info in ABS  If not removed: 1. Inserted paragraph (5) refers to the 2008 Scheme, but this should be the 2009 Scheme. 2. The closing quotation marks at the end of the inserted paragraph (6) should actually be at the end of the inserted paragraph (10). 3. Paragraphs (8), (9) and (10) are indented too far right.
N/A	Schedule 1	Definition of 'retirement pension should be updated to include 'final guarantee amount'.
<b>Amendment of the LGPS (Transitional Provisions &amp; Savings) (Scotland) Regulations 2014</b>		
<b>Draft Regulation No.</b>	<b>Regulation to be Amended</b>	<b>Comment or suggestion</b>
6	4	There are multiple references to "the 2014 Regulations" in this regulation. Should we take the opportunity to update it to say "the 2018 Regulations"?
6 (b)	4(1)(b)	Spacing/lines are muddled. I think this should be set out as:  (b) for paragraph (1)(b) substitute- "(b) is or has been an active member of the 2015 Scheme; and"
6 (c)	4(1)(c)	Spacing/lines are muddled. I think this should be set out as:  (c) in paragraph (1)(c) substitute "; and" with " .";
6 (e)	4	Inserted paragraph (1B)(a) refers to Regs 16 and 17. These are for Contributions during reserve forces service leave and trade dispute absence respectively. Should this actually refer to Regs 13 (Re-employed and re-joining deferred members) and 14 (and Concurrent employments) instead?
6 (h)	4	There is already a paragraph (2)(c). Reword as "for paragraph (2)(c) substitute-" Regulation 29(6) is for voluntary retirement before NPA, so don't see why that Regulation is being singled out. Should it be 29(7) for flexible retirement, or 29(8) for redundancy?
6 (i)	4	Needs brackets i.e. should be "after paragraph (2) insert-" instead of "after paragraph 2 insert-"

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		In the inserted paragraph (2A), also add "or (2)(c)" at the end. Unless there is a reason it shouldn't be included?
6 (n)	4	The paragraph amending paragraph (5)(b) seems to have been missed from the lettered list. It is for a new paragraph, so should really be under list point (o) and subsequent points will need to be re-lettered
6 (s)	4	Agree with the wording for new paragraph (6A), however I'd expect it to be added as (6B) and for (6A) to cover the active ill-health retirement. This would mirror inserted paragraphs (5A) and (5B) which are added to cover IH and DiS for the provisional assumed benefits. I would expect we'd need the equivalent to confirm IH enhancement should be included in the provisional underpin amount. Or is it not needed because the IH enhancement should be calculated using the 2009 Regs enhancements? Inserted paragraph (7)(a) refers to "29(10), 29(5) or 29(6) of the 2018 Regulations". These cover early, late and normal retirement respectively. Should 29(14) also be referenced (payment from deferred) to cover all voluntary retirements? Inserted paragraph (7)(b) refers to "29(7) of the 2018 Regulations". This covers flexible retirement. Should 29(4) and 29(8) also be referenced (payment at 75 and redundancy/efficiency) to cover all other non-voluntary payments? Inserted paragraph (7)(f) confirms the underpin crystallisation date for deaths. For all retirements, the underpin crystallisation date is from date of payment, not retirement. To be consistent I would expect it to be the day after date of death i.e. the date any survivor benefits are payable Inserted paragraph (10) refers to "30(6) of the 2018 Regulations" and "29(6)". There is no regulation 30(6) and as this refers to flexible retirement, I think both references should be to 29(7).

Has any consideration been given to regulation 4 of the LGPS transitional regulation being replaced entirely? The updated provisions are overly technical and will be very difficult for members and administrators to understand. One suggestion would be that revised underpin provisions adopt a similar approach to that of the 'rule of 85', where a separate schedule focusing on that issue and that issue only.

This approach would not only simplify day to day administration but also provide a notable reference point for members who wish to review their entitlement to the revised provisions.

## OFFICIAL

### Closing statement

In closing, the group would like to highlight their concerns over the general direction of scheme legislation. Since the introduction of LGPS2015, there has been a new set of regulations introduced (The Local Government Pension Scheme (Scotland) Regulations 2018), along with a raft of amending provisions. This has resulted in;

- Member understanding - added complexity in the benefit structure leads to difficulties in communication with scheme members
- Difficulty for scheme employers in the provision of data to fund authorities
- Challenges for software suppliers to provide an automated solution which covers all employment / pension scenarios
- Increased costs from software suppliers due to continuous systemic adjustments being required
- Added pressure on fund authorities ability to comply with overriding statutory requirements
- Day to day administrative complexities – heightening the requirement for manual intervention which in turn, increases the risk of inaccurate benefits being paid

In relation to administrative complexities, particular areas of concern are;

- Aggregation of scheme benefits – multiple employments are a common feature of member activity
- Ill health retirement
- Multiple accrual rates
- Provision of annual benefits statements to comply with statutory requirements
- Overriding member tax requirements under the Finance Act 2004

The above list is not exhaustive. The group feel that to continue on the path of adding continuous layers of legislation runs the risk of the scheme becoming incoherent at member level.

The aim of the scheme is to provide valued retirement benefits for members. Whilst this is generally accepted to be achieved, surely an additional aspiration should be to provide clear, concise and timely information to members, allowing them to both understand the value of the LGPS and make the correct decisions, at the correct time in relation to their pension savings.

A simplified version of the LGPS would not only increase member understanding, but also lead to increased efficiency in scheme administration, whilst lowering the overall operating costs.

Whilst the above suggestion would entail considerable consultation and more likely than not, the consolidation of multiple previous legislative instruments, the group would welcome dialogue with a view to this option being explored.

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October 2020

# BULLETIN

## Structures Review

Further work was undertaken over the summer developing the specification for a procurement process for business cases on options for future fund structures. Given the technical nature of large procurement processes, it was decided to approach Scotland Excel to seek their expertise. Given the potential importance of this for the future of the LGPS in Scotland, it was also agreed to consult with funds and trades unions on the final version.

## Infrastructure investment

Following infrastructure investment in Scotland being highlighted as a significant issue in the consultation on future LGPS structures, the SAB wrote to all pension funds to better understand their experience of investment in Scottish infrastructure and their views on what the Scottish Government could do to help facilitate this. The SAB discussed the responses and has now written to the government with comments and suggestions.

## Cost Cap

In July HM Treasury lifted the pause the calculation of the “Cost Cap” based on the 2016 valuation. GAD is recommending its work on this, and the SAB anticipates a full discussion on this in early 2021.

## Employer Exits

“Cessation” costs for employers remains an area of significant interest. The SAB received a report from its working group on this, which made a number of proposals to improve the cessation process. The discussion was then deferred to allow for employee concerns to be incorporated.

## Transparency

The SAB has signed up to the online Investment Cost Transparency Compliance System which went live in April 2020 and has now received over 1,000 reports. The early months have focused on embedding the smooth running of the system, and the SAB is asking funds on their experience of it and how it can be improved and developed in future.

## Support for the SAB

The SAB has been exploring getting additional support to take forward its programme of work, and it is hoped that this will bear fruit in the coming months.

Further details on our website [www.lgpsab.scot](http://www.lgpsab.scot).

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