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# NOTICE

# OF

# MEETING

## BERKSHIRE PENSION BOARD

will meet on

## MONDAY, 22ND FEBRUARY, 2016

at

## 12.30 PM

in the

## MINSTER COURT - 22-30 YORK ROAD MAIDENHEAD,

TO: MEMBERS OF THE BERKSHIRE PENSION BOARD

CHAIRMAN: HOWARD PEARCE.

SCHEME EMPLOYER REPRESENTATIVES: ALAN CROSS, ALAN NASH, BILLY WEBSTER (SUBSTITUTES: SURJIT NAGRA, TERRY BALDWIN, ANDY WALKER).

SCHEME MEMBER REPRESENTATIVES: INDERPAL DHAK, PETER SOUTHWELL, TONY PETTITT.

Karen Shepherd
Democratic Services Manager
Issued: 12/02/2016

Members of the Press and Public are welcome to attend Part I of this meeting.

The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator

**Fire Alarm -** In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

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## AGENDA

## PART I

| ITEM | SUBJECT | WARD | PAGE NO |
|---|---|---|---|
| 1. | APOLOGIES FOR ABSENCE<br>To receive any apologies for absence. | | |
| 2. | DECLARATIONS OF INTEREST<br>To receive any declarations of interest. | | 5 - 6 |
| 3. | MINUTES<br>To approve the minutes of the meeting held on 26 November 2015 and discuss any matters arising. | | 7 - 14 |
| 4. | SCHEME, LEGAL AND REGULATORY UPDATE<br>Consultation on a Public Sector Exit Payment Cap; Strengthening the incentive to save: a consultation on pensions tax relief; Ill Health and IDRP survey; Investment pooling and Draft New Investment Regulations, The New State Pension and National Insurance changes. | | 15 - 86 |
| 5. | THE PENSIONS REGULATOR'S GOVERNANCE AND ADMINISTRATION SURVEY<br>Research data and results of the Pensions Regulator's survey. | | 87 - 150 |
| 6. | REVIEW OF BERKSHIRE PENSION FUND PANEL MEETINGS OF 18 JANUARY 2016 AND 9 FEBRUARY 2016 INCLUDING STEWARDSHIP REPORT<br>Review of Panel meeting including minutes and the Q3 Stewardship Report. | | 151 - 178 |
| 7. | MEMBER HANDBOOK<br>Feedback from Board members on handbook issued in January 2016. | | 179 - 182 |
| 8. | TRAINING ITEM – TPR CODE OF PRACTICE NO.14<br>A short training session providing an overview of the code of practice and Administering Authority compliance with the code. | | |
| 9. | TRAINING PROGRESS<br>A review of Board members' training logs to date and future training needs analysis. | | 183 - 188 |
| 10. | RISK REGISTER<br>Review of risk register. | | 189 - 200 |
| 11. | ADMINISTERING AUTHORITY DISCRETIONS POLICY<br>Review of the Scheme Manager's discretion policy agreed at Panel Meeting of 18 January 2016. | | 201 - 212 |
| 12. | AUDIT PLAN 2016/17<br>Review of Internal and External Audit Plans. | | 213 - 222 |

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|---|---|---|---|
| | | | |
| 13. | HOW DID WE DO?<br>A review of the work undertaken by the Pension Board to date. | | Verbal |
| 14. | FORWARD LOOK OF PENSION BOARD BUSINESS<br>Future meeting agenda items for the year ahead. | | Verbal |
| 15. | DATES OF FUTURE MEETINGS AND AOB<br>To agree future meeting dates. | | Verbal |
| 16. | LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC<br><br>**To consider passing the following resolution:-**<br><br>**“That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on items 8-15 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of part I of Schedule 12A of the Act"** | | |

## PART II

| ITEM | SUBJECT | WARD | PAGE NO |
|---|---|---|---|
| 17. | MINUTES<br><br>To review the Part II minutes of the Berkshire Pension Fund Panel meetings held on18th January 2016 and 9th February 2016.<br><br>***(Not for publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)*** | | 223 - 228 |

**MEMBERS' GUIDANCE NOTE**

**DECLARING INTERESTS IN MEETINGS**

## DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
  a) that body has a piece of business or land in the area of the relevant authority, and
  b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

## PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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BERKSHIRE PENSION BOARD

THURSDAY, 26 NOVEMBER 2015

PRESENT: Scheme Employer representatives: Cross, Nash, Webster Pearce (Chairman), Scheme Member representatives Pettitt, and Southwellr

Also in attend: Nagra and Baldwin.

Officers: Taylor and Cook.

## APOLOGIES FOR ABSENCE

Apologies for absence were received from Inderpal Dhak and Andy Walker. Surjit Nagra reported that she would be late.

## DECLARATIONS OF INTEREST

There were no declarations of interest received. It was noted that Board members were required to submit their interest that would be placed on the Pension Fund's website (signatures would be redacted).

## MINUTES OF LAST BOARD MEETING AND MATTERS ARISING

The minutes of the meeting held on 3 August were approved as a true and correct record.

Arising from the minutes the Board were informed that:

- The Pension Board Handbook had been produced and would be available in sections on the website; a hard copy was available upon request. The Deputy Fund Manager to email link when available and have as a future agenda topic.
- It was agreed that Members email The Deputy Fund Manager their biogs by the end of the month.
- It was agreed that the Pension Panel agenda be circulated to Board members and vice versa when published. This was to insure both Board / Panel members were kept informed and to reduce duplication of paperwork.
- When Board Members receive the Panel agenda if there was anything they wish to add to the Board agenda they should email the Chairman / The Deputy Fund Manager.
- Pensions Regulator's Code of Practice – The Deputy Fund Manager informed he proposed to do this at the next meeting.

## SCHEME, LEGAL AND REGULATORY UPDATE

The Deputy Fund Manager introduced the report that informed of the Boards duty to maintain a working knowledge of the LGPS regulations and associated pension legislation. The report contained a table of current issues that were:

- Public Sector Exit Cap.

The Board were informed that the draft bill recommended that exit payments should not exceed a £95k threshold that applied to the total amount of pay received by an individual for loss of employment.

The Chairman informed that guidance would have to be produced and he was expecting a challenge to the 'pension promise' made to employees.

- Strengthening the incentive to save: a consultation on pension tax relief.

The Bill was being pushed back by a year; the idea of the Bill was to tax pension contributions but not to tax pension payments.

- Survey of ill health provisions and IDRP processes.

The Board were informed that there would be consultation on how ill health provision would be calculated and hopefully there would be something to report back at the next meeting.

- Pooled Investments.

The Board were informed that there a number of announcements and guidance released about pooled investments. It was proposed that the assets of the 89 local government pension funds in England and Wales were to be pooled into six new British Wealth Funds as parts of efforts to promote infrastructure investment. It was not clear how this would work with local strategies and how existing investments would be dealt with.

The Chairman informed that legislation was expected in April 2016 and would take about two years to implement. Although not currently a regulation the Fund should start thinking about governance and the introduction of pooling to protect members interests.

- Changes to State Pension and NI contributions.

The Board were informed that this would take effect from April 2016; the scheme member would have to pay 1.4% extra whilst the employer would be required to pay 3.4% more. There would also need to be a GMP reconciliation for every member to ensure any under / over payments have been rectified by March 2018.

(Surjit Nagra joined the meeting)

The Chairman reported that this update paper would be a regular agenda item.

**Resolved: that the Pension Board note the updates.**

REVIEW OF BERKSHIRE PENSION FUND PANEL MEETING OF 26 OCTOBER 2015 INCLUDING STEWARDSHIP REPORT

The Deputy Fund Manager informed that this agenda item contained the reports considered by the Berkshire Pension Fund Panel at their meeting on 26 October 2015. Kevin drew the Boards attention to the Stewardship Report the report that dealt with the stewardship of the Pension Fund for the period 1 June to 31 August 2015.

Some of the key highlights in the report and the discussion were:

- Membership continued to rise due to the auto enrolment process and it was noted that employees who had more then one job had to be enrolled for each role.
- Chart 4 showed the employers that had active members.
- Chart 6 showed notices of unsatisfactory performance. This related to late payment of contributions that were due by the 19th of the month; remedial actions were improving performance. In response to questions it was noted that fines could be issued by the regulator for non compliance and that the deadline for payment was a statutory requirement.
- i-Connect – to aid compliance it had been recommended that employers use i-Connect and RBWM had agreed to implement the system to demonstrate its worth. Wokingham BC have also agreed to implement the system

- It was noted that Bracknell and Reading were currently introducing new HR / Finance systems but after a few months of RBWM using i-Connect The Deputy Fund Manager would arrange a meeting with Bracknell, Reading and Slough. (NOTE since the meeting Slough BC have had discussions with a view to taking i_Connect in 2016).
- With regards to annual benefit statements the Board were informed that the Fund would have to report itself to the regulator as we were not compliant due to late returns from certain employers. The Fund had a duty to report itself and the regulator will review compliance next year; they also had the powers to investigate the employers who failed to comply. The chairman recommended that this be a future discussion item.
- It was recommended that the Stewardship report have background data added for trend analysis.

The Chairman asked if the board wished to comment / ask questions on any of the other Berkshire Pension Fund Panel reports.

Alan Cross reported that with regards to the Panel's minute point 85/14 and the question if the Panel invested in fossil fuels that Reading Council had received a motion from a Member of the Green Party. The motion had been put to Council and deferred to the authorities Policy Committee for consideration.

It was noted that the Panel were due to receive training on 18 January 2016 prior to their meeting and Board members were welcome to attend.

Under minute point 88/14 LGPS Investment Pooling, the Board were informed that they would also be included in the recipients of the Funds draft consultation response.

**Resolved: That the Board note the Berkshire Pension Fund Panel's agenda and associated reports and that:**

- **The Deputy Fund Manager arrange a meeting with Bracknell Forest Council, Reading Council and Slough Council with regards to implementing I Connect.**
- **Year End Returns (as reported in the Stewardship Report) be a future discussion item.**
- **Trend analysis be added to the tables in the Stewardship report.**

REVIEW OF ANNUAL REPORT AND ACCOUNTS 2014-15 AND EXTERNAL AUDIT REPORT

The Chairman reported that the Annual Report and Accounts 2014-15 and the External Audit report had already been approved by RBWM's Audit and Performance review Panel so it was on the agenda to note. This Board also had to produce an annual report that may be appended to the Annual Report and Accounts 2014-15.

Whilst discussing the report it was noted that the Pension Fund was currently going through an internal audit and the findings would be brought back to the Board. The Chairman recommended that the External Audit report would benefit from longer term trend analysis.

The Chairman informed that whilst the Annual Report was there as a statement of fact the Audit Report was there for assurance. He raised concern that the Audit Report did not test against compliance with LGPS Regulations, Pension Accounts and CIPFA accountancy disclosure guidance for local government pension investment funds.

It was also mentioned that the auditors needed to include in their report the Pension Boards governance role and that the Auditors should meet the Board as part of the audit process.

**Resolved: That the RBWM S151 officer be asked to review and explain why / why not the auditors do not audit against compliance with LGPS Regulations, Pension Accounts and CIPFA accountancy disclosure guidance for local government pension investment funds.**

## RISK REGISTER

The Deputy Fund Manager informed the Board that Scheme Managers had a legal duty to establish and have in place internal controls and when appropriate action being taken to ensure that the Pension Fund complies with its strategic aims. The appendix to the report showed the identified risks and actions being taken; which included a RAG rating. There were currently no risks reported as Red.

During discussion on this item it was mentioned that it would be good to see how the risks and their RAG rating had been identified to ensure that the process was robust and that a scoring /risk matrix should have been included. It was noted that RBWM usually looked at probability and severity so it would be normal to have risk matrix.

The Chairman reported that CIPFA had produced a guidance note on managing pension risks and that some authorities have included costs against their risks as well as probability. It was noted that costs could be included in impact.

In response to a question why staffing levels were reported as Amber the Board were informed that there were currently staff vacancies being recruited to, however with all the changes in LGPS regulations the risk of vacancies had been identified.

Resolved: The Deputy Fund Manager to update document for further circulation

## FORMAL ADOPTION OF TERMS OF REFERENCE

The Chairman reported that the attached Terms of Reference had been amended following discussions at the last Board meeting.

It was questioned that as the TOR said the Board should be chaired by an independent Chairman what would happen if the Chairman could not attend. The Panel were informed that the meeting would either be cancelled or become an informal meeting.

**Resolved: That the Board adopt the terms of reference.**

## FORMAL ADOPTION OF CODE OF CONDUCT AND CONFLICTS OF INTEREST POLICY

The Deputy Fund Manager reported that comments from the last meeting had been added to the Code of Conduct and that Board members were required to return section C which would be displayed on the website with signatures being redacted.

**Resolved: That the Board adopt the Code of Conduct and Conflicts of Interest Policy.**

ADOPTION OF TRAINING PLAN

The Deputy Fund Manager informed the Board that they had an obligation to develop a training plan to meet their statutory requirements of ensuring all of its members are able to fulfil their obligations associated with their role.

The training plan had been redesigned following comments made at the previous Board meeting.

**Resolved: That the Board approved its Training Plan, that The Deputy Fund Manager maintain a training log and circulate a template document,, that Board members inform The Deputy Fund Manager of any training completed and that Code 14 / future training be an agenda item at the next meeting.**

ADOPTION OF BREACHES POLICY

The Deputy Fund Manager informed the Board that the report outlined the legal requirement of Board members to report breaches of the law and the report asked the Board to adopt a traffic light framework for recording breaches. The report had been updated following comments made at the last meeting.

In response to questions the Board were informed that any breaches should be reported to The Deputy Fund Manager who would inform RBWM's S151 officer and members had the right to go straight to the regulator. It was a requirement to record all breaches. It was agreed to amend action 6 of the procedure for reporting breaches of the law.

**Resolved: That the Board accept the guide to reporting breeches of the law and to adopt a traffic light framework for recording breaches.**

PENSION ADMINISTRATION STRATEGY

The Deputy Fund Manager reported that the strategy had been prepared to support the funds (administering authority's) strategic aim in servicing the scheme members. The document set out the aims of the administering authority and how these were to be achieved. If approved the document will be circulated to scheme employers for consultation designed to run alongside employer training.

Linked to this document would be the revised service level agreements that are to be agreed.

Alan Nash recommended that it would be useful to show were we are now, where we want to be and how we are to get there; this should be supported by KPI's in the Stewardship report.

Billy Webster reported that the document read like an operations manual rather then a strategic document; therefore there was a need to decide what it was for.

Terry Baldwin felt that the areas that required improvement, as identified in the Stewardship repot, needed to be reflected in this document. The Deputy Fund Manager mentioned that the regulations did not give the administering authority the 'stick' to force these improvements all they could do was to impose additional costs occurred. Improvements required would be covered in the training to employers.

The Chairman commented that the document needed to be more strategic with targeted actions.

It was agreed that to help get the key messages to the right people who could affect performance then Board members would provide The Deputy Fund Manager with a list of appropriate officers in their organisation for Kevin to add to his distribution list.

**Resolved: That the Board provide The Deputy Fund Manager with a list of key officers within their organisation to be added to a Pension Fund distribution list. The Deputy Fund Manager to update document for further circulation.**

## FUTURE WORK PROGRAMME 2015-16

The Chairman presented the reported that contained a work programme that had been developed for another Pension Board. The report was slightly out of date but it did show the type of strategic work plan that was required for the Board to fulfil its primary aim in helping the scheme manager to secure compliance with LGPS regulations and associated regulations / legislation.

As the Board only met four times per year it was important that there was a standard agenda with arising key issued being added appropriately.

It was recommended that items, such as the code of conduct, could be reviewed by email outside the meeting and that the agenda could be constructed with the ‘must dos’ at the start and the more information items towards the end.

It was recommended that once Board members had completed their training they could highlight areas that they feel should be on the work programme.

**Resolved: That the Chairman and The Deputy Fund Manager provide a rolling work programme.**

## HOW DID WE DO?

The Chairman asked if there were any lessons to be learnt from the last meeting and this meeting; for example we had agreed that both the Panel and the Board would be emailed copies of the agendas when published rather then reproducing on each others agendas.

It was mentioned that once the work programme had been established the Board would be in a better position to answer this question as at this meeting there had been a number of follow up reports; the future question is going to be if these meetings are helpful or a burden.

## FORWARD LOOK OF PENSION BOARD BUSINESS

It was agreed that the next agenda would contain:

- Scheme Fund Update.
- Berkshire Pension Panel Minutes
- Auditing.
- Code of Practice Training.
- Handbook Feedback.
- Budget – Cost of Board.
- Outline Annual Report.

DATES OF FUTURE MEETINGS AND AOB

The following future meeting dates were approved:

- 3rd February 2016 at 1.30pm.
- 28th April 2016 at 12.30pm.
- July TBC
- October / November TBC

The meeting, which began at 1.00 pm, finished at 3.30 pm

CHAIRMAN……………………………….

DATE………………………………..........

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The Royal Borough
Windsor & Maidenhead

| | |
|---|---|
| Report for: INFORMATION | |

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Scheme, Legal and Regulatory Update |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | *Insert relevant key words* |

**Report Summary**
The purpose of this report is to provide Pension Board members with an update on current scheme and regulatory issues concerning the LGPS.

| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1.Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

In order to fulfil their role in assisting the Scheme Manager in securing compliance with Scheme regulations and the governance and administration of the LGPS, Pension Board members need to keep up to date with issues that may impact on the Royal Borough of Windsor and Maidenhead in its role as administering authority to the Berkshire Pension Fund. This includes reviewing and maintaining an awareness of statutory scheme changes and consultation documents issued by the Government and other statutory bodies.

**RECOMMENDATION:** That Pension Board members note the current issues.

**2. Reason for Recommendation(s) and Options Considered**

Members of the Pension Board are required to maintain a working knowledge of the LGPS regulations and associated pension legislation so that they can assist the administering authority in complying with their statutory duties and all other requirements laid down by the Pensions Regulator.

Board members therefore need to keep appraised of all matters pertaining to the LGPS that might impact on their ability to fulfil their statutory responsibilities both now and in the future.

Current issues are:

| | | |
|---|---|---|
| Public Sector Exit Cap | Government consultation | To be passed through Parliament as part of the Enterprise Bill. |
| Public Sector Exit Payment Recovery Regulations | Government Consultation | Effective from April 2016 |
| Strengthening the incentive to save: a consultation on pensions tax relief | Government consultation | No response as yet from scheme manager. Awaiting further guidance. |
| Survey of ill health provisions and IDRP processes | LGA survey | Response made. Awaiting further guidance. |
| Pooled Investments and draft new Investment Regulations. | Awaiting results of Government consultation | Ongoing. |
| Changes to State Pension and NI contributions | Statutory amendment | Effective from April 2016. |

All of these items will be discussed in this part of the meeting.

**3. Key Implications**

The Pension Board is required to operate in line with statutory regulations and the requirements set out on the Pensions Regulator’s code of practice number 14 ‘Governance and administration of public service pension schemes’. Failure to fulfil these statutory obligations could leave the Borough open to challenge.

**4. Financial Details**

There are no financial implications.

**5. Legal Implications**

There are no legal implications.

**6. Value For Money**

Not applicable

**7. Sustainability Impact Appraisal**

There are no known implications.

**8. Risk Management**

Members of the Pension Board need to be clear as to the legal responsibilities placed upon them in order to mitigate any risk of the Board being ineffective.

**9. Links to Strategic Objectives**

Linked to strategic objectives of the Pension Fund.

**10. Equalities, Human Rights and Community Cohesion**

There are no known implications

**11. Staffing/Workforce and Accommodation implications**

None.

**12. Property and Assets**

None.

**13. Any other implications**

None.

**14. Consultation**

Members of the Pension Board may wish to consider how they may be able to assist the scheme manager (administering authority) in dealing with these current issues.

**15. Timetable for Implementation**

Not applicable.

**16. Appendices**

Not applicable.

**17. Background Information**

As attached.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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**Enterprise Bill 2015**

**PUBLIC SECTOR EMPLOYMENTS: RESTRICTIONS ON EXIT PAYMENTS**

**Summary**

- A £95k cap on exit payments will be introduced in summer/autumn 2016
- There are no plans for a transitional period; therefore all exits after its introduction will be subject to the cap
- The cap will include all payments in relation to all exits from relevant employments that occur within a 28 day period
- Employments or offices with the majority of employers defined as public sector by the Office of National Statistics (ONS) will be included
- A wide range of payments including pension strain costs will be covered by the cap
- There will be a limited number of exempt payments (e.g. death or injury)
- There will be a power for full council to waive the cap subject to Treasury directions (to be published)

**PLEASE NOTE: This Q&A has been compiled based on the LGA's understanding of the version of the Bill as passed at the report stage in the House of Lords 30th November 2015 together with accompanying draft regulations and discussions with officials in the Department for Business Innovation and Skills (BIS), the Department for Communities and Local Government (DCLG) and Her Majesty's Treasury (HMT). This Q&A is therefore NOT a definitive guide to the exit payment cap and the information contained is subject to any changes made to the Bill and regulations after the date of its publication – 01 December 2015.**

**Q1:** What does the Bill propose in relation to exit payments?
**A1:** That exit payments in the public sector be capped at a maximum of £95,000 including any pension strain costs.

**Q2:** When will this cap be introduced?
**A2:** Regulations implementing the cap cannot be put to parliament until the Enterprise Bill receives royal assent probably in late spring 2016. In a letter of 27$^{th}$ November, the government stated its intention 'to lay the regulations and seek their approval by affirmative resolution procedure in Parliament in summer/autumn 2016'.

**Q3**: Will there be any transitional arrangements for agreements that cover the period of implementation of the cap?
**A3:** The government does not see a case for transitional arrangements and will expect all exits after the implementation of regulations to be capped. However it does envisage circumstances where the cap could be waived in the period of implementation, for example if there was a delay to the date of exit beyond the start of the cap outside of the individual's control, and will issue guidance to cover such circumstances.

**Q4:** Will the cap relate to a payment, a person, or an employment?
**A4:** All exit payments in respect of exits from relevant employments within a period of 28 days count toward the cap. So if a person has two employments, exits both at the same time and a payment is made in relation to each then both payments must be added together and checked against the cap even if those employments are with different employers. However if one employment ends, say, three months before the other then the cap applies to each employment separately.

**Q5:** How will I know if a person has received an exit payment in relation to another public sector employment or office?
**A5:** Draft regulations place a responsibility on the individual on receipt of an exit payment to notify all other public sector employers of their date of exit, the amount of the exit payment/s made and the identity of the paying employer.

Note: we have raised the question of what order the cap should operate in a multiple employer situation – e.g. if the aggregate payment needs to be reduced, should that reduction be applied proportionally across all employments, in the order the payments are made or is some other methodology to be used?

**Q6**: What counts as a public sector employment?

**A6:** Any employee of a 'prescribed public sector authority' or holder of a 'prescribed public sector office' is deemed to have a public sector employment for the purposes of the cap. The prescription of authorities and offices will be set out in regulation. The draft indicates that all bodies defined by the Office for National Statistics as public sector will be included by default with a schedule listing exemptions. It would be safe to assume that local authorities will be prescribed authorities to which the cap would apply.

**Q7:** What counts as an exit payment?

**A7:** Any payment of a 'prescribed description' made as a consequence of the individual leaving the prescribed employment or office. Regulations will include a list of prescribed payments which will include the following:

- Redundancy payments
- Payments on voluntary exits
- Pension strain costs
- Severance or ex-gratia payments
- Payment for outstanding entitlement
- Compensation under the terms of a contract
- Pay in lieu of notice
- Shares or share options

The draft regulations also include a general cover all provision to include 'any other payment made as a consequence of, in relation to, or conditional on loss of employment whether under a contract of employment or otherwise'.

**Q8**: What is the impact of including pension strain costs for the Local Government Pension Scheme (LGPS)?

**A8:** Currently a redundancy pension in the LGPS is paid unreduced to active members who are made redundant at the age of 55 or over. The cost of the member receiving an unreduced pension is typically met via a pension strain cost that has to be paid into the pension fund from the individual's employer. The Bill includes changes to the LGPS which would limit the pension payable on redundancy by applying the actuarial reduction necessary to bring the cost within the cap. There are also provisions to allow the individual to pay all or part of the strain cost themselves in order to receive an unreduced pension.

Note: we have raised a number of questions with regard to the inclusion of strain costs – e.g. will the cap apply to all strain costs (e.g. flexible retirement) or only those relating to an exit from a public sector employment, will the cost be calculated on a central set of assumptions, whether 85 year rule protections and/ or payment of pension on compassionate grounds will be included, what order the payments have to be set against the cap, etc. We await answers to these questions from the government.

**Q9:** How will the cap apply to the Teachers' Pension Scheme (TPS)?
**A9:** It is an employer discretion to pay 'unreduced' premature benefits to teachers aged 55 and over on redundancy. The Bill contains provisions to amend the TPS regulations to limit the amount of strain cost to ensure that when added to other exit costs the total remains within the £95k cap.

**Q10:** How will the cap apply to the Firefighters' Pension Schemes (FPS)?
**A10:** The Firefighters' Pension Schemes allow for employer discretionary uplifts to the pension on exit. These include a raised commutation limit in the 1992 scheme and payment of an unreduced pension in the 2006 and 2015 schemes. As the costs of unreduced pension are met annually a capital cost will need to be calculated for use in the cap. FPS regulations will require amendment to limit these discretions in order to ensure that when added to other exit costs the total remains within the £95k cap.

**Q11**: Will any payments be excluded from the cap?
**A11:** The Bill provides for regulations to exempt payments of prescribed description and draft regulations currently exclude payments made in relation to:

- Incapacity or death, as a result of accident, injury of illness
- Firefighter fitness provisions
- Contractual leave not taken
- Contractual bonuses

- Court orders

**Q12**: Will there be any power to waive the cap?
**A12**: The Bill provides for a Minister of the Crown to relax the cap in respect of an employee or office holder or a description of such in relation to all or part of an exit payment. It also provides for regulations to enable specified persons to exercise the same power on behalf of the minister (in accordance with Treasury direction). The draft regulations include a provision to enable a full council of a local authority to exercise that power in relation to payments made by itself.

Note: we have raised the question of who may be able to waive the cap for other employers such as schools.

**LGA Workforce team**
01.12.2015

## PART 8

PUBLIC SECTOR EMPLOYMENT: RESTRICTIONS ON EXIT PAYMENTS

# Restriction on public sector exit payments

(1) Before section 154 of the Small Business, Enterprise and Employment Act 2015 (but after the italic heading preceding that section) insert—

## "153A Regulations to restrict public sector exit payments

(1) Regulations may make provision to secure that the total amount of exit payments made to a person in respect of a relevant public sector exit does not exceed £95,000.

(2) Where provision is made under subsection (1) it must also secure that if, in any period of 28 consecutive days, two or more relevant public sector exits occur in respect of the same person, the total amount of exit payments made to the person in respect of those exits does not exceed the amount provided for in subsection (1).

(3) An exit payment is in respect of a relevant public sector exit if it is made—

(a) to an employee of a prescribed public sector authority in consequence of the employee leaving employment, or

(b) to a holder of a prescribed public sector office in consequence of the office-holder leaving office.

(4) An exit payment is a payment of a prescribed description.

(5) The descriptions of payment which may be prescribed include—

(a) any payment on account of dismissal by reason of redundancy (read in accordance with section 139 of the Employment Rights Act 1996);

(b) any payment on voluntary exit;

(c) any payment to reduce or eliminate an actuarial reduction to a pension on early retirement or in respect of the cost to a pension scheme of such a reduction not being made;

(d) any severance payment or other ex gratia payment;

(e) any payment in respect of an outstanding entitlement;

(f) any payment of compensation under the terms of a contract;

(g) any payment in lieu of notice;

(h) any payment in the form of shares or share options.

(6) In this section a reference to a payment made to a person includes a reference to a payment made in respect of that person to another person.

(7) For the purposes of subsection (2), a public sector exit occurs when the person leaves the employment or office in question (regardless of when any exit payment is made).

(8) Regulations may include—

(a) provision which exempts from any provision made under subsection (1) exit payments, or exit payments of a prescribed description, made in prescribed circumstances;

(b) provision which, in consequence of provision made under subsection (1), amends a relevant public sector scheme so as to make any duty or power under the scheme to make exit payments subject to any restriction imposed by regulations under subsection (1) (taking account of any relaxation of such a restriction which may be made under section 153C);

(c) provision which makes an amendment of any provision made by or under an enactment (whenever passed or made) which is necessary or expedient in consequence of any provision made by or under this section.

(9) Regulations may substitute a different amount for the amount for the time being specified in subsection (1).

(10) Nothing in this section applies in relation to payments made by authorities who wholly or mainly exercise functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).

(11) In this section—

"enactment" includes an Act of the Scottish Parliament, a Measure or Act of the National Assembly for Wales and Northern Ireland legislation;

"prescribed" means prescribed by regulations under this section;

"relevant public sector scheme" means—

(a) a scheme under section 1 of the Superannuation Act 1972 (civil servants);
(b) a scheme under section 7 of that Act (local government workers);
(c) a scheme under section 9 of that Act (teachers);
(d) a scheme under section 10 of that Act (health service workers);
(e) a scheme under section 1 of the Public Service Pensions Act 2013 (schemes for persons in public service);
(f) a scheme under section 26 of the Fire Services Act 1947 or section 34 of the Fire and Rescue Services Act 2004 (fire and rescue workers);

(g) a scheme under section 1 of the Police Pensions Act 1976 or section 48 of the Police and Fire Reform (Scotland) Act 2012 (members of police forces);
(h) any other prescribed scheme (whether established by or under an enactment or otherwise).

## 153B Supplementary provision about regulations under section 153A

(1) Subject to subsection (2), the power to make regulations under section 153A is exercisable—

(a) by the Scottish Ministers, in relation to payments made by a relevant Scottish authority;

(b) by the Treasury, in relation to any other payments.

(2) Where the relevant Scottish authority is the Scottish Administration (or a part of it) the power to make regulations under section 153A is exercisable by the Treasury (instead of the Scottish Ministers)—

(a) in relation to payments made to the holders of offices in the Scottish Administration which are not ministerial offices (read in accordance with section 126(8) of the Scotland Act 1998), and

(b) in relation to payments made to members of the staff of the Scottish Administration (read in accordance with section 126(7)(b) of that Act).

(3) The power to make provision of the kind mentioned in section 153A(8)(b) (power to amend public sector schemes), so far as exercisable by the Treasury, is also exercisable concurrently by any other Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) with the consent of the Treasury.

(4) Regulations to which subsection (5) applies—

(a) if made by the Treasury, are subject to the affirmative resolution procedure;

(b) if made by the Scottish Ministers, are subject to the affirmative procedure.

(5) The regulations mentioned in subsection (4) are—

(a) the first regulations under section 153A(1) made by the Scottish Ministers,

(b) the first regulations under section 153A(1) made by the Treasury,

(c) any regulations under section 153A(8)(c) (power to make consequential amendments of Acts) which amend primary legislation,

(d) any regulations under section 153A(9) (power to change the specified amount), and

(e) any regulations under paragraph (h) of the definition of "relevant public sector scheme" in section 153A(11).

(6) Any other regulations under section 153A—

(a) if made by the Treasury or a Minister of the Crown, are subject to the negative resolution procedure;

(b) if made by the Scottish Ministers, are subject to the negative procedure.

(7) In this section—

"primary legislation" means—

(a) an Act of Parliament;
(b) an Act of the Scottish Parliament;

"relevant Scottish authority" means—

(a) the Scottish Parliamentary Corporate Body, or (b) any authority which wholly or mainly exercises functions within devolved competence (within the meaning of section 54 of the Scotland Act 1998).

## 153C Power to relax restriction on public sector exit Payments

(1) A Minister of the Crown may relax any restriction imposed by regulations made by the Treasury under section 153A.

(2) The Scottish Ministers may relax any restriction imposed by regulations made by the Scottish Ministers under section 153A.

(3) A requirement may be relaxed—

(a) in respect of a particular employee or office-holder or a description of employees or office-holders;

(b) in relation to the whole or any part of an exit payment, or a description of exit payments.

(4) Regulations under section 153A made by the Treasury may—

(a) make provision for the power under subsection (1) to be exercisable on behalf of a Minister of the Crown by a person specified in the regulations;

(b) make provision for a requirement to be relaxed only—

(i) with the consent of the Treasury, or

(ii) following compliance with any directions given by the Treasury;

(c) make provision as to the publication of information about any relaxation of a requirement granted.

(5) Regulations under section 153A made by the Scottish Ministers may—

(a) make provision for the power under subsection (2) to be exercisable on behalf of the Scottish Ministers by a person specified in the regulations;

(b) where provision is made by virtue of paragraph (a), make provision for a requirement to be relaxed only—

(i) with the consent of the Scottish Ministers, or

(ii) following compliance with any directions given by the Scottish Ministers;

(c) make provision as to the publication of information about any relaxation of a requirement granted.

(6) Regulations under section 153A(1) made by the Treasury may make provision for the power conferred on a Minister of the Crown by subsection (1) to be exercised instead by the Welsh Ministers, in relation to exit payments made by an authority who wholly or mainly exercises functions which could be conferred by provision falling within the legislative competence of the National Assembly for Wales (as defined in section 108 of the Government of Wales Act 2006).

(7) In this section "Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.""

(2) Schedule 4 makes amendments consequential on subsection (1), and related provision.

**EXTRACT FROM SCHEDULE 4 OF THE ENTERPRISE BILL**

## Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356S.I. 2013/2356)

**(1)** In the Local Government Pension Scheme Regulations 2013 (S.I. 2013/ 2356)—

(a) in regulation 30 (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts without an actuarial reduction), at the end insert—

"(13) This regulation is subject to regulation 68A (effect of restrictions on public sector exit payments).", and"

(b) after regulation 68 insert—

## "68A Effect of restrictions on public sector exit payments

(1) This regulation applies where the effect of the Exit Payment Regulations is to prevent all or part of a payment being required to be made under regulation 68(2) in respect of any extra charge on the fund resulting from retirement benefits which, in the absence of this regulation, would become immediately payable, without reduction, under regulation 30(7)(b) or as a result of a waiver under regulation 30(8).

(2) The member may elect to pay to the appropriate fund an amount in respect of all or part of that extra charge.

(3) Regulation 30(7) (which provides for active members aged 55 or over, on redundancy, to take immediate payment of certain pension amounts) has effect as if for paragraph (b) there were substituted—

(b) any other retirement pension relating to that employment payable under these Regulations, adjusted by so much of the amount shown as appropriate in actuarial guidance issued by the Secretary of State as does not represent an adjustment relating to an extra charge on the appropriate fund—

(i) in respect of which the Scheme employer may be required to make an additional payment under regulation 68(2), or

(ii)in respect of which the member has made a payment under regulation 68A(2)."

(4) Regulation 30(8) does not authorise the waiver of any reduction except to the extent that an additional payment may be required under regulation 68(2), or a payment has been made to the appropriate fund by the member under paragraph (2), in respect of any extra charge on the fund resulting from not making the reduction.

(5) In determining the effect of the Exit Payment Regulations for the purposes of paragraph (1) account is to be taken of any provision made under section 153C of the Small Business, Enterprise and Employment Act 2015 (power to relax exit payment restrictions in certain cases).

(6) The restriction specified in paragraph (4) applies to Scheme employers which have power under section 1 of the Localism Act 2011 (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004 (powers of fire and rescue authorities) in the exercise of those powers.

(7) In this regulation "Exit Payment Regulations" means regulations under section 153A(1) of the Small Business, Enterprise and Employment Act 2015 (regulations to restrict public sector exit payments).""

**(2)** The provision made by sub-paragraph (1) may be amended or revoked as if it had been made under section 1 of the Public Service Pensions Act 2013.

**(3)** The provision made by this paragraph is without prejudice to the generality of the powers conferred by paragraph 4.

STATUTORY INSTRUMENTS

# 2016 No. XXX

# EMPLOYMENT

# DRAFT The Public Sector Exit Payment Regulations 2016

| | |
|---|---|
| *Made - - - -* | *** |
| *Laid before Parliament* | *** |
| *Coming into force - -* | *** |

The Treasury make the following Regulations in exercise of the power conferred upon them by section 153A(1) of the Small Business, Enterprise and Employment Act 2015.

## PART 1

## General

**Citation, commencement, extent and interpretation**

**1.**—(1) These Regulations may be cited as The Public Sector Exit Payment Regulations 2016.

(2) These Regulations come into force on XXX.

(3) These Regulations extend to the whole of the United Kingdom.

**Interpretation**

**2.** In these Regulations—

"the Act" means the Small Business, Employment and Enterprise Act 2015;

"additional public sector authority" means—

any prescribed public sector authority with which an individual continues to be employed; and

any prescribed public sector authority responsible for the appointment of a prescribed public sector office which an individual continues to hold

when he leaves employment with a prescribed public sector authority or leaves a prescribed public sector office;

"aggregate exit payment" means the total exit payments received by an exit payee from one or more prescribed public sector authorities in respect of a public sector exits in a period of 28 days;

"the fitness provisions" means the Addendum to the Fire and Rescue National Framework for England on firefighters fitness prepared by the Department for Communities and Local Government in accordance with section 21 of the Fire and Rescue Services Act 2004;

"exit payee" means an individual who receives an exit payment or payments;

"exit payment" means a payment of a type prescribed in regulation 3;

"exit payment threshold" means £95,000 or an amount specified in further regulations under section 153A(1) of Act coming into force after these Regulations take effect;

"prescribed public sector authority" means a public sector authority listed in part 1 of schedule 1 or a public sector authority responsible for the appointment of the public sector office listed in part 2 of schedule 1;

"redundancy" has the meaning set out in section 139 of the Employment Rights Act 1996;

# PART 2

## Restriction on Exit Payments

**3.**—(1) Subject to paragraph 2, these Regulations apply to the following payments made by a prescribed public sector authority in connection with loss of employments or offices—

(a) A payment on account of dismissal by reason of redundancy;

(b) A payment made consequently upon a voluntary exit from employment;

(c) A payment to reduce or eliminate an actuarial reduction to a pension upon early retirement;

(d) A payment made to extinguish any liability to pay money under a fixed term contract; and

(e) A payment made by way of shares consequent upon a loss of employment;

(f) Any other payment made as a consequence of, in relation to, or conditional upon, loss of employment whether under a contract of employment or otherwise.

(2) Regulation 3(1) does not include payments that are—

(a) made in respect of incapacity or death as a result of accident, injury or illness;

(b) made under regulation 62 of the Firefighters' Pension Scheme (England) Regulations 2014 where the relevant Fire and Rescue Authority has determined that an individual should be retired with an authority initiated early retirement pension in accordance with the fitness provisions;

(c) made in respect of leave due under a contract of employment but not taken;

(d) bonus payments otherwise determined to be due under a contract of employment;

(e) made in compliance with an order of any court.

**4.**—(1) Where this regulation applies—

(a) a prescribed public sector authority may not make a payment to the exit payee of an amount that would result in the aggregate exit payment to the exit payee exceeding the exit payment threshold;

(b) an exit payee's entitlement to an exit payment is not enforceable other than to the extent that the payment is permitted by regulation 4(1)(a);

(2) Subject to regulations 5 and 9, this regulation applies where an exit payment to an exit payee would mean that the exit payee's aggregate exit payment would exceed the exit payment threshold.

**5.**Regulation 4 does not apply to an exit payment where an exit payee has an entitlement to that exit payment as a result of regulation 5 of The Transfer of Undertakings (Protection of Employment) Regulations 1981.

**6.**Where the restriction imposed by regulation 4(1) would result in a prescribed public sector authority making exit payments to an exit payee which total less than—

(a) the amount of statutory redundancy pay due under section 162 of the Employment Rights Act 1996, or

(b) where the exit payee did not have an entitlement to statutory redundancy pay calculated under that section, the amount of statutory redundancy pay that would have been due under that section if it had applied;

the prescribed public sector authority may make an exit payment to the exit payee of or equivalent to that amount.

**7.**Where the restriction imposed by regulation 4(1) would result in a public sector authority being unable to make a non-cash exit payment, the public sector authority may substitute an exit payment of a cash sum of an amount that means the aggregate exit payment to the exit payee does not exceed the exit payment threshold.

**8.**When an individual leaves employment with a prescribed public sector authority or leaves a prescribed public sector office he must inform all additional public sector authorities—

(a) that he has received an exit payment;

(b) the amount of any exit payment;

(c) the date that he left employment or office;

(d) the identity of the prescribed public sector authority that made the exit payment.

## PART 3

### Relaxation of the Cap on Exit Payments

**9.** Where the power under section 153C(1) of the Act to relax the restriction on payment of exit payments under these Regulations is exercised then regulation 4(1) does not apply to the extent of the relaxation.

**10.**The power under section 153C(1) of the Act is exercisable—

(1) by the Welsh Ministers, in relation to payments made by a relevant Welsh authority;

(2) by the full council of a local authority, in relation to payments made by that local authority.

(3) [any further delegation of the power to relax the restriction to be included here]

**11.**The power under section 153C(1) of the Act must be exercised in accordance with any guidance issued by the Treasury on how that power is to be exercised.

**12.**Where a person exercises the power to relax the restrictions on payment of exit payments under these Regulations, they shall—

(a) Keep a record of the exercise of that power and the reasons for it for at least 36 months; and

(b) Publish, as part of annual accounts or in a list published at the start of the financial year, a list of all the times in the preceding twelve months that they have exercised that power and the reasons for it.

# SCHEDULES

## SCHEDULE 1

[This schedule will set out the public sector authorities to which the regulations will apply. It is proposed that the list will include all bodies within the public sector (as set out on the list prepared by the Officer of National Statistics) save that payments from the following authorities were identified as being potentially exempt in the Government's response to the consultation on these proposals:

(i) The following public financial corporations and subsidiaries:

1. The Royal Bank of Scotland
2. UK Asset Resolution
3. Northern Rock
4. Bradford and Bingley
5. Pension Protection Fund
6. The London Authorities Mutual Limited
7. National Employment Savings Trust Corporation (NEST)
8. Financial Conduct Authority
9. Financial Ombudsman Service Ltd.
10. First Rate Exchange Services Holdings Limited
11. First Rate Exchange Services Limited
12. Guaranteed Export Finance Corporation PLC (GEFCo)
13. Northern Ireland Central Investment Fund for Charities
14. Prudential Regulation Authority

(ii) Armed Forces

(iii) National Museums

(iv) The Commissioners for Irish Lights

(v) Public broadcasters: BBC, Ch4 and S4C

(vi) Bank of England]

HM Treasury

# Public Sector exit payment recovery regulations:

## consultation

December 2015

HM Treasury

# Public Sector exit payment recovery regulations:

## consultation

December 2015

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at public.enquiries@hmtreasury.gsi.gov.uk

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# Contents

# 1 Background

**1.1** The previous government enacted framework powers in the Small Business, Enterprise and Employment Act 2015 to allow for the recovery of public sector exit payments when a high earner returns to the public sector shortly after leaving. Regulations setting out the detail of the policy will be laid in Parliament to implement this policy from April 2016.

**1.2** Exit payments associated with loss of employment including redundancy are important to employers' ability to reform and react to new circumstances. They provide important support for employees as they find new employment. Equally it is important that these payments are proportionate and offer value for money.

**1.3** In the government's response to the consultation on the recovery of public sector exit payments, certain decisions remained under review with a commitment to consult further before laying the final regulations. **This consultation invites comment on the final draft regulations.**

**1.4** Respondents will wish to note that the government has reconsidered some areas of the policy since the publication of the government response on 27 October 2014. As a result, some of the details of the exit payment recovery have been strengthened to better protect taxpayers' money within the existing legal framework. These regulations do not override any existing recovery provisions that go further, but underpin these arrangements and provide a framework for the required minimum.

**1.5** In line with other decisions on financial management and pay policy it is the responsibility of individual employers and departments to ensure that their exit payment arrangements are fair and proportionate. However, for high earning individuals moving between employers in the public sector, it is right for the government to examine whether there is sufficient assurance to the taxpayer that exit payment arrangements are fair and represent value for money for the taxpayer.

# 2 Summary of changes to the proposal

## Recovery on return to any public sector body

**2.1** The government proposes to replace the stipulation that exit payments are recovered when an individual returns to the same part of the public sector with the proposal that **public sector exit payments are recovered when an individual returns to any part of the public sector. The amount paid back will be net of tax paid.**

**2.2** This dispenses with the need to establish groupings of public bodies, for example a Health sub-sector or Local Government sub-sector, which would introduce unnecessary administrative complexity. It would also have led to inconsistencies in treatment, for example where in some professions, such as legal or IT services, similar jobs exist across sub-sectors.

## Salary level at which exit payment recovery takes effect

**2.3** The previous government's starting point was that recovery would apply only to individuals earning at or over £100,000. The government now proposes in these regulations to set **the minimum salary at which the recovery provisions apply at £80,000 per annum**. The government believes that a threshold set at this level is more consistent with the intention to prevent the highest paid people from exploiting opportunities to take redundancy and be re-employed soon after in the public sector. As average annual earnings are currently around £27,600, individuals earning £80,000 are amongst the top 2% of earners in the public sector and top 4% in the whole economy.[1] They are, as such, likely to receive substantial exit payments.

## Removal of a full recovery period

**2.4** The government proposes to **remove the full recovery period during which exit payments should be repaid in full on returning to a public sector body.** As such, the taper begins from the first day after a public sector employee has exited. This proposal ensures workers that return to the public sector are fairly compensated and provided sufficient support for the period between employments. A full recovery period could also have financially incentivised exiting employees not to seek further public sector employment for the duration of the full recovery period. The removal of this period is consistent with the government's commitment that work must always pay.

## Recovery of pension 'top up' payments made under the Local Government Pension Scheme

**2.5** The government response to the recovery of public sector exit payments consultation published on 27 October 2014 proposed excluding employer payments to provide unreduced pensions for early retirement under the Local Government Pension Scheme (LGPS) rules where

[1] HM Treasury analysis using Annual Survey of Hours and Earnings, November 2015

LGPS members are made redundant before their Normal Pension Age. However, the government has concluded that this exclusion is unwarranted when recovery applies to similar top up payments made under other pension schemes.

**2.6** Employer-funded pension top up payments made under the LGPS will be treated as within the scope of the provisions governing recovery in the event of re-employment ensuring that recovery provisions are consistent.

## Dissolved Bodies

**2.7** In a situation where the public sector body that paid an exit payment to an exited worker has dissolved, the employee will be required to repay the required amount of their exit payment to the hiring public sector employer.

**2.8** The hiring public sector body will then be required to pay the amount recovered into the consolidated fund. This arrangement will ensure that recovery provisions are applied consistently irrespective of any machinery of government changes.

## Exemptions

**2.9** The Office of National Statistics (ONS) has recently classified Housing Associations to the public sector. **Housing Associations** would be granted an exemption from the recovery policy as it is the government's intention to take steps to ensure they can be reclassified to the private sector.

**2.10** The government has decided to grant an exemption to the **Financial Services Compensation Scheme (FSCS)** treating the organisation as a public financial corporation. A full list of exempt public financial corporations can be found in Chapter 3.

# 3 Who is in scope?

| | |
|---|---|
| **Earnings thresholds/ exemptions** | • All public sector employees and office holders earning over £80,000. |
| **Which individuals** | • Current and future employees and office holders of prescribed public sector authorities.<br>• Individuals that return off-payroll to prescribed public sector authorities. |
| **Bodies in Scope** | All bodies within the ONS definition of public sector except those granted an exemption |
| **Bodies exempt from the policy** | o The following public financial corporations and subsidiaries:<br>- The Royal Bank of Scotland<br>- Northern Rock<br>- Bradford and Bingley<br>- Pension Protection Fund<br>- The London Authorities Mutual Limited<br>- National Employment Savings Trust Corporation (NEST)<br>- Financial Conduct Authority<br>- Payment Systems Regulator<br>- Financial Ombudsman Service Ltd.<br>- First Rate Exchange Services Holdings Limited<br>- First Rate Exchange Services Limited<br>- Guaranteed Export Finance Corporation PLC (GEFCo)<br>- Northern Ireland Central Investment Fund for Charities<br>- UKAR<br>- Financial Services Compensation Scheme (FSCS)<br>o Armed Forces<br>o Housing Associations<br>o National Museums<br>o The Commissioners for Irish Lights<br>o Public broadcasters: BBC, Ch4,and S4C<br>o Bank of England |

# 4 How will it work?

| | |
|---|---|
| **Mechanism** | • Require the individual to notify their new and previous employer where they propose to return to the public sector after they have received a public sector exit payment within the previous 12 months.<br>• Require old employers to make arrangements with individuals where exit payments are due to be recovered. |
| **Which payments for recovery** | • Payments for loss of employment, including discretionary payments to buy out actuarial reductions to pensions and severance payments. |
| **Excluded are:** | • Contractual entitlements unconnected to loss of employment.<br>• Those payments that have a potential, if not actual, monetary value.<br>• Payments and Compensation in lieu of notice.<br>• Payments equal to minimum statutory redundancy payments.<br>• Payments made in respect of incapacity or death as a result of accident, injury or illness.<br>• Payments made in respect of leave not taken.<br>• Payments made in compliance with an order of court or tribunal. |
| **Defining the Public Sector** | • Bodies classified as within the public sector by the ONS for the purpose of National Accounts. |
| **Amount to recover** | • Tapered recovery from the date of exit up to 12 months.<br>• None after 12 months. |
| **Sanctions** | • Civil recovery / Prohibition on taking up new role / Dismissal |
| **Mechanism for Waiving the recovery of exit payment** | • Decision assigned to the relevant Secretary of State.<br>• This power can be exercised on behalf of the relevant Secretary of State by an appropriate person or persons (e.g. the Accounting Officer).<br>• The Full Council to take the decision whether to grant a waiver from repayment in cases involving Local Authorities and for local government bodies within their delegated powers.<br>• Reported and published as part of Annual Reports and Accounts. |
| **Mechanism for enforcement** | • Old employers will have the right to take individuals to court to reclaim money.<br>• Guidance will make clear that old employers should inform the individual of their obligation at the point of exit and to ensure that reasonable steps are taken to recover the exit payment.<br>• New employers will be required not to employ the individual until repayment arrangements have been finalised. |
| **Devolution** | • Our proposal is for devolved bodies to be a part of the exit payment recovery process, and that devolved administrations will be responsible for waivers in their delegated areas.<br>• As set out in the primary legislation, the Scottish Government has the powers to enact their own regulations in relation to devolved |

| | |
|---|---|
| | Scottish workforces. |
| **Transparency** | • Require the body that granted the waiver to disclose this and the reason for it in their Annual Reports and Accounts. |
| **Implementation Date** | • Require compliance with new arrangements from April 2016. |

| **Question** |
|---|
| The government invites you to comment specifically on the draft regulations and Schedule 1 (which lists public sector authorities and offices in scope of the regulations), and changes to the proposal for the recovery of public sector exit payments. In particular, do these regulations achieve the policy intention of ensuring the mechanism for the recovery of exit payments is fair, proportionate and represents value for money to the tax payer? |

**How to respond to this consultation**

**4.1** This consultation will close on **25 January 2016**. Responses should be sent by email to: exitpaymentrecovery@hmtreasury.gsi.gov.uk with the subject heading "Consultation on Public Sector Exit Payment Recovery Regulations".

**4.2** Alternatively please send responses by post to:

Consultation on Public Sector Exit Payment Recovery Regulations,
Workforce, Pay & Pensions Team,
HM Treasury,
1 Horse Guards Road,
London SW1A 2HQ.

**4.3** When responding please say if you are making a representation on behalf of a business, individual or representative body. In the case of representative bodies, please provide information on the number and nature of people you represent.

**Confidentiality**

**4.4** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1988 (DPA) and the Environmental Information Regulations 2004.

**4.5** If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

**4.6** HM Treasury will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

**HM Treasury contacts**

This document can be downloaded from www.gov.uk

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

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Dear Councillor Lenton,

**Local Government Pension Scheme pooled investments**

I am writing today to update you on developments in the investment reform policy for the Local Government Pension Scheme. As you will recall, at the July 2015 Budget, the Chancellor announced our intention to work with local authorities to develop proposals for pooling their pension scheme assets in order to deliver savings and help funds contribute to the infrastructure investment needed to grow our economy.

Today we move forward in that work by formally inviting the 90 administering authorities to develop ambitious proposals for pooling. To help authorities frame their discussions, I am also publishing the criteria and supporting guidance that their proposals will need to address.

The publication of this document represents the culmination of work to reform Scheme investments that has been underway since 2013. The criteria build on the Hymans Robertson report and the coalition government's May 2014 consultation on options for reform. A Government response has been published as part of today's package. The criteria also draw on the extensive informal discussions that the Government has held with administering authorities and the fund management industry over the summer, to ensure that the criteria are achievable and result in locally led solutions.

I am asking administering authorities to develop up to six 'British Wealth Funds', with at least £25 billion of Scheme assets in each. The criteria also call on authorities to be more ambitious in their investment in infrastructure and encourage them to compare themselves against the example set by the leading global pension fund investors in this respect. In addition, the criteria will drive the reduction of costs and the achievement of excellent value for money, while further promoting strong governance and decision making.

Alongside the criteria, I am publishing a consultation on draft investment regulations which propose to update the existing legislation governing the Scheme's investments to facilitate large-scale asset pooling and otherwise ensure that the Scheme is able to take advantage of new and innovative investment practices. The draft regulations also contain provisions that will allow the Secretary of State to intervene in the investment functions of administering authorities who are not sufficiently ambitious in their asset pooling arrangements, or who otherwise fail to invest in line with Secretary of State published guidance.

The publication of the criteria and consultation represent a significant step forward in the process of reforming investment practices in the Scheme in order to ensure that it continues to provide value for money. By working ambitiously together to pool assets, efficiencies can be found to help ensure that the Scheme is sustainable in the future.

I have been encouraged by the progress that has already been made by many administering authorities in exploring potential pooling arrangements. I am confident that you will take full advantage of this opportunity to deliver savings for local taxpayers, and become a key player in ensuring that the country has the infrastructure needed to drive local growth. I look forward to seeing your proposals develop and would encourage your officers to discuss your emerging thinking with my officials over the coming weeks.

Marcus Jones

**MARCUS JONES MP**

**Draft Response**

**LGPS Investment Pooling**

The Royal Borough of Windsor and Maidenhead ("the Borough") is the administering authority for the Royal County of Berkshire Pension Fund ("the Fund") a constituent member of the Local Government Pension Scheme ("LGPS") in England & Wales.

The Borough notes the directive from the Department for Communities and Local Government ("DCLG") that the Fund is to pool its investment assets with other LGPS funds and is required to give a commitment to pooling and outline the discussions it has had with other administering authorities to DCLG by February 19th 2016.

The Borough, therefore, confirms that it will comply with the directive to pool. In addition the Borough discloses that Officers have held discussions with a number of the nascent pools.

Based on the Borough's Pension Fund Panel's three key criteria, namely:

- Ability of a pool to deliver the Fund's investment strategy (modest long-term returns with low volatility of those returns to close the funding gap over the deficit recovery period agreed with the Actuary);
- The proposed governance arrangements of the pool; and
- The quality of management of the pool

the Pension Fund Panel has agreed that Officers should continue discussions with the London Pensions Fund Authority and Lancashire County Council and other nascent pools regarding pooling of assets.

In the long run the Panel are of the view that additional cost-savings would be achieved by greater integration of LGPS funds including risk management and sharing (for instance pooling longevity risk), joint investments and pensions administration.

**Cllr J Lenton**

**Chairman**

**Berkshire Pension Fund and Pension Fund Advisory Panels**

**9 February 2016.**

Department for
Communities and
Local Government

# Local Government Pension Scheme: Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

Consultation

November 2015
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at http://forms.communities.gov.uk/ or write to us at:

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November 2015

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# Contents

# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact DCLG Consultation Co-ordinator.

Department for Communities and Local Government

2 Marsham Street

London

SW1P 4DF

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

# The consultation process and how to respond

## Scope of the consultation

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|---|---|
| **Topic of this consultation:** | This consultation proposes to revoke and replace the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 with the draft regulations described in this paper. There are two main areas of reform:<br>1. A package of reforms that propose to remove some of the existing prescribed means of securing a diversified investment strategy and instead place the onus on authorities to determine the balance of their investments and take account of risk.<br>2. The introduction of safeguards to ensure that the more flexible legislation proposed is used appropriately and that the guidance on pooling assets is adhered to. This includes a suggested power to allow the Secretary of State to intervene in the investment function of an administering authority when necessary. |
| **Scope of this consultation:** | Views are sought on:<br>1. Whether the proposed revisions to the investment regulations will give authorities the flexibility to determine a suitable investment strategy that appropriately takes account of risk.<br>2. Whether the proposals to introduce the power of intervention as a safeguard will enable the Secretary of State to intervene, when appropriate, to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance. |
| **Geographical scope:** | This consultation applies to England and Wales. |
| **Impact Assessment:** | The proposed interventions affect the investment of assets by local government pension scheme administering authorities. These authorities are all public sector organisations, so no impact assessment is required. |

## Basic Information

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| **To:** | The consultation is aimed at all parties with an interest in the Local Government Pension Scheme (the Scheme) and in particular those listed on the Government's website: https://www.gov.uk/government/publications/local-government-pension-scheme-regulations-information-on-who-should-be-consulted |
| **Body/bodies responsible for the consultation:** | Secretary of State, Department for Communities and Local Government.<br><br>The consultation will be administered by the Workforce, Pay and Pensions Division. |
| **Duration:** | 25 November 2015 to 19 February 2016 |
| **Enquiries:** | Enquires should be sent to Victoria Edwards. Please email LGPSReform@communities.gsi.gov.uk or call 0303 444 4057. |
| **How to respond:** | Responses to this consultation should be submitted to LGPSReform@communities.gsi.gov.uk by **19 February 2016**.<br><br>Electronic responses are preferred. However, you can also write to:<br><br>LGPS Reform<br>Department for Communities and Local Government<br>2/SE Quarter, Fry Building<br>2 Marsham Street<br>London<br>SW1P 4DF |
| **Additional ways to become involved:** | If you would like to discuss the proposals, please email LGPSReform@communities.gsi.gov.uk |
| **After the consultation:** | All consultation responses will be reviewed and analysed. A Government response will then be published within three months, and subject to the outcome of this consultation, the resulting regulations laid in Parliament. |
| **Compatibility with the Consultation Principles:** | This consultation has been drafted in accordance with the Consultation Principles. |

# Background

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| **Getting to this stage:** | The proposals in this consultation are the culmination of work looking into Local Government Pension Scheme investments that began in early 2013. It has been developed in response to the May 2014 consultation, *Opportunities for collaboration, cost savings and efficiencies,* which considered whether savings might be delivered through collective investment and greater use of passive fund management. A copy of the consultation and the Government's response is available on the Government's website: https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies.<br><br>The consultation responses called for a voluntary approach to reform, opposing the introduction of a single, national model of pooling. The Government has therefore invited authorities to develop their own proposals for pooling, subject to common criteria and guidance. The criteria for reform have been developed using the consultation responses and following a series of workshops and conversations with authorities and the fund management industry since the July Budget 2015.<br><br>Some respondents to the May 2014 consultation also suggested that amendments were required to the investment regulations in order to facilitate greater investment in pooled vehicles. In addition, prior to that consultation, authorities and the fund management industry had called for wider reform. A small working group, whose participants are listed in Annex A, was established to look at whether the approach to risk management and diversification in the existing regulations was still appropriate. They recommended moving towards the "prudential person" approach that governs trust based pension schemes. The group also sought clarity as to whether certain types of investment were possible, such as the use of derivatives in risk management. The work of that group has informed the development of this consultation.<br><br>In relaxing the regulatory framework for scheme investments, it is important to introduce safeguards to ensure that the less prescriptive approach is used appropriately. The July Budget 2015 announcement also indicated that measures should be introduced to ensure that those authorities who do not bring forward ambitious proposals for pooling, in keeping with the criteria, should be required to pool. This consultation therefore sets out how the Secretary of State might intervene to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance. |

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| **Previous engagement:** | The proposed changes in this consultation are the result of a programme of engagement that began in summer 2013:<br><br>• Round table event, 16 May 2013. Representatives of administering authorities, employers, trade unions, the actuarial profession and academia discussed the potential for increased cooperation within the Scheme.<br><br>• A call for evidence, run with the Local Government Association, June to September 2013. This gave anyone with an interest in the Scheme the opportunity to inform the Government's thinking on potential structural reform. The results were shared with the Shadow Scheme Advisory Board, which provided the Minister for Local Government with their analysis of the responses.<br><br>• Consultation, *Opportunities for collaboration, cost savings and efficiencies,* May to June 2014. The consultation set out how savings of £470-660m a year could be achieved by collective investment and greater use of passive fund management. It also sought views as to how these reforms might best be implemented. The Government's response is available online: https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies.<br><br>• Informal engagement, July to November, 2015. Since the July Budget 2015 announcement, officials have attended over 25 workshops and bi-lateral meetings with administering authorities and the fund management industry. These discussions have been used to develop the criteria for reform and inform how the proposed power of the Secretary of State to intervene might work.<br><br>In addition, the Investment Regulation Review Group was formed in 2012 to consider potential amendments to the investment regulations. The group included representatives from administering authorities, actuarial firms, pension lawyers and the fund management industry. An initial proposal for reform was prepared that has also informed the development of the draft regulations that are the subject of this consultation. |

# Introduction and Background

## Introduction

1.1 In May 2014 the Government published a consultation which set out how savings of up to £660m a year might be achieved through greater use of passive management and pooled investment. Investing collectively can help authorities to drive down costs and access the benefits of scale, and also enables them to develop the capacity and capability to invest more cost effectively in illiquid asset classes such as infrastructure. The Government has therefore invited authorities to develop ambitious proposals for pooling assets that meet published criteria. More information about the criteria and process of reform is available on the Government's website: https://www.gov.uk/government/publications/local-government-pension-scheme-investment-reform-criteria-and-guidance.

1.2 This consultation complements that invitation, recognising that the existing regulations place restrictions on certain investments that may constrain authorities considering how best to pool their assets. It therefore proposes to move to a prudential approach to securing a diversified investment strategy that appropriately takes account of risk. In so doing, and to ensure that authorities take advantage of the benefits of scale, the Government proposes to introduce a power to allow the Secretary of State to intervene to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance.

1.3 This paper sets out the purpose and rationale of the suggested amendments to the investment regulations, and seeks views as to whether the proposed approach would best deliver those stated aims.

## Background

1.4 With assets of £178bn at its last valuation on 31 March 2013, the Local Government Pension Scheme is one of the largest funded pension schemes in Europe. Several thousand employers participate in the Scheme, which has a total of 4.68 million active, deferred and pensioner members.[1] The Department for Communities and Local Government is responsible for the regulatory framework governing the Scheme in England and Wales.

1.5 The Scheme is managed through 90 administering authorities which broadly correspond to the county councils following the 1974 local government reorganisation as well as each of the 33 London boroughs. In most cases, the administering authorities are upper tier local authorities such as county or unitary councils, but there are also some authorities established specifically to manage their pension liabilities, for example the London Pension Fund Authority and the Environment Agency Pension Fund. The

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[1] Scheme asset value and membership figures taken from Department for Communities and Local Government statistical data set - Local government pension scheme funds summary data: 2012 to 2013 https://www.gov.uk/government/statistical-data-sets/local-government-pension-scheme-funds-summary-data-2012-to-2013

administering authorities have individual governance and working arrangements. Each has its own funding level, cash-flow and balance of active, deferred and pensioner members. Authorities take these circumstances into account when preparing their investment strategies, which are normally agreed by the councillors on each authority's pension committee. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 set the legal framework for the development of these investment strategies and the investments carried out by administering authorities. This consultation proposes that the Government revokes and replaces those regulations.

1.6 Under the Public Service Pensions Act 2013, there is a requirement for a national scheme advisory board, as well as a local board for each of the 90 funds. In 2013, Scheme employers and the trade unions established a shadow board, which has been considering a number of issues connected with the Scheme, including its efficient management and administration. Appointments have now been made to the national scheme advisory board and the Chair is expected to be appointed shortly.

# Getting to this stage

2.1 The consultation is formed of two main proposals:

1. A package of reforms that propose to remove some the existing prescribed means of securing a diversified investment strategy and instead place the onus on authorities to determine the balance of their investments and take account of risk. The changes proposed would move towards the "prudent person" approach to investment that applies to trust based pension schemes.
2. The introduction of safeguards to ensure that the more flexible legislation proposed is used appropriately, and that the guidance on pooling assets is adhered to, including a power to allow the Secretary of State to intervene in the investment function of an administering authority when necessary.

## Pooling assets to deliver the benefits of scale

2.2 The proposals set out in this consultation are the culmination of work carried out over the last two and a half years to explore how to reform the way the Scheme makes its investments in order to achieve the benefits of scale and drive efficiencies.

2.3 In summer 2013, the coalition government launched a call for evidence to explore how the Scheme might be made more sustainable and affordable in the long term. 133 responses were received, many of which took the opportunity to discuss whether collective investment and greater collaboration might deliver savings for the Scheme.

2.4 Following the call for evidence, the Minister for the Cabinet Office and Minister for Local Government commissioned a cost-benefits analysis from Hymans Robertson on a range of proposals. Hymans Robertson's report explored three areas:

- **The cost of investment:** Many of the costs associated with investment are not transparent and so difficult to capture. The costs of managing and administering the Scheme were reported as being £536 million in 2012-13.[2] However, Hymans Robertson found that the actual cost was likely to be rather higher; with investment costs alone estimated as in excess of £790 million a year.[3]
- **Approaches to collaboration:** Hymans Robertson was asked to examine the costs and benefits of three options for reform: merging the authorities into 5-10 funds, creating 5-10 collective investment vehicles, or establishing just 1-2 collective investment vehicles. They found that the net present value of savings over ten years was highest with a small number of vehicles, while merging funds offered the lowest benefit.[4]

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[2] Local government pension scheme funds summary data: 2012 to 2013

[3] Department for Communities and Local Government: Local Government Pension Scheme structure analysis, Hymans Robertson pp. 10-11. https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies

[4] Hymans Robertson, p.6

- **The aggregate performance of the scheme:** The report found that the Scheme as a whole had been achieving the market rate of return in each of the main equity markets over the ten years to March 2013. If the Scheme's investments in bonds and equities had been managed passively instead of actively, authorities could have saved at least £230m a year in management fees without affecting overall investment returns.[5]

2.5 Drawing on the Hymans Robertson report and the call for evidence, the coalition government published a consultation in May 2014 entitled *Opportunities for collaboration, cost savings and efficiencies*. This set out how the Scheme could save up to £660m a year by using collective investment vehicles and making greater use of passive management for listed assets like bonds and equities. The consultation sought views on these proposals, and how they might be most effectively implemented. Respondents were broadly in favour of pooling assets, but felt that any reform should be voluntary and led by administering authorities. While many recognised a role for passive management in an investment strategy, most also felt that some active management should be retained.

2.6 At the July Budget 2015, Ministers having reflected on the consultation responses, the Chancellor announced the Government's intention to invite administering authorities to bring forward proposals for pooling local government pension scheme investments. Authorities' proposals would be assessed against published criteria, designed to encourage ambition in the pursuit of efficiencies and the benefits of scale. These criteria have now been published and are available online at https://www.gov.uk/government/publications/local-government-pension-scheme-investment-reform-criteria-and-guidance.

## Updating the investment regulations

2.7 When considering the implications of creating asset pools amongst authorities, some respondents to the May 2014 consultation took the opportunity to call for a review of the existing investment regulations. At their introduction in 2009, the regulations sought to ensure that authorities established a balanced and diversified portfolio by placing restrictions on the proportion of their assets that could be invested in different vehicles. For example, deposits with a single bank, institution or person, (other than the National Savings Bank), were restricted to 10% of an authority's assets. These restrictions have been kept under regular review and have been subject to change following representations from the investment sector and pension fund authorities.

2.8 Some respondents to the consultation suggested that the current limits on investments would prevent authorities from making meaningful allocations to a collective investment vehicle, one of the leading options for asset pooling, as the allocation to particular types of vehicle is capped at 35%. Participants in the London Boroughs' collective investment vehicle and the collaboration between the London Pension Fund Authority and Lancashire County Council also wrote to the Department encouraging reform in this area.

[5] Hymans Robertson, p.12

2.9 While the proposals for collective investment in the May 2014 consultation prompted encouragement to review the investment regulations, the idea of reform was not new. In 2012, following representations from the investment sector, the Government formed a small working group to revisit and examine the investment regulations with input from actuaries, fund managers and administering authorities. This group, whose membership is set out in Annex A, recommended that a more permissive approach should be taken to the legislative framework, similar to the "prudent person" model that applies to trust based pension schemes. This approach places the onus on the pension fund to determine a suitable balance of investments to meet its liabilities, which are clearly articulated in an investment strategy. The group also felt that the existing regulations introduced uncertainty for some authorities as to what constituted a permitted investment, as some asset classes were explicitly referenced but others were not. In particular, concern has been expressed as to whether or not pension fund authorities are permitted to invest in vehicles such as derivatives, hedge funds and forward currency contracts.

2.10 The proposals in this consultation paper therefore seek to address these issues, placing the onus on authorities to determine a diversified investment strategy that appropriately takes risk into account.

2.11 However, in relaxing the regulatory framework for scheme investments, it is also important to introduce safeguards to ensure that the less prescriptive approach proposed is used appropriately. Similarly, the July Budget 2015 announcement stated that draft regulations would be introduced to require an authority to pool its investments if it did not bring forward ambitious proposals that met the Government's criteria. This consultation therefore sets out how the Secretary of State might intervene to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance.

## Response to the Law Commission's Review of Fiduciary Duty

2.12 The Kay Review on Fiduciary Duty published its final report in July 2012. In addition to making a number of recommendations to address the excessive focus on short-term performance in equity investment markets, it recommended that the Government ask the Law Commission to review the fiduciary duties of investment intermediaries amid concerns that these common law duties were being interpreted by some pension schemes as a requirement to focus solely on short-term financial returns.

2.13 In their report, published in July 2014, the Law Commission called on the Department to review:

- Whether the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 should transpose article 18(1) of the Institutions for Occupational Retirement Provision (IORP) Directive, and
- Those aspects of Regulation 9 of the 2009 Regulations which require investment managers to be appointed on a short-term basis and reviewed every three months.

2.14 These recommendations were supported by the Government's progress report on the implementation of the Kay Review published in October 2014 by the Department for Business Innovation and Skills.

2.15 Article 18(1) of the IORP Directive requires assets to be invested in the best interests of members and beneficiaries and, in the event of a conflict of interest, in the sole interests of members and beneficiaries.

2.16 Regulation 4 of The Occupational Pension Schemes (Investment) Regulations 2005 (SI 2005 No 3378) transposed Article 18(1):

"4. (1) The trustees of a trust scheme must exercise their powers of investment, and any fund manager to whom any discretion has been delegated under section 34 of the 1995 Act (power of investment and delegation) must exercise the discretion, in accordance with the following provisions of this regulation

(2) The assets must be invested:

(a) In the best interests of members and beneficiaries; and

(b) In the case of a potential conflict of interest, in the sole interest of members and beneficiaries."

2.17 The Local Government Pension Scheme is a statutory scheme made under section 1 of the Public Service Pensions Act 2013 and previously under The Superannuation Act 1972. It is not subject to trust law and those responsible for making investment decisions in the Scheme are not therefore required to comply with Regulation 4 of the 2005 Regulations.

2.18 However, this does nothing to change the general legal principles governing the administration of Scheme investments and how those responsible for such decisions should exercise their duties and powers under the Scheme's investment regulations.

2.19 In a circular issued by the then Department of the Environment in 1983 (No 24), the Secretary of State took the view that administering authorities should pay due regard to the principle contained in the case of Roberts v Hopwood [1925] A.C. 578 p. 595:

"A body charged with the administration for definite purposes of funds contributed in whole or in part by persons other than members of that body owes, in my view, a duty to those latter persons to conduct that administration in a fairly business-like manner with reasonable care, skill and caution, and with a due and alert regard to the interest of those contributors who are not members of the body. Towards these latter persons, the body stands somewhat in the position of trustees or managers of the property of others."

2.20 Those in local government responsible for making investment decisions must also act in accordance with ordinary public law principles, in particular, the ordinary public law principles of reasonableness. They risk challenge if a decision they make is so unreasonable that no reasonable person acting reasonably could have made it.

2.21 Having considered fully the recommendation made by the Kay Review and supported by both the Law Commission and the Government, Ministers are satisfied that the Scheme is consistent with the national legislative framework governing the duties placed on those responsible for making investment decisions. The position at common law is also indistinguishable from that produced by the 2005 Regulations applicable in respect of trust-based schemes.

2.22 We do, however, propose to remove the requirement for the performance of investment managers to be reviewed once every three months from the regulations.

# Proposal 1: Adopting a local approach to investment

## Deregulating and adopting a local approach to investment

3.1 In developing these draft regulations, the Government has sought, where appropriate, to deregulate and simplify the regulations that have governed the management and investment of funds since 2009. Some of the existing provisions have not been carried forward into the draft 2016 Regulations in the expectation that they would be effectively maintained by general law provisions and so specific regulation is no longer needed. For example, those making investment decisions are still required to act prudently, and there remains a statutory requirement to take and act on proper advice. Some of the provisions in the 2009 Regulations which have not been carried forward on this basis include:

- Stock lending arrangements under Regulation 3(8) and (9) of the 2009 regulations. The view is taken that the definition of "investment" in draft Regulation 3 is sufficient given that a stock lending arrangement can only be used if it falls within the ordinary meaning of an "investment".
- Regulation 8(5) of the 2009 regulations ensures that funds are managed by an adequate number of investment managers and that, where there is more than one investment manager, the value of the fund money managed by them is not disproportionate. Here, the view is taken that administering authorities should be responsible for managing their own affairs and making decisions of this kind based on prudent and proper advice.
- There are many provisions in the 2009 Regulations which impose conditions on the choice and terms of appointments of investment managers. Since the activities of investment managers are governed by the contracts under which they are appointed, the view is taken that making similar provision in the 2016 Regulations would be unnecessary duplication. Examples include the requirement for investment managers to comply with an administering authority's instructions and the power to terminate the appointment by not more than one month's notice.
- Regulation 12(3) of the 2009 Regulations requires administering authorities to state the extent to which they comply with guidance given by the Secretary of State on the Myners principles for investment decision making. As part of the wider deregulation, the draft regulations make no provision to report against these principles, although authorities should still have regard to the guidance.

3.2 These examples of deregulation are for illustrative purposes only. It is not an exhaustive list of provisions which the Government proposes to remove. Consultees are asked to look carefully at the full extent of deregulation and comment on any particular case that raises concerns about the impact such an omission might have on the effective management and investment of funds.

## Investment strategy statement

3.3 As part of this deregulation, the draft regulations also propose to remove the existing schedule of limitations on investments. Instead authorities will be expected to take a prudential approach, demonstrating that they have given consideration to the suitability of different types of investment, have ensured an appropriately diverse portfolio of assets and have ensured an appropriate approach to managing risk.

3.4 Key to this will be the investment strategy statement, which authorities will be required to prepare, having taken proper advice, and publish. The statement must cover:

- A requirement to use a wide variety of investments.
- The authority's assessment of the suitability of particular investments and types of investments.
- The authority's approach to risk, including how it will be measured and managed.
- The authority's approach to collaborative investment, including the use of collective investment vehicles and shared services.
- The authority's environmental, social and corporate governance policy.
- The authority's policy on the exercise of rights, including voting rights, attached to its investments.

### Transitional arrangements

3.5 Draft regulation seven proposes to require authorities to publish an investment strategy statement no later than six months after the regulations come into force (this is currently drafted as 1 October 2016, in case the draft regulations come into effect on 1 April 2016). However, the draft regulations would also revoke the existing 2009 Regulations when they come into effect. Transitional arrangements are therefore required to ensure that an authority's investments and investment strategy are regulated between the draft regulations coming into effect and the publication of an authority's new investment strategy statement. The transitional arrangements proposed in draft regulation 12 would mean that the following regulations in the 2009 Regulations would remain in place until the authority publishes an investment strategy or six months lapses from the date that the regulations come into effect:

- 11 (investment policy and investment of pension fund money)
- 14 (restrictions on investments)
- 15 (requirements for increased limits)
- Schedule 1 (table of limits on investments)

### Statement of Investment Principles

3.6 We do not propose to carry forward the existing requirement under regulation 12 of the 2009 Regulations to maintain a Statement of Investment Principles. However, the main elements, such as risk, diversification, corporate governance and suitability, will instead be carried forward as part of the reporting requirements of the new investment strategy statement. Administering authorities will still be required to maintain their funding strategy statements under Regulation 58 of the 2013 regulations.

## Non-financial factors

3.7 The Secretary of State has made clear that using pensions and procurement policies to pursue boycotts, divestments and sanctions against foreign nations and the UK defence industry are inappropriate, other than where formal legal sanctions, embargoes and restrictions have been put in place by the Government. The Secretary of State has said, "Divisive policies undermine good community relations, and harm the economic security of families by pushing up council tax. We need to challenge and prevent the politics of division."

3.8 The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 already require administering authorities to publish and follow a statement of investment principles, which must comply with guidance issued by the Secretary of State. The draft replacement Regulations include provision for administering authorities to publish their policies on the extent to which environmental, social and corporate governance matters are taken into account in the selection, retention and realisation of investments. Guidance on how these policies should reflect foreign policy and related issues will be published ahead of the new Regulations coming into force. This will make clear to authorities that in formulating these policies their predominant concern should be the pursuit of a financial return on their investments, including over the longer term, and that, reflecting the position set out in the paragraph above, they should not pursue policies which run contrary to UK foreign policy.

## Investment

3.9 A few definitions and some aspects of regulation 3, which describes what constitutes an investment for the purpose of these regulations, have been updated to take account of changing terminology and technical changes since the regulations were last issued in 2009. For example, the reference to the London International Financial Futures Exchange (LIFFE) has been removed as it now operates as a clearing house and so is covered by the approved stock exchange definition.

3.10 Some additional information has been included to make clear that certain investments, such as derivatives, may be used where appropriate. The Government expects that having considered the appropriateness of an investment in their investment strategy statement, authorities would only use derivatives as a means of managing risk, and so has not explicitly stated that this should be the case.

## Questions

1. Does the proposed deregulation achieve the intended policy aim of removing any unnecessary regulation while still ensuring that authorities' investments are made prudently and having taken advice?

2. Are there any specific issues that should be reinstated? Please explain why.

3. Is six months the appropriate period for the transitional arrangements to remain in place?

4. Should the regulation be explicit that derivatives should only be used as a risk management tool? Are there any other circumstances in which the use of derivatives would be appropriate?

# Proposal 2: Introducing a safeguard - Secretary of State power of intervention

## Summary of the proposal

4.1 The first part of this consultation lifts some of the existing restrictions on administering authorities' investments in order to make it easier for them to pool their investments and access the benefits of scale. To ensure that this new flexibility is used appropriately, the consultation also proposes to introduce a power to intervene in the investment function of an administering authority if the Secretary of State believes that it has not had regard to guidance and regulations. The consultation sets out the evidence that the Secretary of State may draw on before deciding to intervene, and makes clear that any direction will need to be proportionate. The power proposed in this consultation is intended to allow the Secretary of State to act if best practice or regulation is being ignored, which will help to ensure that authorities continue to pursue more efficient means of investment.

4.2 The July Budget 2015 announcement set out the Government's intention to introduce "backstop" legislation to require those authorities who do not bring forward sufficiently ambitious plans to pool their investments. It also explained that authorities' proposals would need to meet common criteria, which have been published with draft guidance alongside this consultation. The draft power to intervene discussed in this paper could be used to address authorities that do not bring forward proposals for pooling their assets in line with the published criteria and guidance. The guidance will be kept under review, and will be revised as circumstances change and authorities' asset pools evolve.

4.3 The following sections set out the process for intervention described in draft regulation 8.

## Determining to intervene

4.4 The draft regulations propose to give the Secretary of State the power to intervene in the investment function an administering authority, if the Secretary of State has determined that the administering authority has failed to have regard to the regulations governing their investments or guidance issued under draft regulation 7(1). In reaching that conclusion, the Secretary of State will consider the available evidence, which might include:

- Evidence that an administering authority is ignoring information on best practice, for example, by not responding to advice provided by the scheme advisory board to local pension boards.
- Evidence that an administering authority is not following the investment regulations or has not had regard to guidance published by the Secretary of State under draft Regulation 7 (1). For example, this might include failing to participate in one of the large asset pools described in the existing draft guidance, or proposing a pooling arrangement that does not adhere to the criteria and guidance.

- Evidence that an administering authority is carrying out another pension-related function poorly, such as an unsatisfactory report under section 13(4) of the Public Service Pensions Act 2013, or another periodic reporting mechanism. (Section 13(4) of the 2013 Act requires a person appointed by the Secretary of State to report on whether the actuarial valuation of a fund has been carried out in accordance with Scheme regulations, in a way that is consistent with other authorities' valuations, and so that employer contribution rates are set to ensure the solvency and long term cost efficiency of the fund.)

4.5 If the Secretary of State has some indication to suggest that intervention might be necessary, the draft regulations propose that he may order a further investigation to provide him with the analysis required to make a decision. If additional evidence is sought, draft regulation 8(5) would allow the Secretary of State to carry out such inquiries as he considers appropriate, including seeking advice from external experts if needed. In this circumstance, the administering authority would be obliged to provide any data that was deemed necessary to determine whether intervention is required. The authority would also be invited to participate in the review and would have the opportunity to present evidence in support of its existing or proposed investment strategy.

## The process of intervention

4.6 If the Secretary of State is satisfied that an intervention is required, he would then need to determine the appropriate extent of intervention in the authority's investment function. The draft regulations propose to allow the Secretary of State to draw on external advice to determine what the specific intervention should be if necessary.

4.7 Draft regulation 8(2) describes the interventions that the Secretary of State may make. The power has been left intentionally broad to ensure that a tailored and measured course of action is applied, based on the circumstances of each case. For example, in some cases it may be appropriate to apply the intervention just to certain parts of an investment strategy, whereas in particularly concerning cases, more substantial action might be required. The proposed intervention might include, but is not limited to:

- Requiring an administering authority to develop a new investment strategy statement that follows guidance published under draft Regulation 7(1).
- Directing an administering authority to invest all or a portion of its assets in a particular way that more closely adheres to the criteria and guidance, for instance through a pooled vehicle.
- Requiring that the investment functions of the administering authority are exercised by the Secretary of State or his nominee.
- Directing the implementation of the investment strategy of the administering authority to be undertaken by another body.

4.8 The Secretary of State will write to the authority outlining the proposed intervention. As a minimum, this proposal will include:

- A detailed explanation of why the Secretary of State is intervening and the evidence used to arrive at their determination.

- A clear description of the proposed intervention and how it will be implemented and monitored.
- The timetable for the intervention, including the period of time until the intervention is formally reviewed.
- The circumstances under which the intervention might be lifted prior to review.

4.9 The authority will then be given time to consider the proposal and present its argument for any changes that it thinks should be made. If, at the end of that period an intervention is issued, any resulting costs, charges and expenses incurred in administering the fund would be met by the pension fund assets.

## Review

4.10 As set out above, each intervention will be subject to a formal review period which will be set by the Secretary of State but may coincide with other cyclical events such as the preparation of an annual report or a triennial valuation. At the end of that period, progress will be assessed and the Secretary of State will decide whether to end, modify or maintain the current terms of the intervention, and will notify the authority of the outcome. The authority will also have the opportunity to make representations to the Secretary of State if it feels a different course of action should be followed. Throughout this period of intervention, the authority will be supported to improve its investment function, so that it is well placed to bring the intervention to an end at the first opportunity.

4.11 The Secretary of State's direction will include details about what is required of the authority in order to end the intervention, and how progress will be measured. Progress could, for example, be measured by creating a set of performance indicators to be monitored on an ongoing basis by Government officials, the local pension board, the scheme advisory board, or an independent body. A regime of regular formal reports to the Secretary of State could also be required.

4.12 The draft regulations also allow the Secretary of State to determine that sufficient improvement has been made to end the intervention before the review date. The administering authority may also make representations to the Secretary of State before that date, if it has clear evidence that the prescribed action is no longer appropriate.

## Questions

5. Are there any other sources of evidence that the Secretary of State might draw on to establish whether an intervention is required?
6. Does the intervention allow authorities sufficient scope and time to present evidence in favour of their existing arrangements when either determining an intervention in the first place, or reviewing whether one should remain in place?
7. Does the proposed approach allow the Secretary of State sufficient flexibility to ensure that he is able to introduce a proportionate intervention?

8. Do the proposals meet the objectives of the policy, which are to allow the Secretary of State to make a proportionate intervention in the investment function of an administering authority if it has not had regard to best practice, guidance or regulation?

# Summary of the draft regulations

### (1) Citation, commencement and extent

This details the citation and scope of the draft regulations, and gives the date at which they will come into force.

### (2) Interpretation

These provisions define terms used in the draft regulations with reference to legislation, and cite the legislation that gives administering authorities the powers that may be impacted by the draft regulations.

### (3) Investment

This draft regulation defines what is considered an investment for the purposes of the regulations. This definition includes futures, options, derivatives, limited partnerships and some types of insurance contracts. It also defines who a person with whom a contract of insurance can be entered into is.

### (4) Management of a pension fund

This draft regulation lists the monies that an administering authority must credit to its pension fund, including employer and employee contributions, interest, and investment capital and income. It also sets out the administering authority's responsibility to pay benefits entitled to members, and states that, except where prohibited by other regulations, costs of administering the fund can be paid by the fund.

### (5) Restriction on power to borrow

This proposed regulation outlines the limited circumstances under which an administering authority can borrow money that the pension fund is liable to repay.

### (6) Separate bank account

The draft regulation states that an administering authority must deposit all pension fund monies in a separate account, and lists those institutions that can act as a deposit taker. It also states that the deposit taker cannot use pension fund account to set-off any other account held by the administering authority or a connected party.

### (7) Investment strategy statement

This draft regulation places an obligation on the administering authority to consult on and publish an investment strategy statement, which must be in accordance with guidance from the Secretary of State. The statement should demonstrate that investments will be suitably diversified, and it should outline the administering authority's maximum allocations for different asset classes, as well as their approach to risk and responsible investing.

In many respects, the investment strategy statement replaces the list of restrictions given in Schedule 1 of the 2009 Regulations and enables the criteria to be determined at local level. Schedule 1 of the 2009 Regulations will remain in force until such time that the new investment strategy statements have to be published.

Provision is made for authorities to publish their policy on the extent to which environmental, social and corporate governance factors are taken into account in the selection, retention and realisation of investments.

Separate guidance will be issued by the Secretary of State that will clarify how the Government's recent announcement on boycotts, sanctions and disinvestment will be exercised.

### (8) Directions by the Secretary of State

This provision would grant the Secretary of State the power to intervene in the investment function of an administering authority if he is satisfied that the authority is failing to have regard to regulation and guidance. He can also initiate inquiries to determine if an intervention is warranted, and must consult with the authority concerned. Once it is determined that an intervention is needed, the Secretary of State can intervene by directing the authority undertake a broad range of actoins to remedy the situation.

### (9) Investment managers

This draft regulation details how an administering authority must appoint external investment managers.

### (10) Investments under section 11(1) of the Trustee Investments Act 1961

This draft regulation allows administering authorities to invest in Treasury-approved collective investment schemes.

### (11) Consequential amendments

This proposed regulation lists the prior regulations that are amended by the draft amendments.

### (12) Revocations and transitional provisions

The draft provision lists the regulations that would be revoked if the draft regulations come into effect. It also proposes transitional arrangements to ensure that the existing regulations governing the investment strategy remain in place until a new investment strategy statement is published by an authority under draft regulation seven. These transitional arrangements would apply for up to six months after the draft regulations came into effect.

# Annex A: Members of the Investment Regulation Review Group

| | |
|---|---|
| Alison Hamilton | Barnet Waddingham |
| Bob Claxton | Wandsworth Pension Fund |
| Clifford Sims | Squire Patton Boggs |
| Dawn Turner | Environment Agency Pension Fund |
| Geoff Reader | Bedford Pension Fund |
| Graeme Russell | Greater Gwent Pension Fund |
| Guy Sears | Investment UK |
| Loretta Stowers | Greater Manchester Pension Fund |
| Nick Buckland | Dorset Pension Fund |
| Nigel Keogh | Chartered Institute of Public Finance and Accountancy |
| Paul Dale | Bromley Borough Council |
| Peter Morris | Greater Manchester Pension Fund |

STATUTORY INSTRUMENTS

# 2016 No. 0000

# PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

## The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016

| | |
|---|---|
| *Made - - - -* | *2016* |
| *Laid before Parliament* | *2016* |
| *Coming into force - -* | *2016* |

These Regulations are made in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(**a**).

In accordance with section 21 of that Act, the Secretary of State has consulted such persons and the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.

(2) These Regulations come into force on 1st April 2016.

(3) These Regulations extend to England and Wales.

**Interpretation**

**2.**—(1) In these Regulations—

"the 2000 Act" means the Financial Services and Markets Act 2000(**b**);

"the 2013 Regulations" means the Local Government Pension Scheme Regulations 2013(**c**);

"the Transitional Regulations" means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(**d**);

(**a**) 2013 c. 25
(**b**) 2000 c.8.
(**c**) S.I. 2013/2356.
(**d**) S.I. 2014/525.

"authority" means an administering authority listed in Part 1 of Schedule 3 to the 2013 Regulations;

"fund money" means money that is or should be in a pension fund maintained by an authority;

"proper advice" means the advice of a person whom the authority reasonably believes to be qualified by their ability in and practical experience of financial matters;

"the Scheme" means the scheme established by the 2013 Regulations.

(2) Any restrictions imposed by these Regulations apply to authorities which have the power within section 1 of the Localism Act 2011(**a**) (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004(**b**) in the exercise of those powers.

(3) Any authority which does not have the powers mentioned in paragraph (2) has, by virtue of these Regulations the power to do anything authorised or required by these Regulations.

**Investment**

**3.**—(1) In these Regulations "investment" and related expressions have their normal meaning.

(2) But the following provisions of this regulation specify things which count as investments for these Regulations, although they might not otherwise do so, and exclude things which might otherwise count.

(3) A contract entered into in the course of dealing in financial futures, traded options or derivatives is an investment.

(4) A contract of insurance is an investment if it is a contract of a relevant class, and is entered into with a person within paragraph (5) for whom entering into the contract constitutes the carrying on of a regulated activity within the meaning of section 22 of the 2000 Act(**c**).

(5) The persons within this paragraph are—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities) to effect or carry out contracts of insurance of a relevant class;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the 2000 Act (EEA passport rights), which has permission under paragraph 15 of that Schedule(**d**) to effect or carry out contracts of insurance of a relevant class; and

(c) a person who does not fall within sub-paragraph (a) or (b) whose head office is in an EEA state other than the United Kingdom, and who is permitted by the law of that state to effect or carry out contracts of insurance of a relevant class.

(6) A contract of insurance is of a relevant class for the purposes of paragraphs (4) and (5) if it is—

(a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or an index of, the value of property of any description (whether or not so specified); or

(b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of minimum interest.

(7) It is an investment to contribute to a limited partnership in an unquoted securities investment partnership.

(8) For the purposes of this regulation—

"limited partnership" has the meaning given in the Limited Partnerships Act 1907(**a**);

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(**a**) 2011 c. 20.
(**b**) 2004 c. 21; section 5A was inserted by section 9(1) of the Localism Act 2011.
(**c**) Section 22 was amended by section 7(1) of the Financial Services act 2012 (c.21).
(**d**) Paragraph 15 was amended by S.I. 2007/126.

"recognised stock exchange" has the same meaning as in section 1005 of the Income Tax Act 2007(**b**);

"traded option" means an option quoted on a recognised stock exchange; and

"unquoted securities investment partnership" means a partnership for investing in securities which are not quoted on a recognised stock exchange when the partnership buys them.

### Management of a pension fund

**4.**—(1) An authority must credit to its pension fund(**c**), in addition to any sum otherwise required to be credited by virtue of the 2013 Regulations or the Transitional Regulations—

(a) the amounts payable by it or payable to it under regulations 15(3), 67 and 68 of the 2013 Regulations (employer's contributions and further payments);

(b) all amounts received under regulation 69(1)(a) of the 2013 Regulations (member contributions);

(c) all income arising from investment of the fund; and

(d) all capital money deriving from such investment.

(2) In the case of an authority which maintains more than one pension fund, as respects sums which relate to specific members, the reference in paragraph (1) to the authority's pension fund is to the fund which is the appropriate fund(**d**) for the member in question in accordance with the 2013 Regulations.

(3) Interest under regulation 71 of the 2013 Regulations (interest on late payments by Scheme employers) must be credited to the pension fund to which the overdue payment is due.

(4) An authority must pay any benefits to which any person is entitled by virtue of the 2013 Regulations or the Transitional Regulations from its pension fund.

(5) Any costs, charges and expenses incurred administering a pension fund may be paid from it except for charges prescribed by regulations made under sections 23, 24 or 41 of the Welfare Reform and Pensions Act 1999(**e**) (charges in relation to pension sharing costs)(**f**).

### Restriction on power to borrow

**5.**—(1) Except as provided in this regulation, an authority must not borrow money where the borrowing is liable to be repaid out of its pension fund.

(2) Subject to paragraph (3), an authority may borrow by way of temporary loan or overdraft which is liable to be repaid out of its pension fund, any sums which it may require for the purpose of—

(a) paying benefits due under the Scheme; or

(b) to meet investment commitments arising from the implementation of a decision by it to change the balance between different types of investment.

(3) An authority may only borrow money under paragraph (2) if, at the time of the borrowing, the authority reasonably believes that the sum borrowed and interest charged in respect of that sum can be repaid out of its pension fund within 90 days of the borrowing.

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(**a**) 1907 c. 24.

(**b**) 2007 c.3; section 1005 was substituted by the Finance Act 2007 (c. 11) and amended by the Taxation (International and Other Provisions) Act 2010 (c.8).

(**c**) An administering authority is required to maintain a pension fund by regulation 53(1) of, and paragraph 1 of Schedule 3 to the 2013 Regulations.

(**d**) See regulation 53(2) of and Part 2 of Schedule 3 to the 2013 Regulations for provisions relating to an administering authority becoming the "appropriate administering authority" in relation to a person.

(**e**) 1999 c. 30.

(**f**) See S.I. 2000/1047 and S.I. 2000/1049.

### Separate bank account

**6.**—(1) An authority must hold in a separate account kept by it with a deposit-taker all fund money.

(2) "Deposit-taker" for the purposes of paragraph (1) means—

(a) a person who has permission under Part 4A(**a**) of the 2000 Act (permission to carry on regulated activities) to carry on the activities specified by article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (accepting deposits)(**b**);

(b) an EEA firm of the kind mentioned in paragraph 5(b)(**c**) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule(**d**) to accept deposits;

(c) the Bank of England or the central bank of an EEA state other than the United Kingdom; or

(d) the National Savings Bank.

(3) An authority must secure that the deposit-taker may not exercise a right of set-off in relation to the account referred to in paragraph (1) in respect of any other account held by the authority or any party connected to the authority.

### Investment strategy statement

**7.**—(1) An authority must, after taking proper advice, formulate an investment strategy which must be in accordance with guidance issued by the Secretary of State.

(2) The authority's investment strategy must include—

(a) a requirement to invest fund money in a wide variety of investments;

(b) the authority's assessment of the suitability of particular investments and types of investments;

(c) the authority's approach to risk, including the ways in which risks are to be measured and managed;

(d) the authority's approach to pooling investments, including the use of collective investment vehicles and shared services;

(e) the authority's policy on how social, environmental or corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments; and

(f) the authority's policy on the exercise of the rights (including voting rights) attaching to investments.

(3) The authority's investment strategy must set out the maximum percentage of the total value of all investments of fund money that it will invest in particular investments or classes of investment.

(4) The authority's investment strategy may not permit more than 5% of the total value of all investments of fund money to be invested in entities which are connected with that authority within the meaning of section 212 of the Local Government and Public Involvement in Health Act 2007(**e**).

(5) The authority must consult such persons as it considers appropriate as to the contents of its investment strategy.

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(**a**) Part 4A was inserted by section 11 of the Financial Services Act 2012 (c. 21).
(**b**) S.I. 2001/544; article 5 was amended by S.I. 2002/682.
(**c**) Sub-paragraph (b) of paragraph (5) was substituted by S.I. 2006/3211 and then further substituted by S.I. 2013/3115.
(**d**) Paragraph 15 has been amended by S.I. 2003/2066, S.I. 2007/3253, 2012/1906 and 2013/1881.
(**e**) 2007 c. 28; section 212 was amended by the Police Reform and Social Responsibility Act 2011 (c. 13) and there are prospective amendments made by the Local Audit and Accountability Act 2014 (c. 2).

(6) The authority must publish a statement of its investment strategy formulated under paragraph (1) and the first such statement must be published no later than 1st October 2016.

(7) The authority must review and if necessary revise its investment strategy from time to time, and at least every 3 years, and publish a statement of any revisions.

(8) The authority must invest, in accordance with its investment strategy, any fund money that is not needed immediately to make payments from the fund.

**Directions by the Secretary of State**

**8.**—(1) This regulation applies in relation to an authority's investment functions under these Regulations and the 2013 Regulations if the Secretary of State is satisfied that the authority is failing to have regard to guidance issued under regulation 7(1) (investment strategy statement).

(2) Where this regulation applies in relation to an authority the Secretary of State may issue a direction requiring all or any of the following—

(a) that the authority make such changes to its investment strategy under regulation 7 as the Secretary of State considers appropriate, within a period of time specified in the direction;

(b) that the authority invest such assets or descriptions of assets as are specified in the direction in such manner as is specified in the direction;

(c) that the investment functions of the authority under these Regulations and under the 2013 Regulations be exercised by the Secretary of State or a person nominated by the Secretary of State for a period specified in the direction or for so long as the Secretary of State considers appropriate;

(d) that the authority comply with any instructions of the Secretary of State or the Secretary of State's nominee in relation to the exercise of its investment functions under these Regulations and the 2013 Regulations and provide such assistance as the Secretary of State or the Secretary of State's nominee may require for the purpose of exercising those functions.

(3) Before making a decision whether to issue a direction under this regulation, and as to the contents of any direction, the Secretary of State must consult the authority concerned.

(4) In reaching a decision whether to issue a direction under this regulation, and as to the contents of any direction, the Secretary of State must have regard to such evidence of the manner in which the authority is discharging or proposes to discharge its investment functions as is reasonably available including—

(a) any report from an actuary appointed under section 13(4) of the Public Service Pensions Act 2013 (employer contributions in funded schemes) or by the authority under section 62 of the 2013 Regulations (actuarial valuations of pension funds);

(b) any report from the local pension board appointed by the authority or from the Local Government Pension Scheme Advisory Board(**a**);

(c) any representations made by the authority in response to the consultation under paragraph (3);

(d) any other evidence available that the Secretary of State regards as relevant to whether the authority has been complying with these regulations or acting in accordance with guidance issued under regulation 7(1) (investment strategy statement).

(5) If the Secretary of State is of the opinion that additional information is required to enable a decision to be taken whether to issue a direction under this regulation, or as to what any direction should contain, the Secretary of State may carry out such inquiries as the Secretary of State considers appropriate to obtain that information.

(6) An authority must co-operate with any request from the Secretary of State intended to facilitate the obtaining of information under paragraph (5).

(**a**) The Local Government Pension Scheme Advisory Board is established under regulation 110 of the 2013 Regulations (which was inserted by S.I. 2015/57).

### Investment managers

**9.**—(1) Instead of managing and investing fund money itself, an authority may appoint one or more investment managers to manage and invest fund money, or any part of such money, on its behalf.

(2) The authority must reasonably believe that the investment manager's ability in and practical experience of financial matters make that investment manager suitably qualified to make investment decisions for it.

(3) The authority must take proper advice in relation to the appointment and the terms on which the appointment is made.

### Investments under section 11(1) of the Trustee Investments Act 1961

**10.** An authority to which section 11 of the Trustee Investments Act 1961(**a**) applies may invest, without any restriction as to quantity, in any investment made in accordance with a scheme under section 11(1) of that Act (which enables the Treasury to approve schemes for local authorities to invest in collectively).

### Consequential amendments

**11.**—(1) The 2013 Regulations are amended as follows.

(2) For regulation 57(1)(a) (pension fund annual report) substitute—

> "(i) the current version of the investment strategy under regulation 7 (investment strategy statement) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016;".

(3) For regulation 58(4)(b) (funding strategy statement) substitute—

> "(b) the statement of the administering authority's investment strategy published under regulation 7 (investment strategy statement) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.".

(4) For regulation 69(2)(b) (payment by Scheme employers to administering authorities) substitute—

> "(b) paragraph (1)(c) does not apply where the cost of the administration of the fund is paid out of the fund under regulation 4(5) (management of a pension fund) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.".

### Revocations and transitional provision

**12.**—(1) Subject to paragraph (2), the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009(**b**) and the Local Government Pension Scheme (Management and Investment of Funds) (Amendment) Regulations 2013(**c**) are revoked.

(2) Regulations 11 (investment policy and investment of pension fund money), 12 (statement of investment principles), 14 (restrictions on investments), 15 (requirements for increased limits) of and Schedule 1 (table of limits on investments) to the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 continue to have effect in relation to an authority until the date when that authority publishes its investment strategy statement under regulation 7(1) (investment strategy statement).

(3) For the period starting on 1st April 2016 and ending on whichever is the earlier of the date the authority publishes its investment strategy statement under regulation 7 (investment strategy

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(**a**) 1961 c. 62; section 11(1) was amended by the London Government Act 1963 (c. 4) and the Local Government Act 1985 (c. 51).
(**b**) S.I. 2009/3093.
(**c**) S.I. 2013/410.

statement), or 30th September 2016, Regulation 7 applies to an authority only to the extent necessary to enable that authority to formulate and publish its investment strategy statement.

We consent to the making of these Regulations

*Names*

Date Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Communities and Local Government

*Name*

Parliamentary Under Secretary of State

Date Department for Communities and Local Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Report for INFORMATION

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Results of tPR's administration and governance survey |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | Pension Board |

**Report Summary**
The purpose of this report is to provide Board members with the results of a recent survey undertaken by the Pensions Regulator with regard the governance and administration of the LGPS at a national level (England & Wales).

| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

Board members are required to assist the Administering Authority is securing compliance with Scheme regulations and the governance and administration of the Scheme. The Pensions Regulator recently conducted a survey of all Public Service Pension Schemes (which the Berkshire Pension Fund did not take part in) to baseline the standard to which they are being run. The results of the survey have now been published setting out the Pensions Regulator's thoughts and priorities for action.

**RECOMMENDATION:** That Pension Board members review the 'Summary of results and commentary' and 'Public service governance and administration research' documents as issued by the Pensions Regulator in December 2015 (and as attached to this paper).

**2. Reason for Recommendation(s) and Options Considered**

Pension Board members are required to help the Administering Authority in managing the LGPS in accordance with scheme regulations etc. and the attached documents are a valuable source of information that may help the Board understand the risks involved when looking at internal controls, record-keeping and communications.

**3. Key Implications**

Pension Board Members have a legal duty to fulfil their obligations in assisting the Administering Authority in ensuring the appropriate governance and administration of the scheme is maintained. Failure to achieve this could lead to a loss of public confidence.

**4. Financial Details**

Failure by the Board to fulfil its statutory responsibilities could lead to fines being imposed by the Pensions Regulator.

**5. Legal Implications**

Failure by the Board to meet its statutory obligations under legislation could lead to a number of potential possibilities including the intervention of the Pensions Regulator, a judicial review, a complaint to the Local Government or Pensions Ombudsman or an adverse comment by the Administering Authority auditor or the national Scheme Advisory Board.

**6. Value For Money**

Not relevant.

**7. Sustainability Impact Appraisal**

There are no known implications.

**8. Risk Management**

Members of the Pension Board to be clear as to the legal responsibilities placed upon them in order to mitigate the risk of the Board being ineffective.

**9. Links to Strategic Objectives**

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

**10. Equalities, Human Rights and Community Cohesion**

There are no known implications.

**11. Staffing/Workforce and Accommodation implications:**

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

**14. Consultation**

Not applicable.

**15. Timetable for Implementation**

Immediate.

**16. Appendices**

None.

**17. Background Information**

The Pensions Regulator’s ‘Public service governance and administration research’ and ‘Public service governance and administration survey’ documents issued December 2015.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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# Public service governance and administration survey

Summary of results and commentary

December 2015

The Pensions Regulator

# Foreword

The Public Service Pensions Act 2013 (NI 2014) introduced a number of changes for public service pension schemes, which provide pensions for the armed forces, local government, NHS, teachers, civil servants, the police force, firefighters and the judiciary.

Between them these schemes represent around 13 million members and approximately 28,000 employers, and we recognise they face a significant challenge in implementing the reforms to benefit design alongside new governance arrangements.

High standards of governance and administration are essential to ensure that schemes operate effectively and efficiently, and provide the right benefits to the right person at the right time.

A well run scheme should provide members with a high standard of service and a clear understanding of the benefits they will receive, allowing them to plan for their future. Good governance and administration also help government and the public to have confidence that the cost of public service schemes is correctly accounted for.

Between July and September 2015, we conducted a survey of all public service schemes to baseline the standard to which they are being run. I am pleased to introduce this report which sets out our thoughts on the results of the survey and our priorities for action.

The results tell us that progress is being made – nine in ten respondent schemes have established their pension boards, and schemes have done well in setting up new processes. However, the governance and administration standards of some schemes still fall short of standards we expect, and we urge schemes to take immediate action to identify gaps and put plans in place to resolve issues.

In the next year, part of our focus will be to ensure that every scheme reaches a basic level of compliance, having registered with us and published information about their pension boards. We also expect all schemes to have assessed themselves against the law and our code of practice, and we will be launching a self-assessment tool to help schemes achieve this.

We will work to understand how well schemes are addressing the three areas we judge to be of greatest risk in the current landscape – internal controls, scheme record-keeping, and the provision of accurate, timely and high quality communications to members.

We will continue to work with scheme managers, pension boards, and others involved in running public service schemes and provide a range of educational tools to support them in their duties.

I would like to thank all schemes who took part in the survey, as you have helped us gain a good understanding of the landscape. We aim to work openly and collaboratively with schemes and we will engage further with schemes who did not take part to ensure their lack of engagement does not reflect a lack of compliance.

Thank you for taking the time to read this report – I hope you find it useful and informative.

Andrew Warwick-Thompson
Executive Director for Regulatory Policy

## Background

The Public Service Pensions Act 2013 (PSPA13) and Public Service Pensions Act (Northern Ireland) 2014 (PSPANI14) introduced new requirements for the governance and administration of public service pension schemes. In April 2015, we commenced our expanded role to regulate these schemes.

Our role is to regulate the in relation to governance and administration of public service pension schemes to improve standards and drive compliance with legal requirements. Our focus is to work with scheme managers, pension boards and others involved with public service schemes to help them become compliant. Our approach generally is to educate and enable in the first instance, but where a scheme manager or pension board member (or other person responsible) fails to comply with their duties we will consider using our powers.

## The survey

In summer 2015, we conducted a survey of all public service schemes to assess how they are meeting the governance and administration legal requirements and the standard to which they are being run. The survey reflected the key tools and processes we consider to be benchmarks for good practice, as set out in the 'practical guidance' sections of our code, and could be used as a tool for the schemes to identify areas where action may be needed.

This report accompanies the full research report which sets out the responses to all survey questions.

Participation in the survey was voluntary, with 48% of schemes responding. This translates to approximately 85% of public service scheme members, and provides us with a good overview of the public service pensions landscape.

Information collected through the survey will be used for regulatory purposes where responses were not provided anonymously. We will use these to develop individual scheme risk profiles. Where schemes did not participate in the survey, we will consider there is a risk of non-compliance until we have collected information about the progress they have made.

Our role is to regulate public service pension schemes to improve standards and drive compliance with legal requirements.

# Overview of results

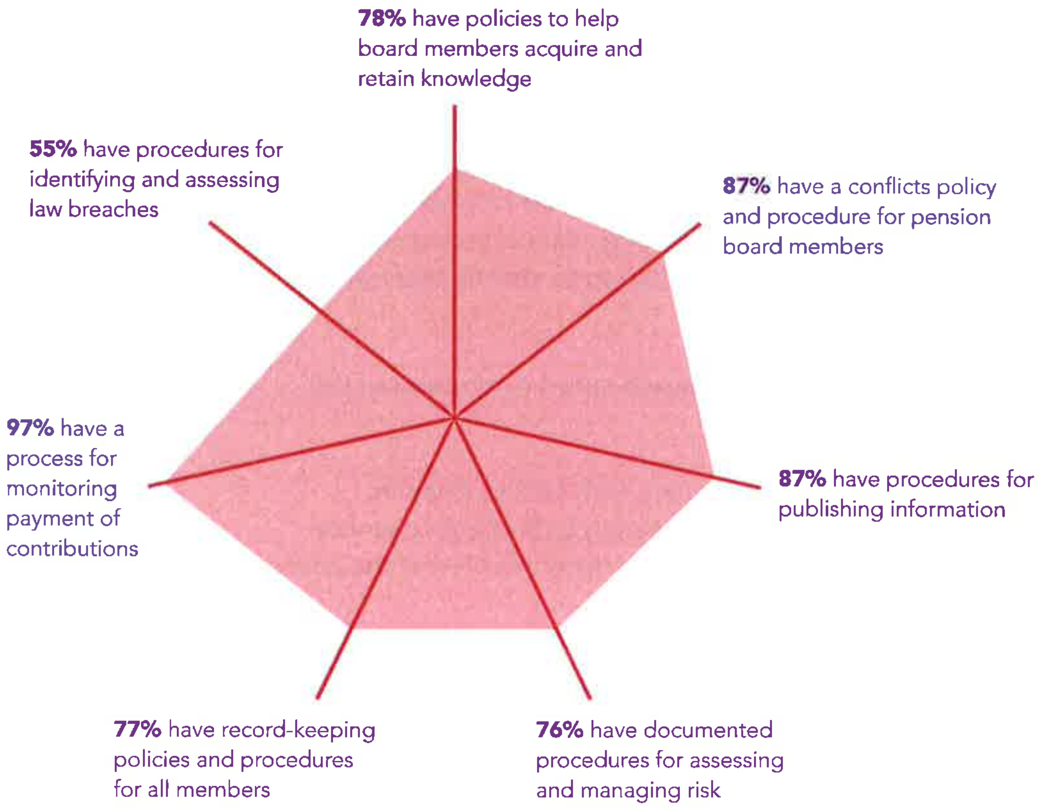
## Progress on processes

The results of the survey show that, on the whole, public service schemes are progressing well in terms of understanding the new requirements and setting up processes. Respondents to the survey reported high levels of awareness and understanding of both the governance and administration requirements introduced by the Acts and our code of practice:

- 97% reported high awareness of the requirements in the Acts, and 87% reported good understanding.
- 93% reported high awareness of our code, and 84% reported good understanding.

There were also high levels of reported processes in place against most areas of the code.

**Results overview**



- 78% of schemes reported having developed policies and arrangements to help pension board members fully understand their roles, responsibilities and duties.
- 87% of schemes have a conflicts policy and procedure in place for pension board members.
- 87% of schemes reported having procedures in place to ensure that information about the pension board which must be published is published and kept up to date.
- 76% had documented procedures for assessing and managing risk.
- 77% had policies and processes in place to monitor data on an ongoing basis to ensure that it is accurate and complete in relation to all relevant member and beneficiary categories.
- 97% had a method or process for monitoring the payment of contributions to the scheme.

The lowest result in terms of processes was around reporting breaches, where only 55% of schemes reported having procedures in place to enable the scheme manager, pension board members, and others who have a duty to report, to identify and assess breaches of the law.

Identifying and assessing breaches of the law is critical both in terms of fulfilling the legal duty to report breaches to us and in reducing risk, so it is important that schemes address this issue. Whilst we will strive to regulate proactively and investigate issues we consider to be high risk, reporting breaches is a key means by which we are made aware as soon as possible when things are going wrong. Accordingly, we urge schemes to establish and operate appropriate and effective procedures to help them meet their legal obligation. Our code provides guidance on this matter.

In addition, we expect well-run schemes to have in place appropriate tools and processes for all nine areas addressed in our code – but only 43% of schemes reported having all the processes outlined above in place.

We also expect schemes to ensure that any processes developed are kept under regular review to ensure they remain effective and fit for purpose. According to the survey, only 72% of schemes review/will review the effectiveness of their risk management and internal control systems at least annually, and over 10% of schemes report they never review their internal dispute resolution arrangements.

## Need to take action

In contrast to the good progress made on setting up processes, the survey shows that schemes are slow or have yet to take action in key governance and administration areas and are still in the early stages of assessing themselves against the legal requirements and standards in the code.

**9/10** have established a pension board

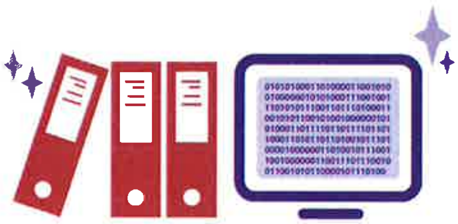

have reviewed their scheme against the standards


**Less than a third** have a plan in place to ensure compliance with the Public Service Pensions Act 2013

**76%** of schemes have procedures in place to manage risk

**82%** have a risk register

Only **56%** assess their risks at least quarterly



- 44% have measured against the record-keeping requirements
- just over a quarter have done data cleansing

- While over nine in ten schemes have established a pension board, only 28% of schemes have a plan in place and are addressing key issues to ensure compliance with the new requirements.
- Only 44% have reviewed their scheme against the practical guidance and standards set out in our code of practice.
- Only 45% of schemes have measured themselves against the requirements of the record-keeping regulations.
- Only 27% have as a result undertaken a data cleansing exercise. More generally, only 71% have conducted a data review exercise in the last year.
- While 76% of schemes have procedures in place to manage risk, and 82% report having a risk register, only 56% assess their risks either quarterly or monthly.

We recognise the complexity and diversity of the landscape.

## Differences between schemes

Though the data in this commentary are presented at an aggregate level for all public service schemes, we recognise the complexity and diversity of the landscape. Schemes vary in their governance structures, employer profiles, size and funding arrangements and each scheme will have its own needs and capabilities, and face its own challenges in implementing the reforms.

This is supported by the findings which show differences between scheme cohorts. In particular, the survey suggests that fire and rescue schemes have not made as much progress in taking steps to meet the new requirements as other schemes, whether in setting up processes or taking specific action. Over the next year, we will engage with these schemes' managers, pension board members, and other stakeholders to identify barriers to progress and support them in meeting their duties.

## Next steps

This research draws out the continuing significant task faced by schemes in implementing the major reforms. However, schemes need to ensure they comply with the legal requirements and should strive to deliver better outcomes for members.

Over the next year, we will be looking to ensure that every scheme reaches a basic level of compliance, as well as looking at the effectiveness of processes in areas we have identified as being of greatest risk in the current landscape: internal controls, scheme record-keeping and the provision of accurate and high quality communications to members.

In terms of basic compliance, it is critical that all schemes have:

- fulfilled their requirement to register with us
- established their pension board
- published information about the board, which will provide more transparency to members on the governance of the scheme

Schemes also need to have:

- assessed themselves against the requirements set out in legislation
- assessed themselves against the standards set out in our code
- identified any gaps
- begun to put plans in place to address any issues

In addition to the code and our public service toolkit, we would like schemes to use this survey to assess themselves. We will also be launching a self-assessment tool in 2016. We urge schemes to use these tools to help them identify any problems and take swift action to make improvements. We are concerned that the failure of 52% of schemes to engage with the survey may reflect a lack of compliance, and we will be engaging with these schemes to determine their compliance profile. We expect all schemes to respond to our requests for information.

We plan to look at schemes' processes in the key risk areas over the next year, focusing on:

- the effectiveness of these processes and actions in driving good outcomes
- the efficiency and reliability of these processes
- how good practice in one scheme can help inform others with poorer practices

Public service schemes have complex governance structures, where responsible authorities and scheme advisory boards will also have a role in helping scheme managers achieve compliance. We will be working throughout the year with these various bodies to ensure that our respective efforts are applied in the most effective way and to minimise the burden on schemes.

In spring 2016, we will check how schemes are doing and we expect them to have made significant progress. Looking ahead, we plan to publish an annual assessment of governance and administration standards and practices in public service schemes in order to bring greater transparency to the progress being made.

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**Public service governance and administration survey**
Summary of results and commentary



The Pensions Regulator

The Pensions Regulator

# Public service governance and administration research

December 2015

## Contents

# Executive summary

1. **The survey was completed on behalf of 48% of public service pension schemes, covering approximately 85% of scheme members.**

2. **There were generally high reported levels of awareness and understanding of both the legal requirements and the regulator's code of practice**

   Most respondents in each of the four scheme types[1] gave a response of either four or five out of five for awareness and understanding of these.

3. **Four-fifths of schemes had a pension board that was operational**

   92% of schemes reported that their pension board is established, and in most of these cases (80%) also operational (with pension board meetings having commenced). The remainder reported they would be operational within six months.

4. **A quarter of schemes had a plan to ensure compliance with the legal requirements and were already addressing key risks, and two fifths had conducted a review of their scheme against the guidance and standards set out in the regulator's code of practice**

   One in six (15%) schemes had conducted an in-depth review against our code of practice, while a further quarter (29%) had undertaken a high-level review.

   Over half of Local government and two-thirds of Central schemes had conducted a review of their scheme. Reviews were less prevalent among Police (around a fifth) and Fire and rescue (two out of seven).

   A quarter (28%) of schemes had a plan in place to ensure compliance with the legal requirements of the Public Service Pensions Act 2013 and the Public Service Pensions Act (Northern Ireland) 2014 and were already addressing key risks. Schemes were more likely to be at the earlier stage of identifying risks and issues (44%), while a third (34%) were developing or implementing a plan to address key risks and issues.

   No Police schemes and very few Fire and rescue schemes were at the stage of addressing key risks.

5. **The vast majority of schemes had ensured that board members understand their roles, responsibilities and duties**

[1] The four scheme types are termed: 'Central', 'Local government', 'Fire and rescue' and 'Police'. 'Central' includes centrally-administered unfunded schemes, excluding any fire and police schemes. This classification has been used to ensure consistency with the 2013 survey. For the purposes of this report, therefore, 'Police' and 'Fire and rescue' schemes which are centrally administered – ie the schemes for Scotland and Northern Ireland) – are included within their respective cohorts and not considered as 'Central' schemes.

Nearly all (93%) of schemes had produced guidance, while 94% reported the scheme manager or another person had ensured board members understand their roles, responsibilities and duties.

All Central schemes and nine in ten Local government and Police schemes stated that they had carried out these two tasks. Fire and rescue schemes were less likely (9 out of 14) to have briefed board members.

6. **Four fifths of schemes had developed an approach to help pension board members to acquire and retain knowledge and understanding they require**

Over four fifths of Central, Local government and Police schemes had developed a policy and arrangements to help board members to acquire and retain knowledge. For Fire and rescue, 5 out of 14 schemes had these policies and arrangements in place.

7. **Two thirds of schemes will review their risk management and internal control systems once or twice a year**

A quarter (26%) review or will review these arrangements every six months and a further 45% once a year. Most Central schemes reported they would every six months while Local government schemes and Police schemes were most likely to do so once a year. The most common response from Fire and rescue schemes was that they did not know.

8. **Two thirds of schemes had a documented service level agreement with their scheme administrator**

70% had a service level agreement in place with their scheme administrator, whether in-house or outsourced. The levels were similar among all four scheme types.

9. **Two thirds of schemes had measured their scheme's data against the legal requirements, with most of these measuring both data presence and accuracy**

Almost half (45%) had measured and a further quarter (24%) had partially measured their data against the legal requirements. Of the 70% who had measured their data, four fifths (82%) had measured both the presence and accuracy of the data.

Around a third of Central, Local government and Fire and rescue schemes had fully measured their data, while around two thirds of Police schemes had done so. When accounting for partial measurement also, this rose to around two thirds of Central, Local government and Police schemes, and half of Fire and rescue schemes.

Almost half (49%) of schemes were either developing or implementing a data cleansing exercise while a third of schemes (36%) were developing or implementing a data improvement plan.

Central schemes and Police schemes were most likely to be implementing a data improvement plan, while Local government schemes and Police schemes were most likely to have carried out a data cleansing exercise.

## 2. Introduction

In March 2011 the Independent Public Service Pensions Commission: Final Report[2] identified issues concerning the availability and transparency of information, poor administration and governance of public service pension schemes, implying costs and risks are not properly understood or managed. The report recommended that there needed to be independent oversight of these areas.

The Public Service Pensions Act 2013 and the Public Service Pensions Act (Northern Ireland) 2014 (together, the 2013-2014 Acts) introduced new requirements for the governance and administration of certain public service pension schemes. Scheme managers must run their schemes according to these legal requirements, which generally came into force on 1 April 2015.

The 2013-2014 Acts also gave The Pensions Regulator an expanded role to regulate the governance and administration of these public service pension schemes from 1 April 2015. In January 2015, we published our draft code of practice for the governance and administration of public pension service schemes (the PSPS code) which sets out the standards of conduct and practice we expect of those responsible for public service schemes, as well as practical guidance about how to comply with the legal requirements. The code came into force on 1 April 2015.

As part of our new role, we are responsible for 208 public service schemes[3] in respect of eight public service workforces, covering over 13 million members .

Following on from our report on the governance and administration of public service pension schemes in 2013, before the requirements from the 2013-2014 Acts came into force, this survey aimed to assess how public service schemes are meeting the new requirements and the standards to which they are being run.

[2] http://cdn.hm-treasury.gov.uk/hutton_final_100311.pdf
[3] Where a scheme is locally administered we have treated each local administering authority as an individual scheme.

The survey considered 10 areas and reflected the key tools and processes we consider to be benchmarks for good practice, as set out in the 'practical guidance' sections of our code:

- Action – Activity undertaken to ensure compliance with the new requirements
- Knowledge and understanding required by pension board members
- Conflicts of interest and representation
- Publishing information about schemes
- Internal controls
- Scheme record-keeping
- Maintaining contributions
- Providing information to members
- Internal dispute resolution
- Reporting breaches of the law

# 3. Methodology

As with the 2013 survey, a self-completion approach was adopted for this study for the following reasons:

- the large amount of data to collect would have made a telephone interview very long and burdensome for respondents
- it was anticipated that many respondents would need to do some checking/ verification in order to answer the questions accurately
- The range of information requested meant that it was important to allow more than one person at the scheme to contribute

In contrast to the 2013 survey, we conducted the research in-house rather than commission it to a third-party research supplier.

The method chosen for data collection was an interactive pdf, which was emailed to named scheme contacts held by us. Respondents were encouraged to identify their scheme, but were allowed to submit responses on an anonymous basis if they wished. Where responses were attributed to a particular scheme, it was shared with our public service regulatory team. They will use this, along with information gathered from other sources, to risk assess schemes for intervention as set out in our compliance and enforcement policy. This was made clear to all respondents in the communications and survey invitations.

One issue with this approach is that respondents were not routed through the questionnaire according to their previous answers, resulting in a small number of questions for whom a very small number of respondents answered in error. These have been identified where they occur in this document.

Survey responses were entered into statistical analysis software package SPSS for data analysis purposes.

## 3.1 Sampling

As with the 2013 survey, the target audience for this research was the designated scheme contact at each of the 208 public service pension schemes for who we held nominated contact details, although it was expected that they may seek input from colleagues with specialist knowledge related to some aspects of their scheme.

A total of 187 self-completion surveys were sent to scheme contacts, 21 of which were the contact for more than one scheme.

## 3.2 Fieldwork

The fieldwork period lasted from 22 July 2015 until 4 September 2015.

Prior to the survey being issued, an email was sent to all 187 scheme contacts for which we had details approximately one week before launch.

Several steps were taken to maximise response rates. These are detailed below.

**Table 1.2 – Activity undertaken to improve response rate**

| Date | Action |
|---|---|
| 17/08/15 | First email chaser sent to 177 scheme contacts who hadn't yet completed the survey |
| 18/08/15 | Email sent to 630 contacts on our Public Service Pension Scheme news-by-email distribution list |
| 26/08/15 | Second email reminder sent to 157 scheme contacts |
| August 2015 | Over 300 telephone calls were made to nominated scheme contacts to encourage response |
| 04/09/15 | Final email reminder sent to 134 scheme contacts |

Table 1.3 shows the responses rate across the four scheme groupings

**Table 1.3 – Sample profile and response rates**

| | Total number of schemes | Completed surveys | Response rate |
|---|---|---|---|
| **Fire & Rescue** | **51** | **14** | **37%** |
| **Police** | **45** | **22** | **49%** |
| **Local Government** | **101** | **53** | **52%** |
| **Central** | **12** | **12** | **100%** |
| **TOTAL** | **209** | **101** | **48%** |

Please note: survey responses were received in respect of 103 schemes, of which 101 were usable for survey analysis, and 84 attributable

Overall, the survey was completed on behalf of 48% of Public Service Pension Schemes, covering approximately 85% of scheme members. Responses were received from all the Central schemes (100%). As in 2013, (when the response rate was 53%), this compares favourably to the response rate achieved in other surveys we conducted.

### 3.3 Weighting

The data shown throughout this report is unweighted.

### 3.4 Reporting conventions

No comparisons have been made in this report between the findings from the four scheme types (Central, Fire and Rescue, Local government and Police). These scheme types are typically very different in nature and as such it may not be appropriate to make direct comparisons. The same approach was adopted in the 2013 survey report.

# 4. Research findings

## 4.1 Note on reporting of results

Owing to the low base sizes for three of the four scheme groupings, all findings are shown throughout this report in absolute numbers, ie they are reported as the number of schemes, not the percentage of schemes.

Owing to the low base sizes, limited comparisons are able to be drawn between the types of scheme on an individual question basis.

## 4.2 Role of respondent who took part in the survey

The most common job role reported by respondents to the survey was 'administrator' (42 out of 101, 41%). 14 respondents were pension managers/officers or fund managers, with seven pension board members and 38 'others'. The job roles of these others included Director of Operations, Director of People & Development, Director of Corporate Services and Governance & Compliance Manager.

## 4.3 Awareness and understanding of the legal governance and administration requirements and The Pensions Regulator's code of practice

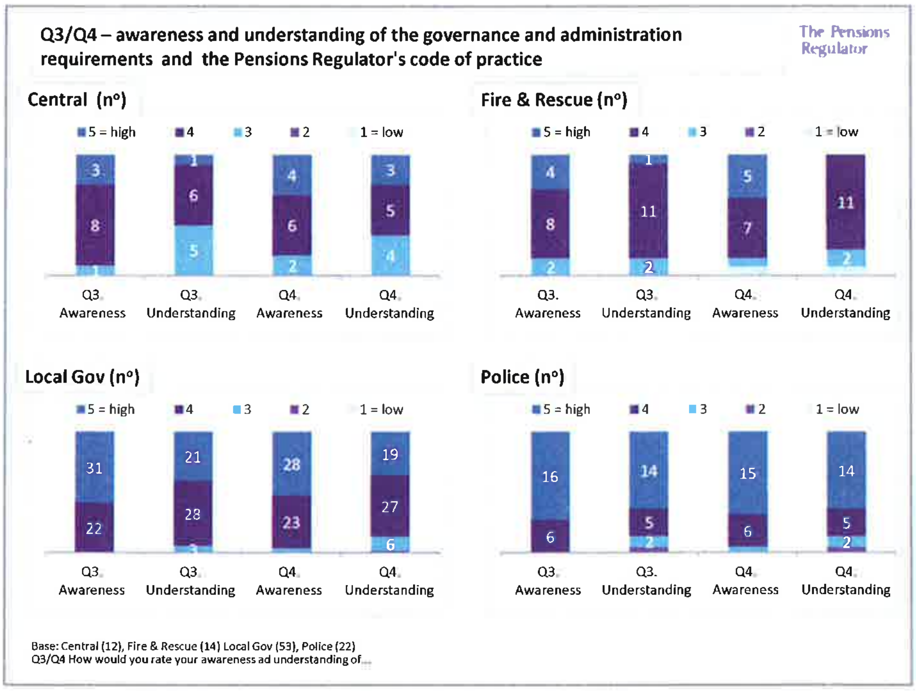
Figure 2-1 shows the reported level of awareness and understanding of:

- The legal governance and administration requirements introduced by the Public Service Pensions Act 2013
- The regulator's code of practice

Respondents rated their own awareness and understanding of these, using a scale from 1 to 5, where 1 is 'low' and 5 is 'high'.

Among the scheme contacts answering the survey, there were generally high levels of awareness and understanding of both the legal requirements and our code among all four scheme types. Most respondents gave a response of either four or five out of five.

**Figure 4.3-1 - Awareness and understanding of the governance and administration requirements introduced by the Public Service Pensions Act 2013/the Public Service Pensions Act (Northern Ireland) 2014 and The Pensions Regulator's code of practice for public service pension schemes.**




Overall, the mean scores for awareness and understanding of the governance and administration requirements were 4.5 and 4.23 respectively. The corresponding figures for awareness and understanding of our code of practice were 4.43 and 4.15 respectively.

## 4.4 Training undertaken by respondents relating to public service pension schemes

As shown in Figure 2-2, most respondents of all four scheme types had undertaken some form of training relating to public service pension schemes.

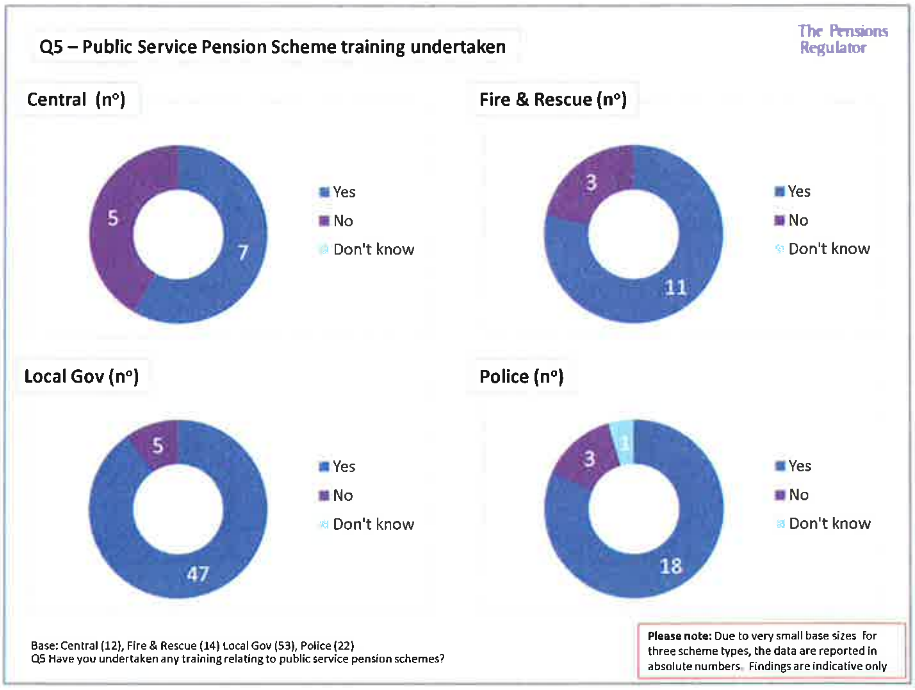
Overall, 83 out of 101 (82%) of respondents indicated they had received training.

According to respondents, where they indicated they had received training, it was provided by a mixture of different organisations:

- All seven Central scheme contacts who had received training said they received this from the regulator.
- 10 of the 11 Fire and rescue scheme contacts that had received training said they had received it from the Local Government Association (LGA).
- For Local government scheme contacts, the LGA (23), CIPFA (14) and 'Other consultants' (19) were the most common providers of training.

- For the Police schemes, information published by the regulator was identified as the most common source of training.

**Figure 4.4-1 – Training undertaken by respondents relating to public service pension schemes**



## 4.5 Pension scheme membership and status of pension board

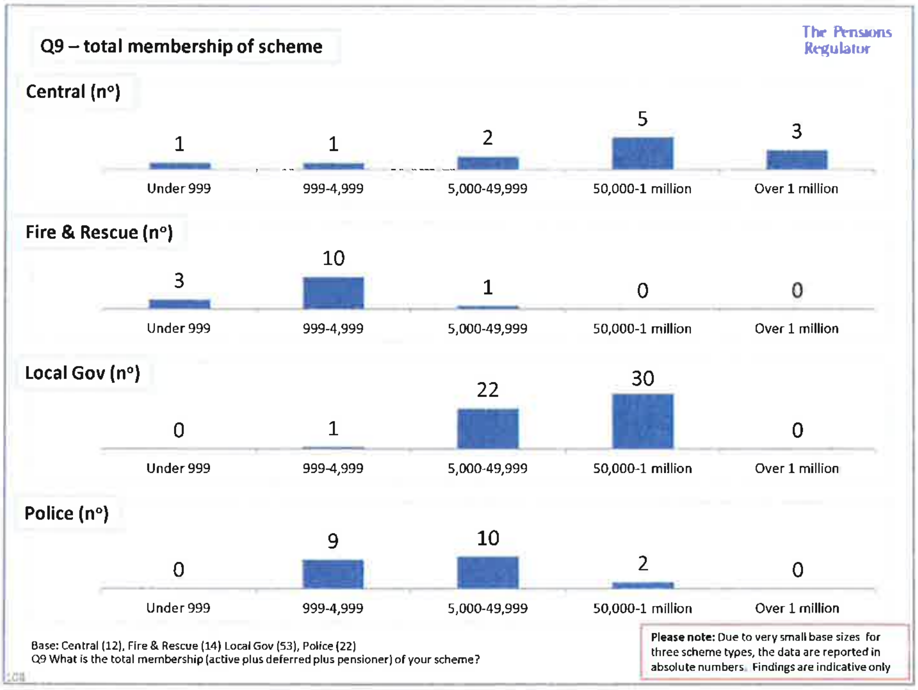
Two thirds of Central schemes (8 out of 12) reported a membership in excess of over 50,000; the three public service schemes that responded to the survey with over a million memberships were Central schemes.

The majority of Fire and rescue (13 out of 14) schemes had fewer than 5,000 memberships.

Three fifths of Local government schemes that responded had a membership of between 50,000 and one million (30 out of 53); most others (22 out of 53) were in the 5,000 and 49,999 membership range.

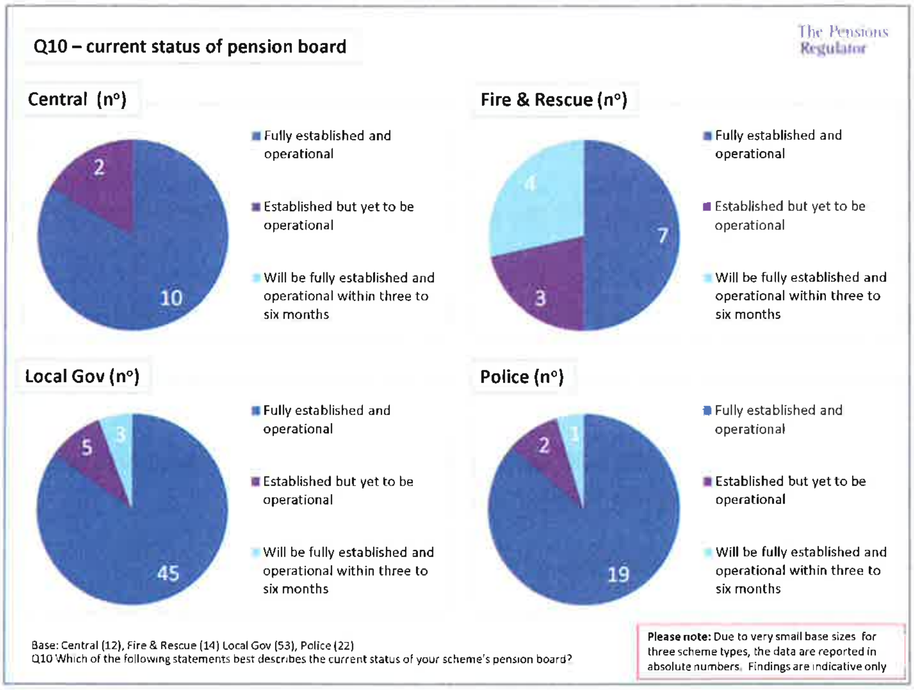
Around half of Police schemes had between 999 and 4,999 members, with around half having 5,000 to 49,999 memberships.

**Figure 4.5-1 – Total membership of scheme**




Overall (93 out of 101, 92%) of respondents identified their pension board as established (terms of reference agreed and all board members appointed). This held true across all the scheme types. Most boards (81 out of 101, 80%) were operational (with pension board meetings having commenced) while a minority were not. The remainder reported they would be operational within six months; there were no respondents that answered it would take longer than six months to operationalise.

**Figure 4.5-2 - Current status of pension board**

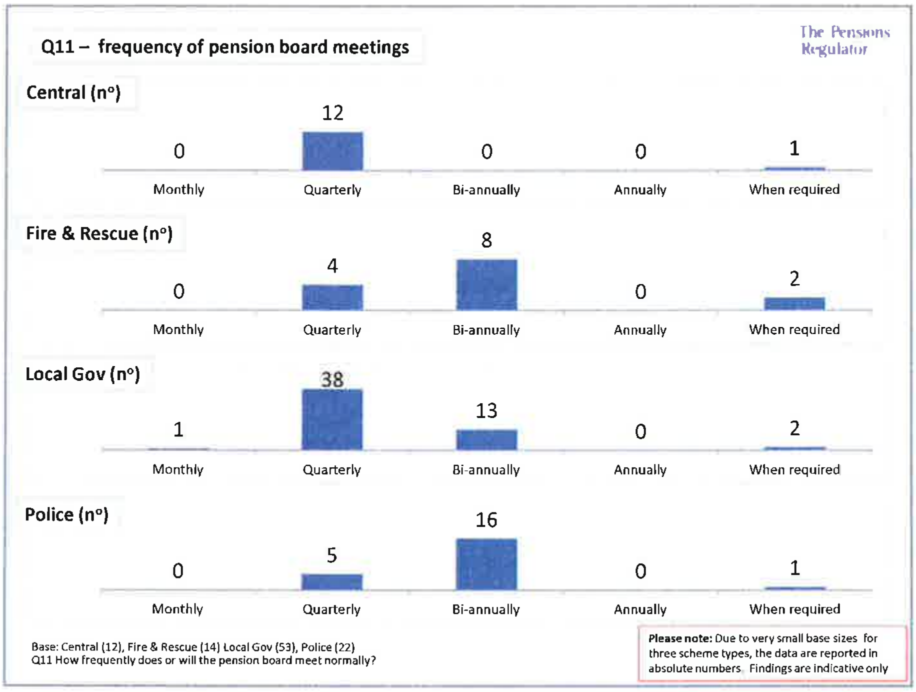



## 4.6 Frequency of pension board meetings

The vast majority of schemes (96 out of 101, 95%) reported that their pension boards met or intend to meet at least every six months:

- All Central schemes stated they met/will meet at least quarterly (one scheme contact also stated they also met/will meet as required, if different from quarterly).
- Twelve of the 14 Fire and rescue schemes met/will meet at least every six months (four met/will meet quarterly).
- Over seven in ten Local government schemes (38 out of 53) met/will meet quarterly.
- Two in ten Police schemes (5 out of 22) met/will meet quarterly, while most others (16 out of 22) reported that their boards met/will meet on a biannual basis.

**Figure 4.6-1 - Frequency of pension board meetings**




## 4.7 Activity undertaken by schemes to ensure compliance with the legal requirements and reviewing the scheme against the code of practice

Schemes were asked about the actions completed (or being addressed) to ensure compliance with the Public Service Pensions Act 2013/the Public Service Pensions Act (Northern Ireland) 2014 and also whether the scheme had been reviewed against our code of practice for public service pension schemes.

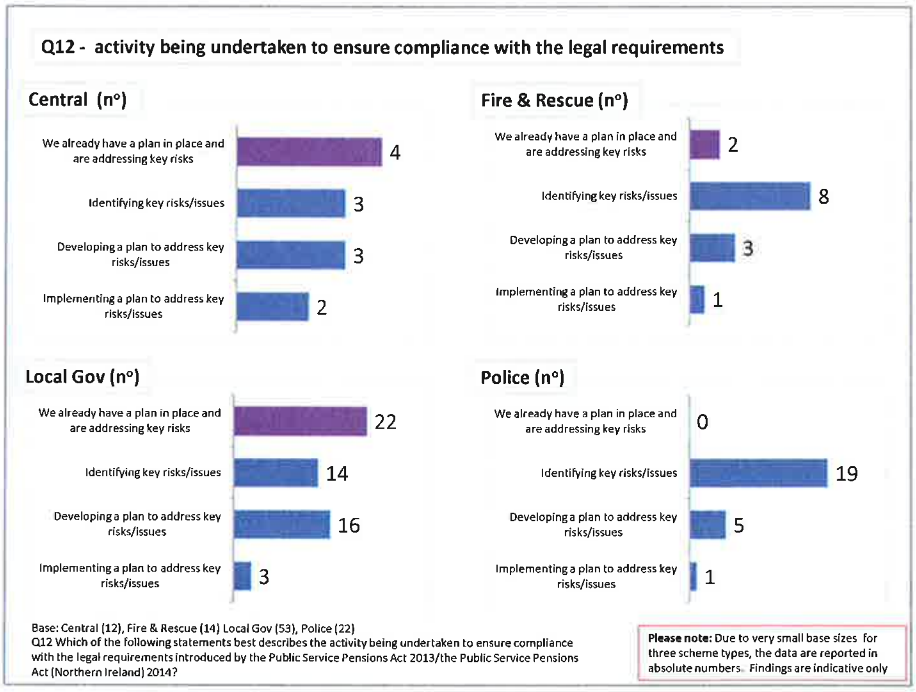
Overall, 28 out of 101 (28%) of schemes reported that they had plans in place and were addressing key risks.

The majority of Fire and rescue (12 out of 14) and all Police schemes (22 out of 22) reported that they were still at the stage of identifying, developing or implementing a plan to address key risks and issues. (Please note: respondents were able to select more than one of these options). Two Fire and rescue schemes said they had a plan in place and were addressing key risks; no Police schemes reported having reached that stage.

A third of Central schemes (4 out of 12) and a slightly higher proportion of Local government schemes (22 out of 53) reported that they had plans in place and were addressing key risks. The remainder were still at the stage of identifying, developing or implementing a plan to address key risks and issues.

In all scheme groups, fewer schemes reported that they were at the stage of implementing plans than identifying or developing plans.

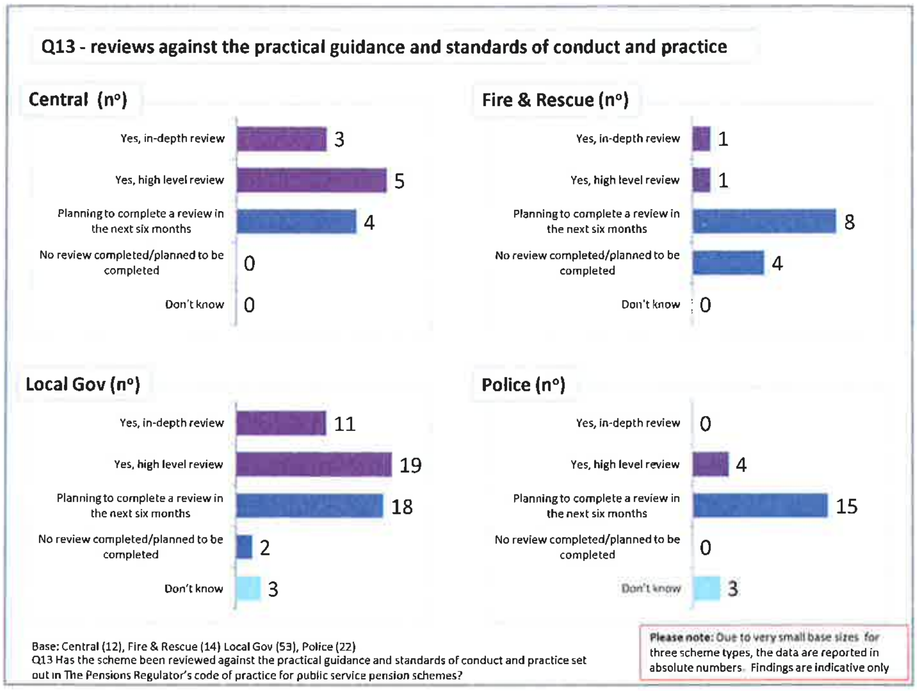
**Figure 4.7-1: Activity being undertaken to ensure compliance with the legal requirements introduced by the Public Service Pensions Act 2013/the Public Service Pensions Act (Northern Ireland) 2014**




Overall, 44 out of 101 schemes (44%) reported that they had already conducted either an in-depth or high level review of their scheme against the practical guidance and standards of conduct and practice set out in our code of practice for public service pension schemes

Over half of Local government (30 out of 53) and two-thirds of Central (8 out of 12) schemes had undertaken such a review. Most Police (15 out of 22) and Fire and rescue (8 out of 14) schemes planned to conduct a review in the next six months.

**Figure 4.7-2: Reviews against the practical guidance and standards of conduct and practice set out in The Pensions Regulator's code of practice for public service pension schemes**



## 4.8 Roles, responsibilities, knowledge and understanding

All Central schemes and nine in ten Local government (50 out of 53) and Police (20 out of 22) schemes stated that they had:

- Produced guidance on the roles, responsibilities and duties of pension boards and the members of those boards and;
- Ensured that pension board members fully understood their roles, responsibilities and duties.

Overall, this equated to 94 out of 101 (93%) of schemes producing guidance and 91 out of 101 (90%) ensuring their boards understood their role.

Although most Fire and rescue schemes (12 out of 14) reported that they had produced guidance, fewer (9 out of 14) stated the scheme manager or another person had ensured the board members fully understood their role.

**Figure 4.8-1: Production of guidance on the roles, responsibilities and duties of pension boards and the members of those boards**

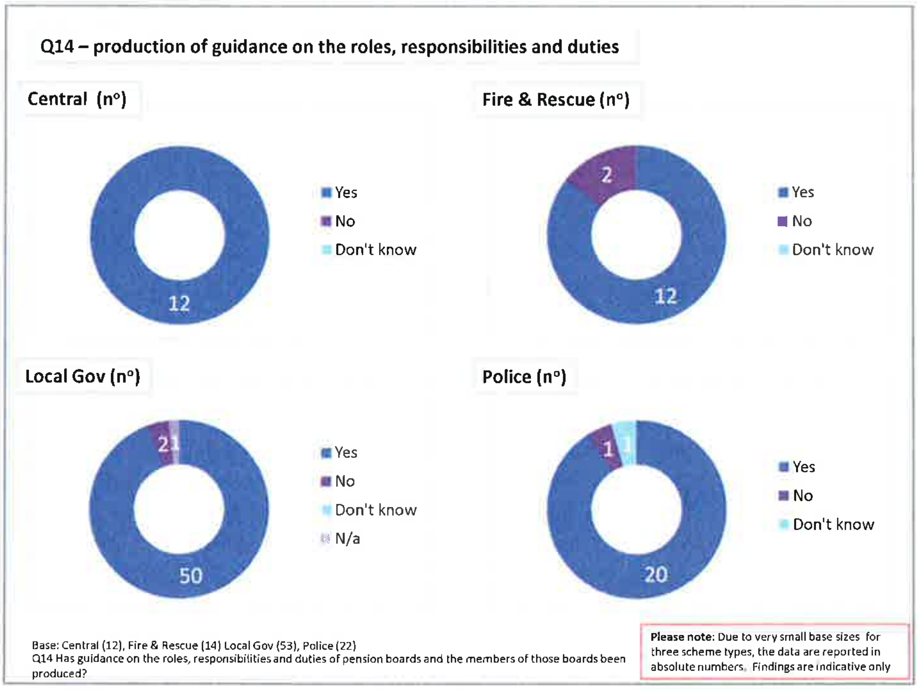
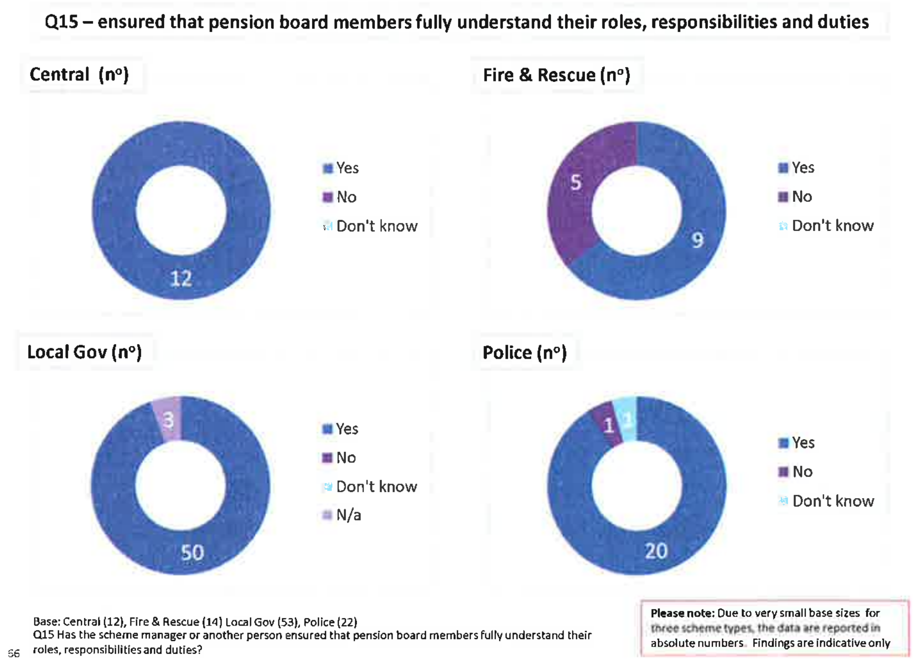


**Figure 4.8-2: Scheme manager or another person has ensured that pension board members fully understand their roles, responsibilities and duties**




Overall, 79 out of 101 schemes (78%) reported having developed policies and arrangements to help pension board members to acquire and retain required knowledge and understanding. This was the case for over four-fifths of Central (11 out of 12), Local government (46 out of 53) and Police (18 out of 22) schemes. For Fire and rescue, 5 out of 14 schemes had these policies and arrangements in place.

In terms of the specific policies and arrangements that schemes stated had been developed, the focus was on training frameworks, training logs and pension board training plans rather than individual training plans.

**Figure 4.8-3: Policies and arrangements to help pension board members to acquire and retain the knowledge and understanding they require**

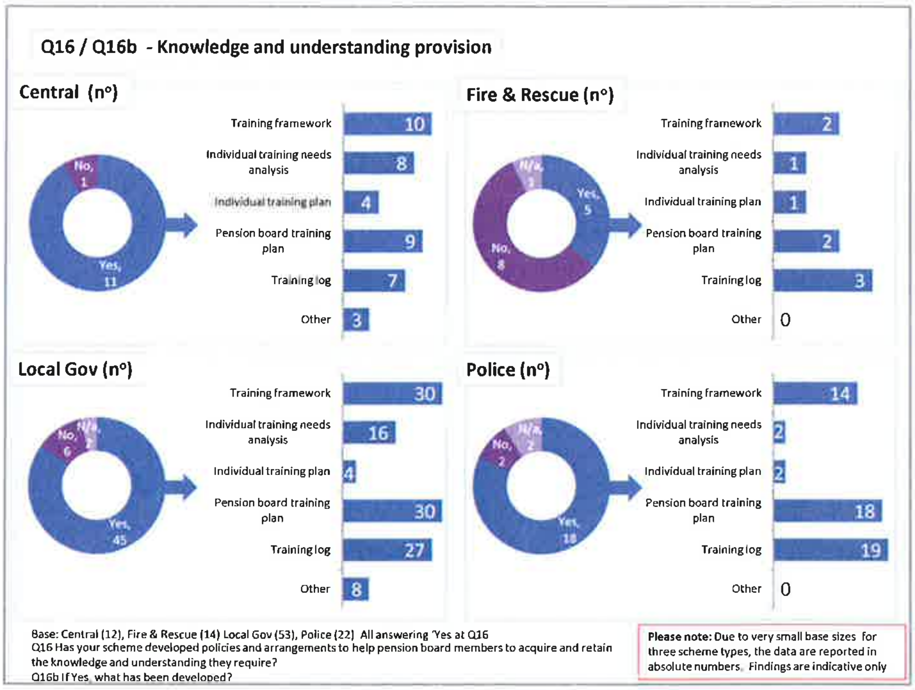


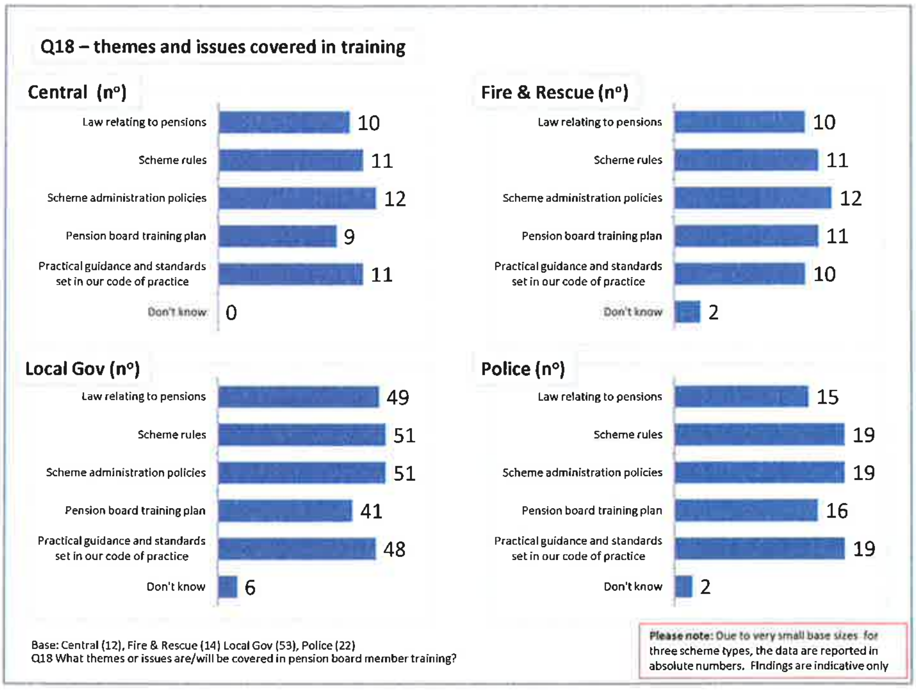

Table 4.8.1 below summarises the key sources of training identified for each scheme type. In addition to the sources identified below, for local government schemes the 'Local Government Association' (12) and 'Actuary' (9) also received high numbers of mentions.

**Table 4.8.1 – Top 3 sources of pension board training by scheme type (numbers of mentions)**

| Central | | Local government | | Fire & Rescue | | Police | |
|---|---|---|---|---|---|---|---|
| The Pensions Regulator | 9 | Investment adviser | 17 | Local Government Association | 11 | The Pensions Regulator | 4 |
| Responsible/ administering authority | 5 | Responsible/ administering authority | 13 | The Pensions Regulator | 5 | Chartered Institute of Public Finance and Accountancy | 2 |
| Actuary | 2 | The Pensions Regulator | 13 | - | - | - | - |

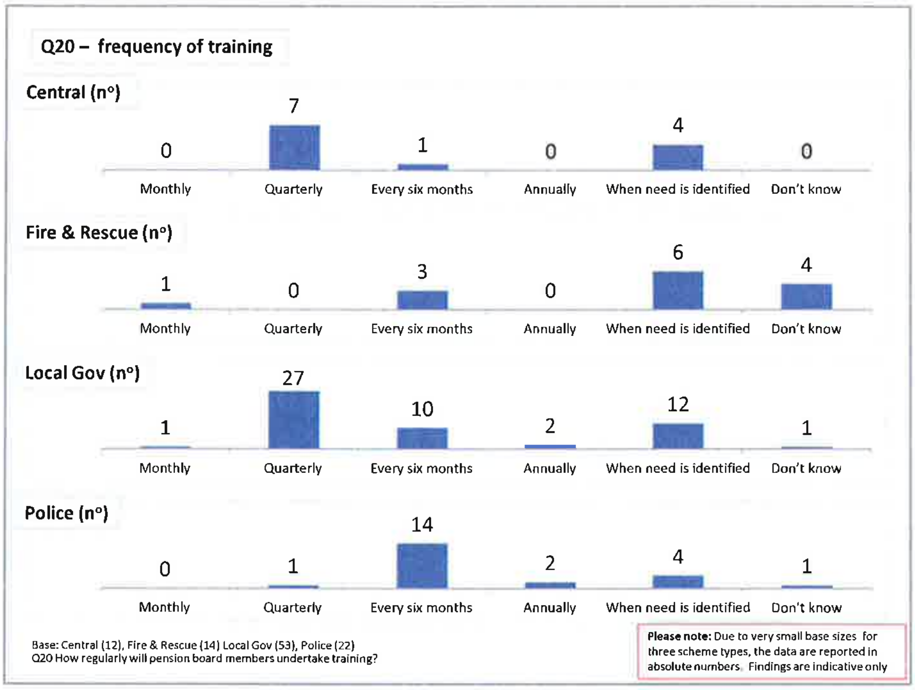
Most schemes reported that their board member training covered a wide remit, with scheme administration policies (94 out of 101, 93%), scheme rules (92 out of 101, 91%) and practical guidance and standards in the code of practice (88 out of 101, 87%) being the three areas mentioned most frequently. These areas were cited by all types of scheme.

**Figure 4.8-4: Themes and issues covered in pension board member training**




Overall, almost two thirds (63 out of 101, 62%) of schemes reported that training will take place either quarterly or every 6 months. Around half of Central (7 out of12) and Local Government (27 out of 53) schemes answered that training will be conducted quarterly. Among Police schemes, the majority conducted training every six months (14 out of 22). For Fire & Rescue schemes, training was reported to be on a relatively 'ad hoc' basis, with 6 out of 14 stating it was whenever needed and 4 out of 14 reporting that they 'don't know'.

**Figure 4.8-5: Frequency of pension board member training**




## 4.9 Conflicts of interest

Overall, 88 out of 101 (87%) of schemes reported that they have a conflicts policy and procedure for pension board members, with 79 out of 101 (78%) having a register of interests in place.

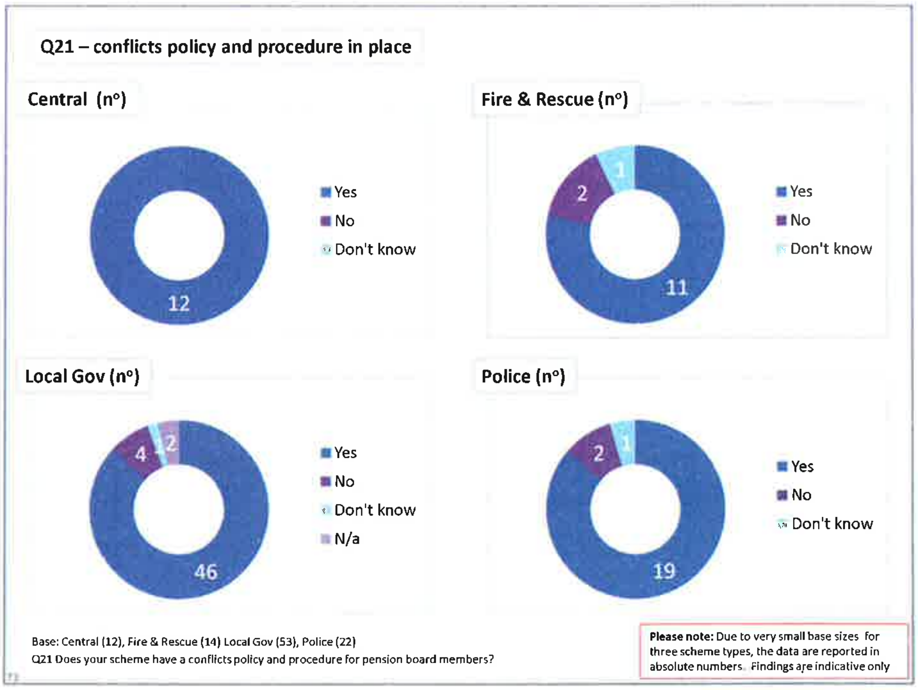
All 12 Central schemes reported they had a conflicts of interest policy in place; 11 also stated that they had procedures that require board members to disclose interests which could become conflicts of interest prior to appointment and a register of interests (nine of the 11 updated this quarterly). Similar questions were asked in the 2013 survey relating to the presence of a conflicts policy and procedure and register of interests; more Central schemes reported they had these in place in the 2015 survey versus the 2013 survey. 4 out of 11 schemes reported they had these in place in the 2013 survey.

Over three-quarters of Fire and rescue schemes (11 out of 14) stated they had a conflicts policy in place, while a lower number (8 out of 14) had procedures that require disclosure of interests prior to appointment and a register of interests. Five out of the eight schemes with a risk of interests reported that they updated this quarterly.

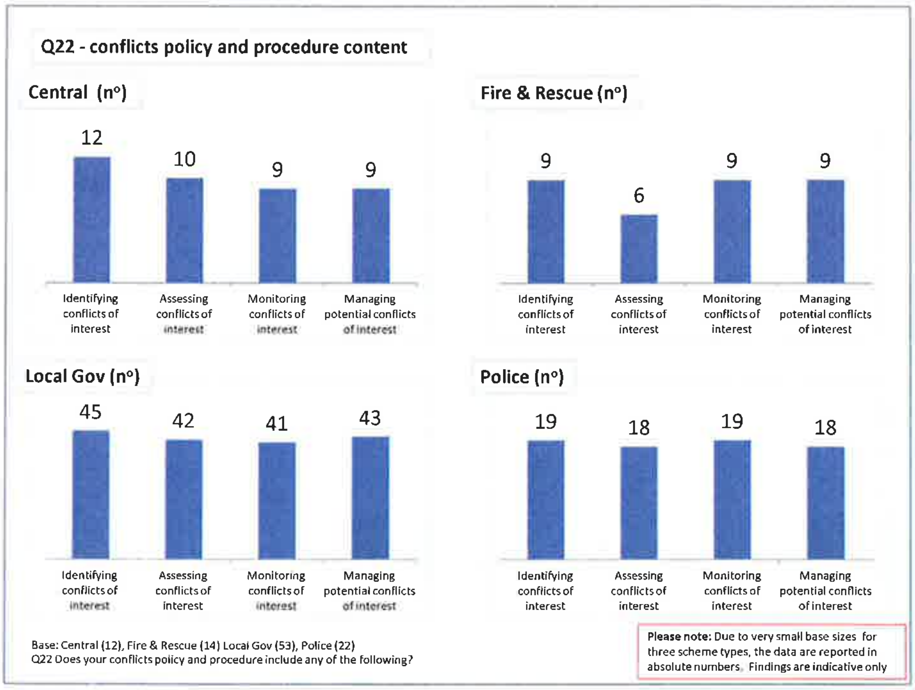
Over four-fifths of Local government schemes reported they had a conflicts policy in place (46 out of 53), and procedures that require board members to disclose interests prior to appointment (45 out of 53). Slightly fewer had a register of interests in place (41 out of 53). Results were very similar to the 2013 survey where equivalent questions were asked.

Over four-fifths of Police schemes reported they had a conflicts policy in place (19 out of 22). Almost all Police schemes (21 out of 22) had procedures that require board members to disclose interests prior to appointment and a majority (19 out of 22) had a register of interests in place. Of those with a risk register, this was most commonly updated on an annual basis (14 out of 19).

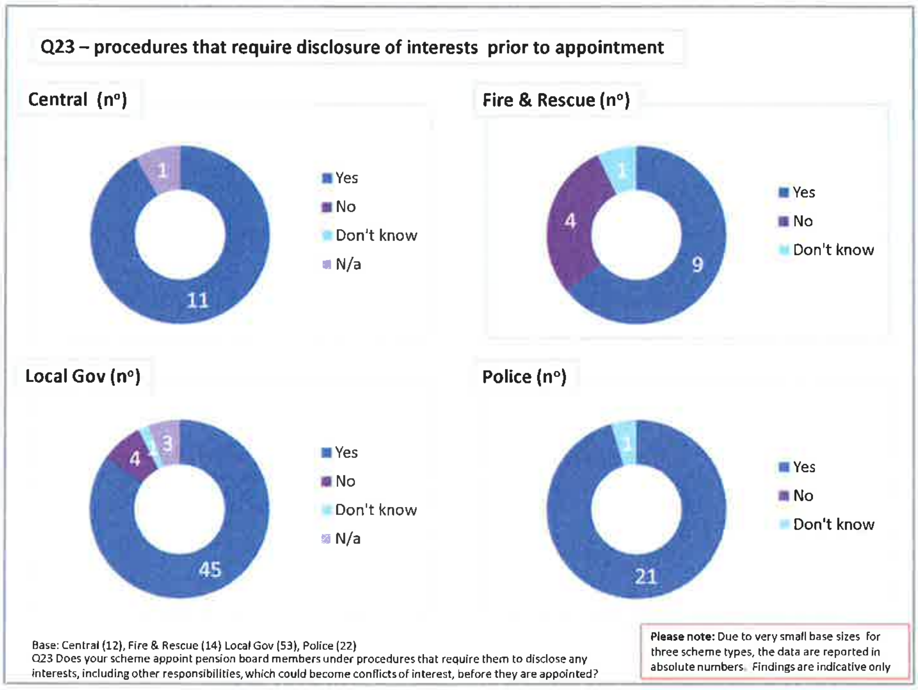
**Figure 4.9-1: Conflicts policy and procedure in place for pension board members**



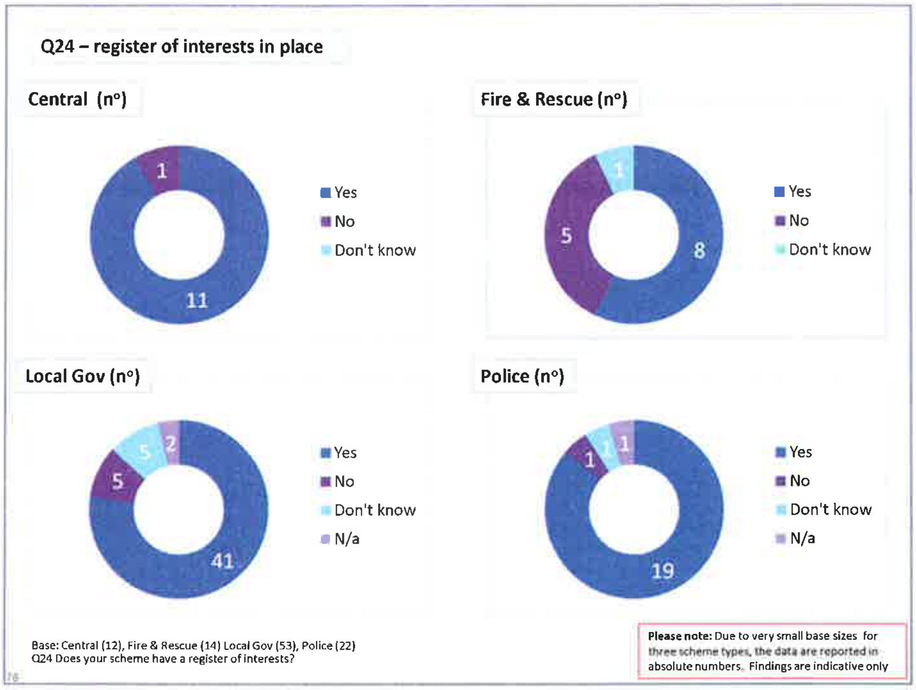
## Figure 4.9-2: Conflicts policy and procedure content



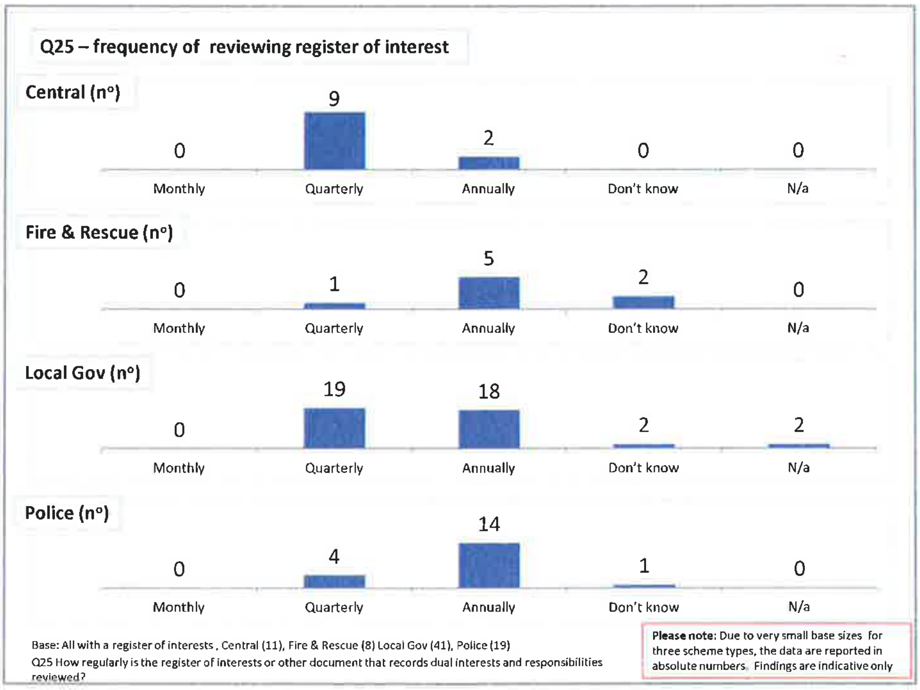

## Figure 4.9-3: Procedures that require disclosure of interests which could become conflicts of interests prior to appointment



## Figure 4.9-4: Register of interests in place




## Figure 4.9-5: Frequency of reviewing register of interest or other document that records dual interests and responsibilities

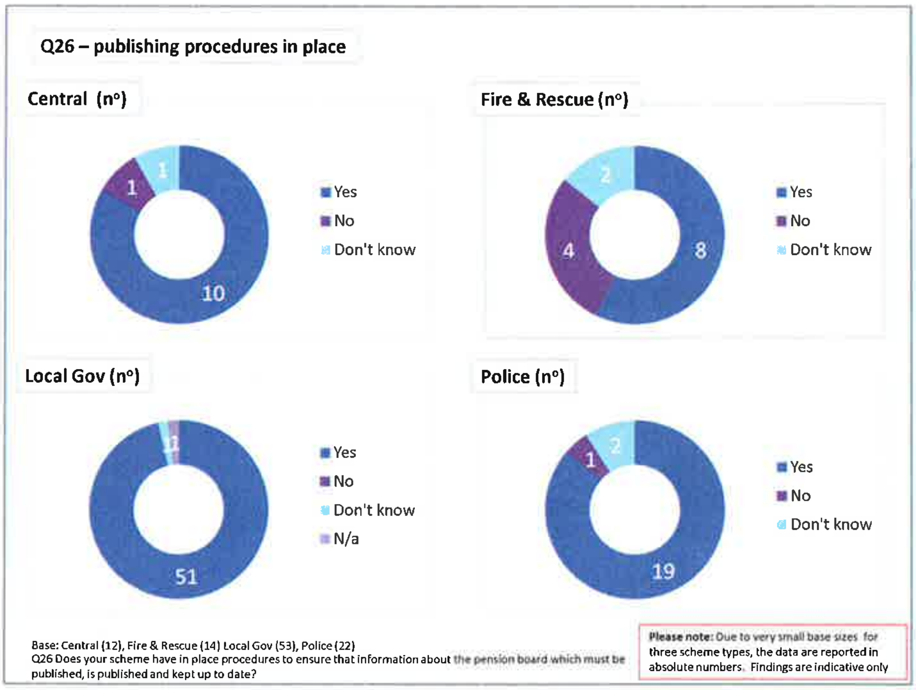


## 4.10 Publishing information about pension boards

Almost all Central (10 out of 12), Local government (51 out of 53) and Police schemes (19 out of 22) reported that they had in place procedures to ensure that information about the pension board which must be published, was published and kept up to date. Within Fire and rescue schemes, over half (8 out of 14) had procedures in place.

Overall, 88 out of 101 (87%) reported that this was the case.

**Figure 4.10-1: Publishing procedures in place to ensure that information about the pension board which must be published, is published and kept up to date**




Schemes were also asked about their plans to publish additional information (not specified in legislation) about the pension board. In total, 49 out of 101 schemes responded:

- 24 had plans to publish additional data, primarily relating to meeting agendas and minutes
- 11 had no plans to publish additional data
- 14 had not yet decided whether or not to publish additional data

## 4.11 Internal controls

Overall, 57 out of 101 (56%) conducted risk assessments at least quarterly, and 83 out of 101 (82%) had a risk register in place. 77 out of 101 (76%) had documented procedures for assessing and managing risk.

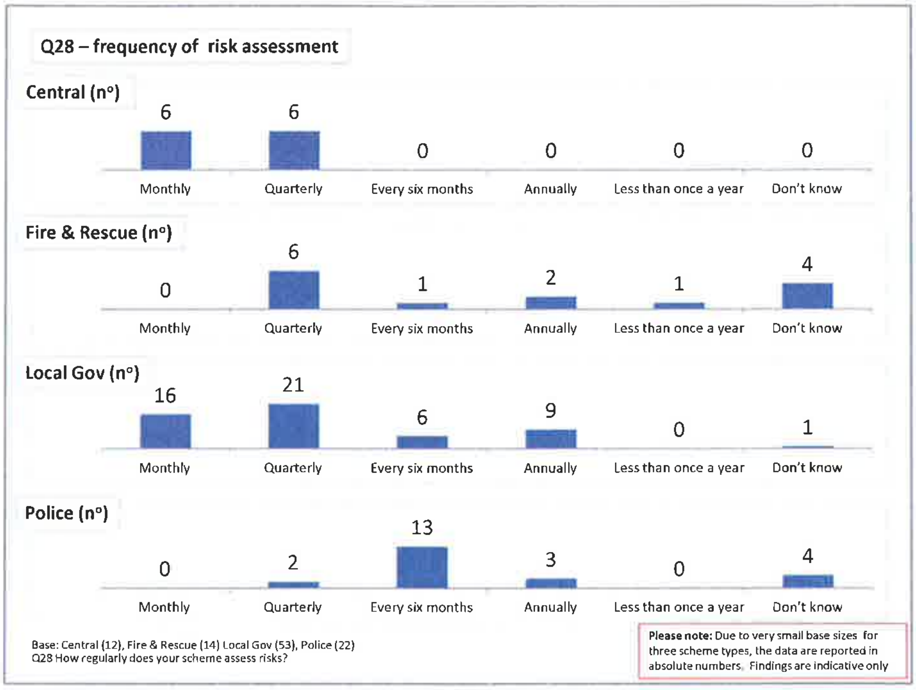
All Central schemes conducted risk assessments at least quarterly, and all had a risk register in place. Additionally, all of the Central schemes had documented procedures for assessing and managing risk – of which two-thirds (8 out of 12) (do or will) review the effectiveness of risk management and internal control systems at least every six months.

Almost half of Fire and rescue schemes conducted risk assessments quarterly (6 out of 14). Around a third had a risk register in place (5 out of 14) and documented procedures for assessing and managing risk (5 out of 14). In terms of reviewing the effectiveness of its risk management and internal control systems, almost half (6 out of 14) stated they do or will do this once a year or more, while half (7 out of 14) 'don't know' how frequently they do or will do this.

Among Local government schemes, two-thirds conducted risk assessments at least quarterly, and the vast majority had a risk register in place (48 out of 53). Four-fifths of Local government schemes had documented procedures for assessing and managing risk – of which around a fifth do or will review the effectiveness of risk management and internal control systems at least every six months. Over half (29 out of 53) do or will do this at least once a year.

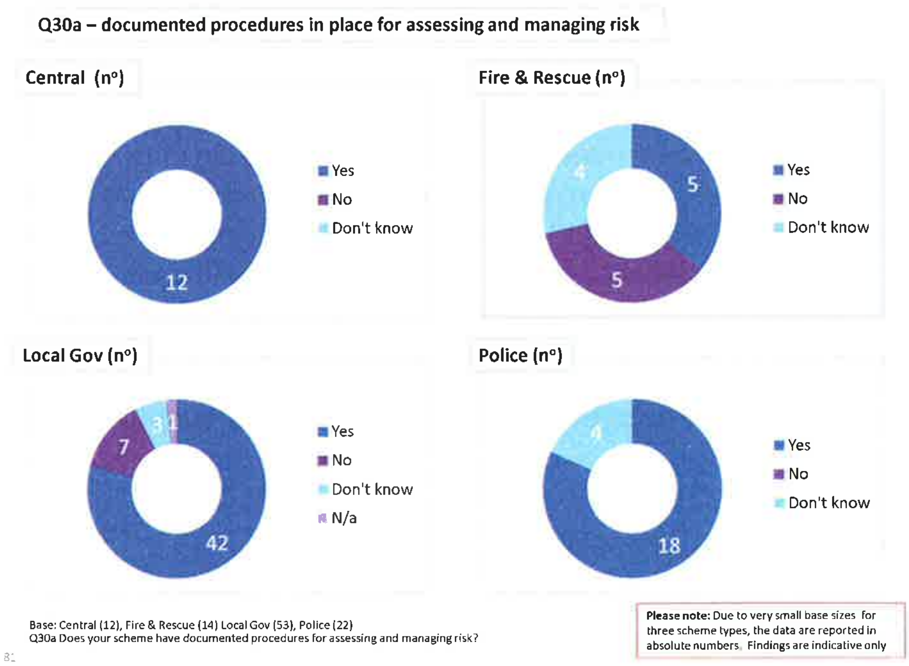
Around half of Police schemes conducted risk assessments every six months (13 out of 22), and the majority had a risk register in place (18 out of 22). The majority (18 out of 22) also had documented procedures for assessing and managing risk – of which almost three-quarters (16 out of 22) do or will review the effectiveness of risk management and internal control systems once a year or more.

## Figure 4.11-1: Frequency of risk assessment

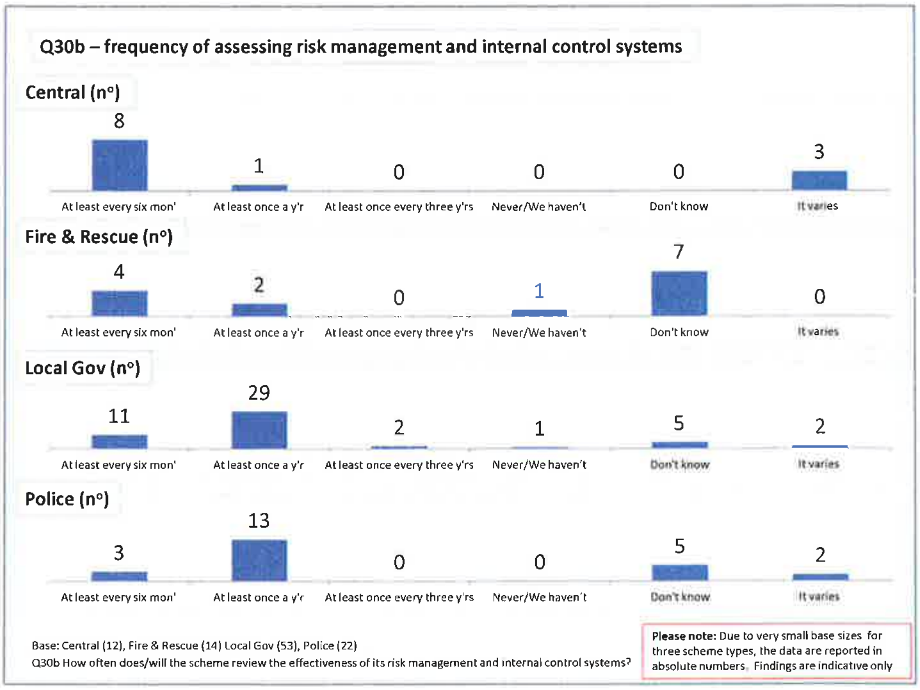



## Figure 4.11-2: Risk register in place

## Figure 4.11-3: Documented procedures in place for assessing and managing risk




## Figure 4.11-4: Frequency of reviewing effectiveness of risk management and internal control systems



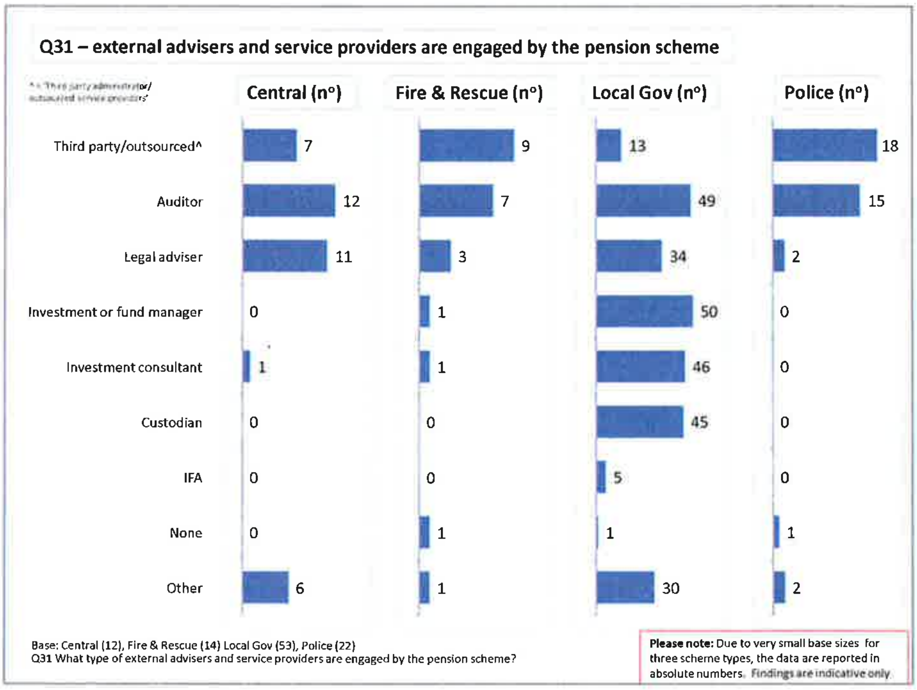

| | At least every six mon' | At least once a y'r | At least once every three y'rs | Never/We haven't | Don't know | It varies |
|---|---|---|---|---|---|---|
| Central (n°) | 8 | 1 | 0 | 0 | 0 | 3 |
| Fire & Rescue (n°) | 4 | 2 | 0 | 1 | 7 | 0 |
| Local Gov (n°) | 11 | 29 | 2 | 1 | 5 | 2 |
| Police (n°) | 3 | 13 | 0 | 0 | 5 | 2 |

## 4.12 External advisers and service providers

Overall, 47 out of 101 (47%) used third party administrators, and 83 out of 101 (82%) reported the use of an auditor.

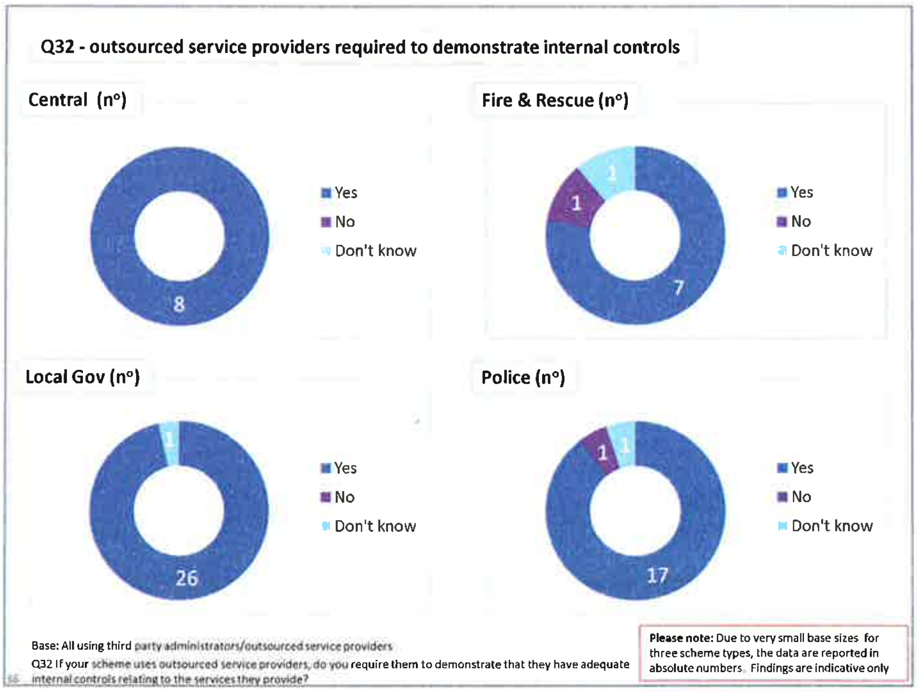
The types of external advisers and service providers engaged by Central, Fire and rescue and Police schemes tended to be similar. All three schemes mainly used ‘Third party administrator/ outsourced service providers’ and ‘auditors’; Central schemes also used ‘legal advisers’. Local government schemes used a wider range of advisers and providers – mainly investment/fund managers, auditors, investment consultants and custodians. A large minority (24 out of 53) of Local Government schemes reported retaining the services of an actuary.

**Figure 4.12-1: External advisers and service providers engaged by the pension scheme**



Among schemes that used third party administrators or outsourced providers, almost all required the supplier to demonstrate adequate internal controls – regardless of scheme type.

**Figure 4.12-2: Outsourced service providers required to demonstrate that they have adequate internal controls relating to the services they provide**

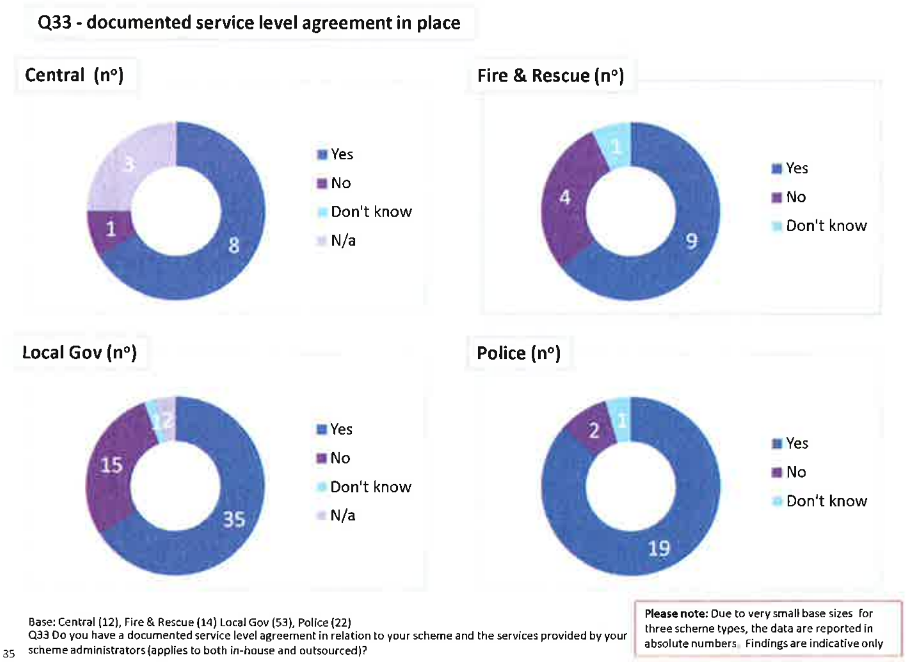



PLEASE NOTE: A small number of respondents provided an answer for Q32 despite their response to Q31 indicating that their scheme did not use outsources service providers. As such there are additional responses included in the above Figure.

Overall, 71 out of 101 (70%) of schemes reported having a documented service level agreement in relation to their scheme and the services provided by their scheme administrators, regardless of whether administration was carried out in-house or provided by a third party.

Around two-thirds of Central (8 out of 12) Fire and rescue (9 out of 14) and Local government (35 out of 53) schemes had a documented service level agreement in relation to their scheme and the services provided by scheme administrators (in-house and outsourced). Almost 9 in 10 Police schemes (19 out of 22) had these in place.

**Figure 4.12-3: Documented service level agreement in place in relation to the scheme and the services provided by their scheme administrators**




Overall, 43 out of 101 (43%) of schemes received information on their administrator's internal controls on a monthly or quarterly basis.

The frequency with which information was reported to be received on administrators' internal controls varied within scheme types:

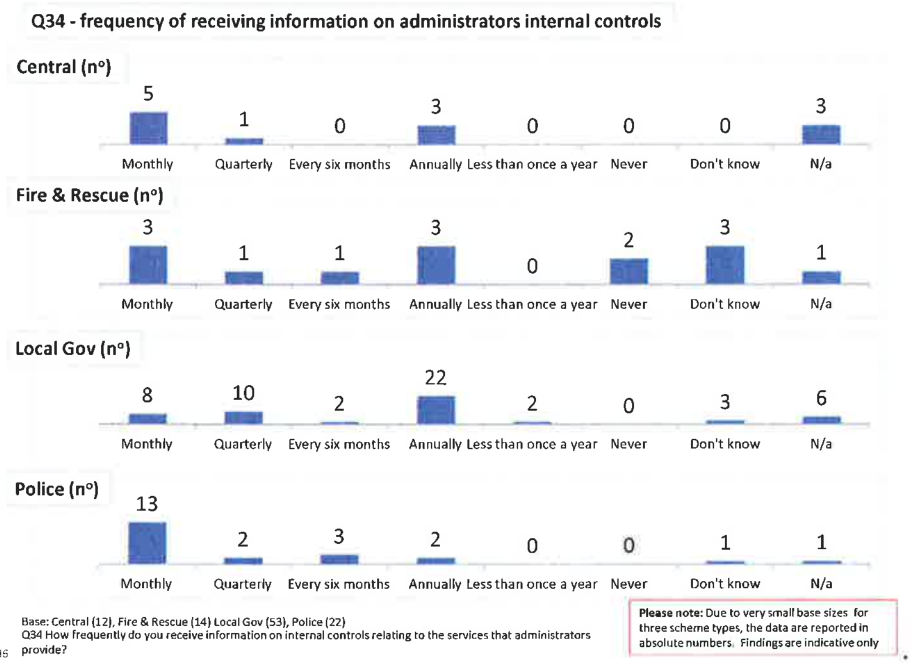
Central schemes most commonly received information on internal controls relating to the services that administrators provided 'monthly' (5 out of 12) or 'annually' (3 out of 12).

The frequency of information on administrator's internal controls varied between the individual Fire and rescue schemes, for example: three schemes received information 'monthly', three schemes received this 'annually', three schemes stated 'don't know' and a further three schemes stated 'never' or 'no answer'.

Two-fifths of Local government schemes received information on internal controls relating to the services that administrators provided 'annually' (22 out of 53); slightly less than one-fifth received this 'monthly' (8 out of 53) or 'quarterly' (10 out of 53).

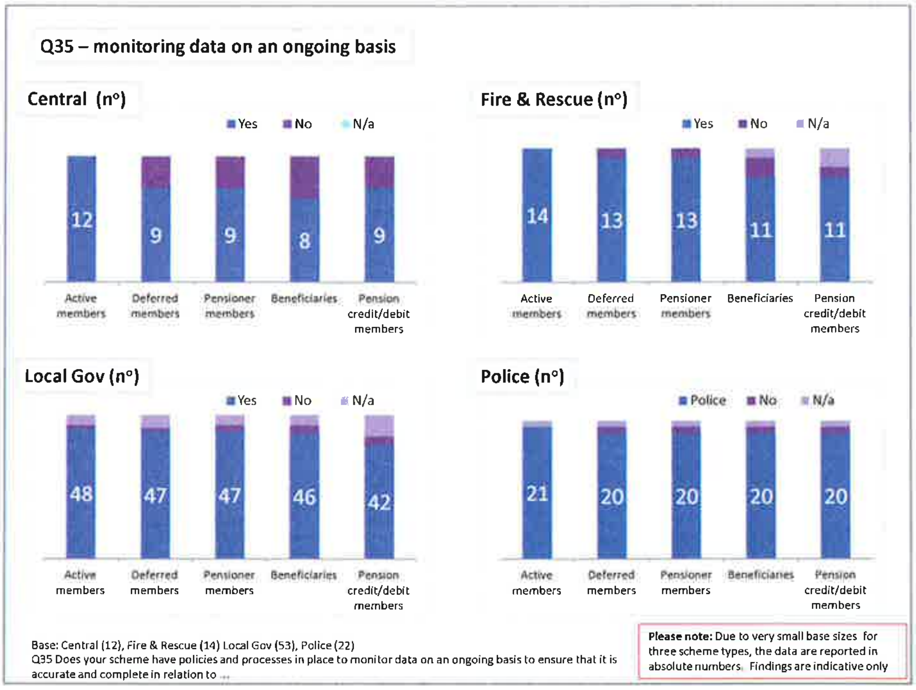
Police schemes most commonly received information on internal controls relating to the services that administrators provided 'monthly' (13 out of 22).

**Figure 4.12-4: Frequency of information on internal controls relating to the services that administrators provide**



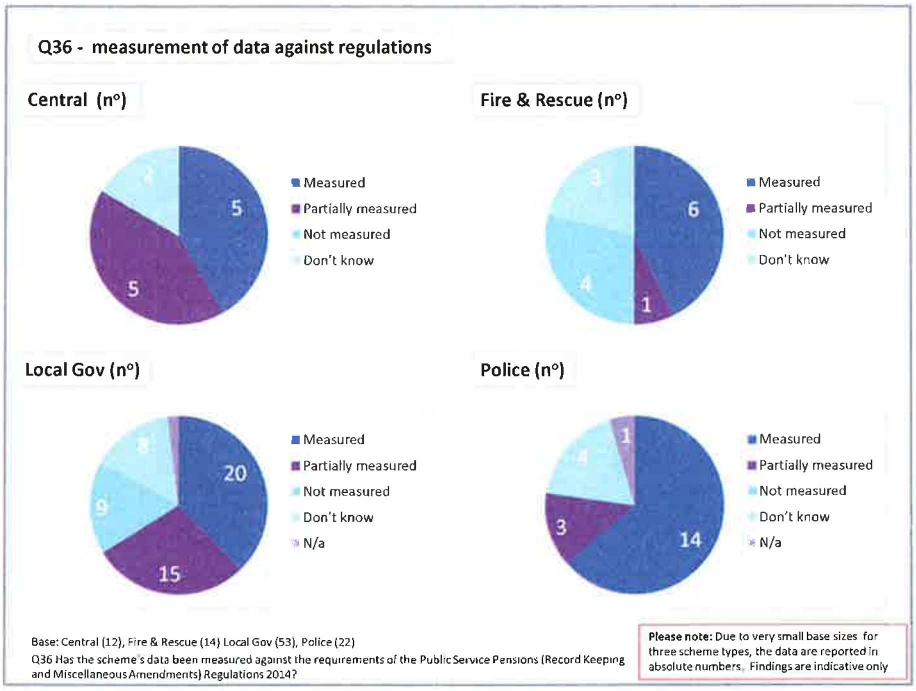
## 4.13 Scheme record-keeping and data monitoring

**Figure 4.13-1: Policies and processes in place to monitor data on an ongoing basis to ensure that it is accurate and complete**

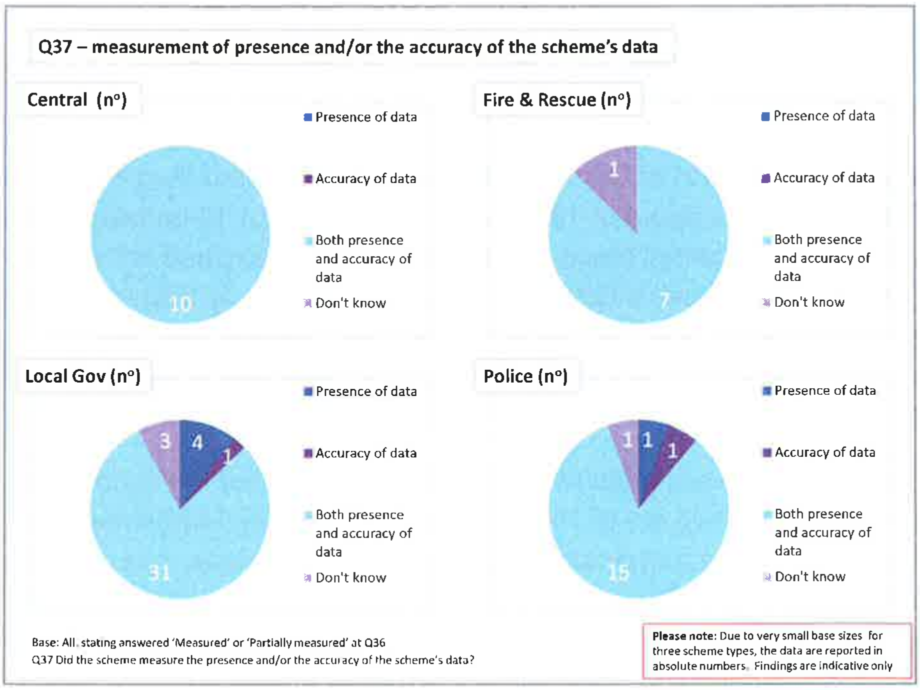



Policies and processes for ongoing monitoring of member data were in place for almost all schemes in respect of 'active members'. There were more gaps regarding record-keeping for other member types. Data monitoring policies and processes for deferred members, pensioner members, beneficiaries and pension credit / debit members were not in place in a significant minority of Central schemes.

## Figure 4.13-2: Measurement of data against requirements of the Public Service (Record Keeping and Miscellaneous Amendments) Regulations 2014

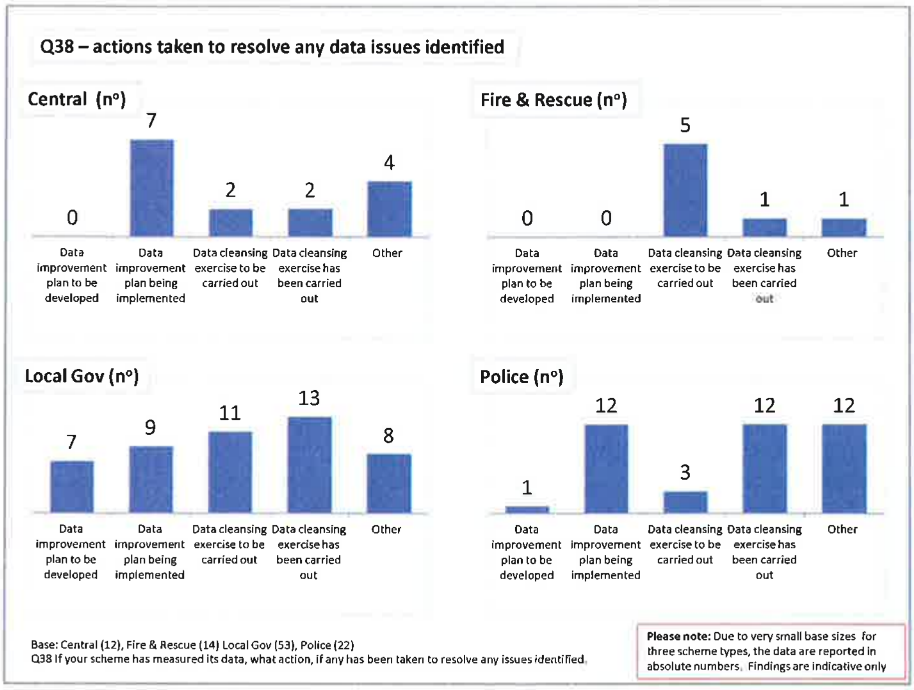



## Figure 4.13-3: Measurement of presence and/or the accuracy of the scheme's data




PLEASE NOTE: A small number of respondents provided an answer for Q37 despite their response to Q36 indicating that their scheme had not measured its data against the regulations. As such there are additional responses included in the above Figure.

**Figure 4.13-4: Actions taken to resolve any data issues identified**




PLEASE NOTE: A small number of respondents provided an answer for Q38 despite their response to Q36 indicating that their scheme did had not measured its data against the regulations. As such there are additional responses included in the above Figure.

Overall, 45 out of 101 schemes (45%) had measured their data, with a further 24 out of 101 (24%) having partially measured the scheme's data against the requirements of the Record Keeping Regulations[4]. Of these 69 schemes, 63 had measured both the presence and accuracy of data.

The majority (10 out of 12) of Central schemes had measured the scheme's data against the Regulations (5 out of 12 measures and 5 out of 12 partially measured). Of those who had conducted these measurements, all measured the presence and accuracy of the scheme's data. The main action taken by seven schemes to resolve any data issues identified were a 'data improvement plan being implemented'. Data cleansing exercises will or had been carried out by four schemes.

Half of Fire and rescue schemes (7 out of 14) had measured the scheme's data against the Regulations (6 out of 14 measures and 1 out of 14 partially measured). Of those who provided a response relating to conducting these measurements, the majority (7) measured the presence and accuracy of the scheme's data. Data cleansing exercises will or had been carried out by six schemes to resolve any data issues identified.

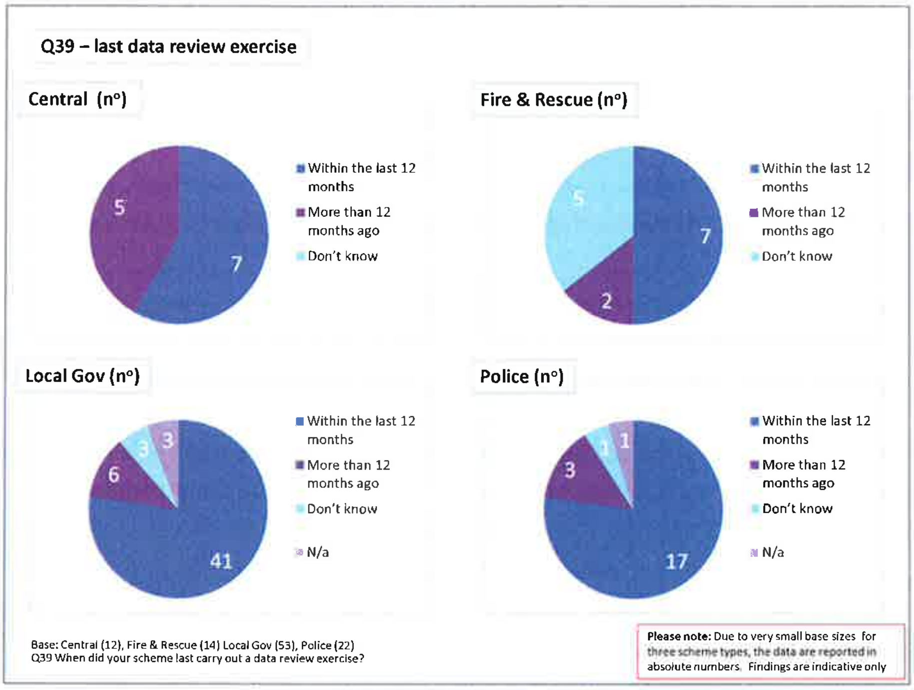
[4] Public Service (Record Keeping and Miscellaneous Amendments) Regulations 2014.

Among Local government schemes, two-thirds had measured the scheme's data against the Regulations (20 out of 53 measured and another 15 out of 53 partially measured). Of those who provided a response relating to conducting these measurements, the majority (31) measured the presence and accuracy of the scheme's data. Local government schemes were split between planning and having completed actions to resolve any data issues identified:

- Seven schemes were developing a data improvement plan, nine had this in place.
- Data cleansing exercises were to be carried out by 11 schemes, 13 schemes had already conducted them.
- 'Other' actions were also planned/being carried out by eight schemes.

Over three-quarters of Police schemes had measured the scheme's data against the Regulations (14 out of 22 measures and 3 out of 22 partially measured). Of those who provided a response relating to conducting these measurements, the majority (15) measured the presence and accuracy of the scheme's data. 12 Police schemes had implemented data improvement plans and had carried out data cleansing exercises. Furthermore 'other' actions were also planned/being carried out by eight schemes.

**Figure 4.13-5: Last data review exercise**




Overall, 72 out of 101 (71%) schemes reported that they had conducted a data review within the last year.

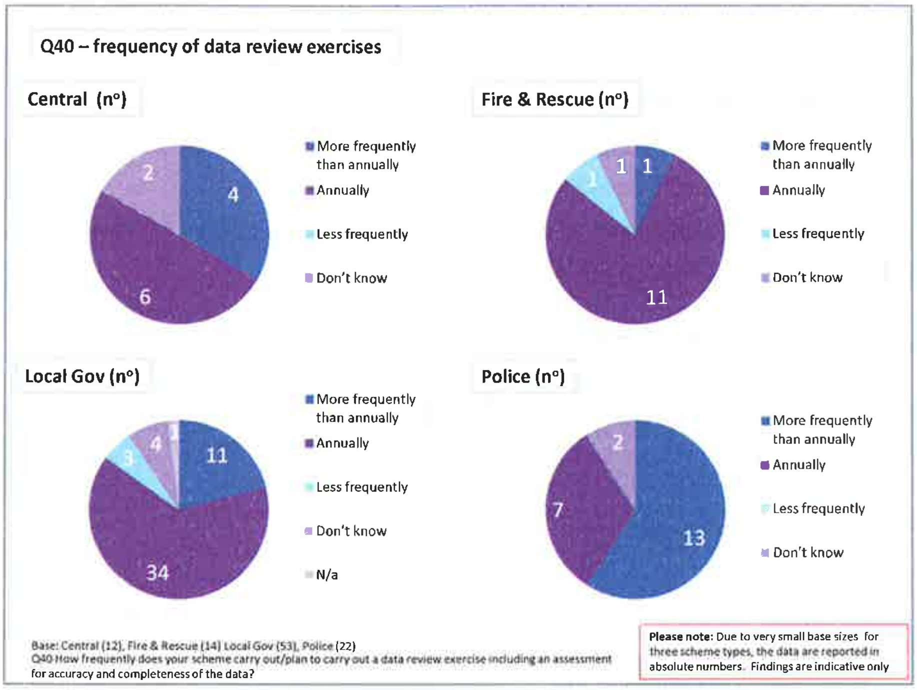
Over half of Central schemes had conducted a data review exercise in the last year (7 out of 12); and the majority currently carried out or planned to carry out future data review exercises (including an assessment for accuracy and completeness of the data) at least annually (6 out of 12 annually, 4 out of 12 more frequently).

Half of Fire and rescue schemes had also conducted a data review exercise in the last year (7 out of 14) and the majority currently carried out or planned to carry out future data review exercises annually (11 out of 14)

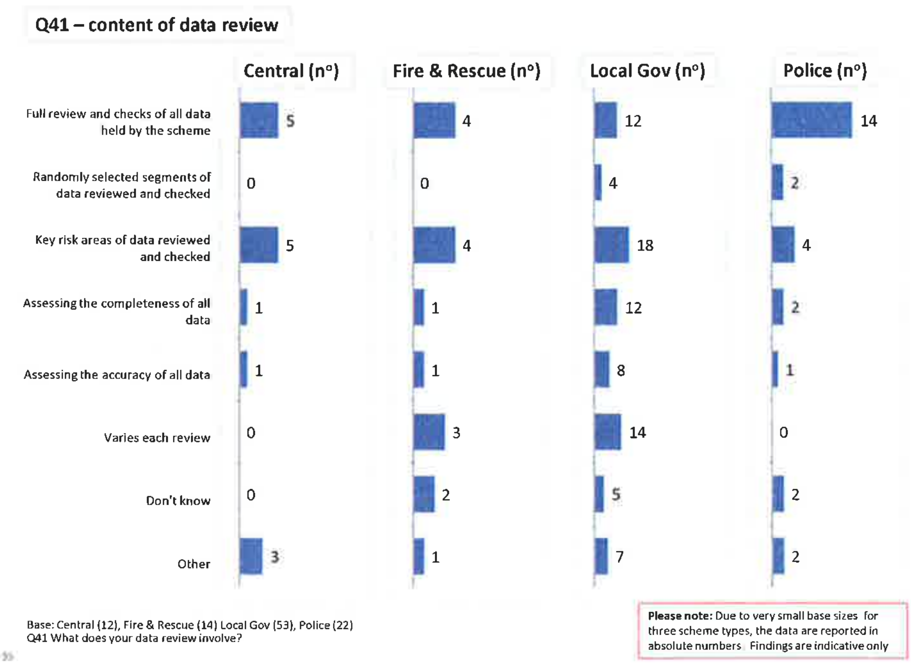
Among Local government schemes, data review exercises were most frequently carried out within the last 12 months (41 out of 53). Over three-fifths of Local government schemes currently carried out or planned to carry out future data review exercise annually (34 out of 53), with one-fifth planning to conduct data reviews more frequently than annually (11 out of 53).

The majority of Police schemes (17 out of 22) had carried out a data review exercise in the last year. Looking ahead, almost all schemes currently carried out or planned to carry out future data review exercise at least annually (7 out of 22 annually, 13 out of 22 more frequently).

## Figure 4.13-6: Frequency of data review exercise including an assessment for accuracy and completeness of the data



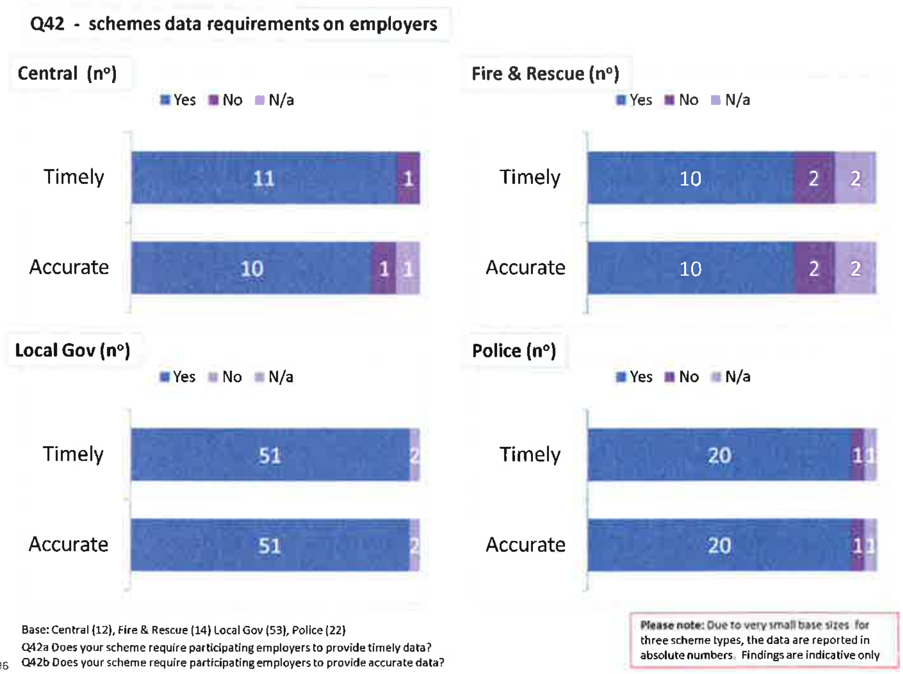

## Figure 4.13-7: Content of data review



Schemes data review involved a wide range of activities:

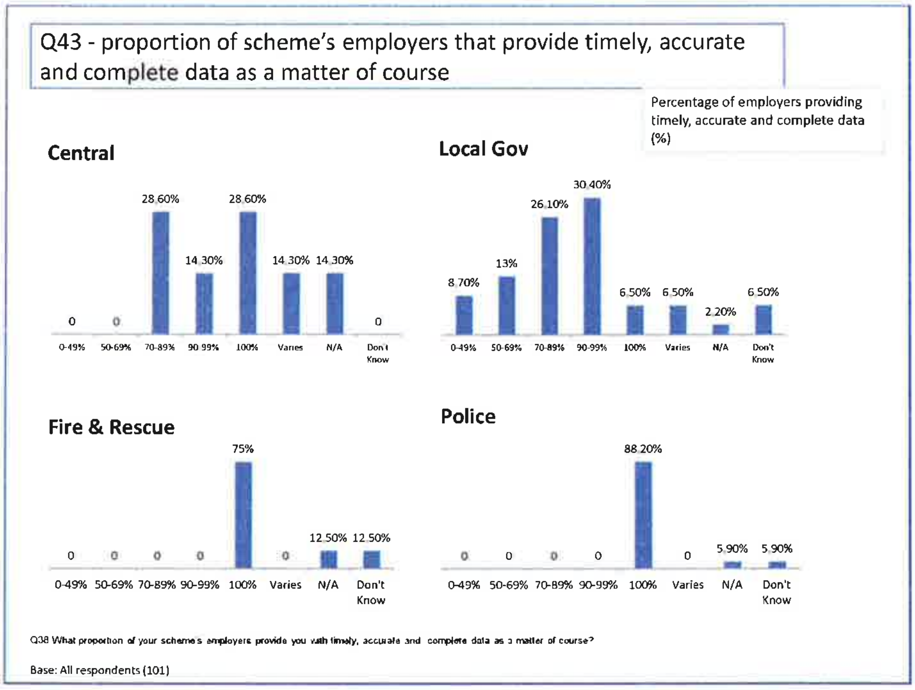
- A full review and checks of all data held by the scheme was one of the most common tasks identified by those answering for Central (5 out of 12), Fire & Rescue (4 out of 14) and Police (14 out of 22) schemes.
- Key risk areas of data reviewed and checked was also a top mentioned activity among Central (5 out of 12), Fire & Rescue (4 out of 14) and Local Government (18 out of 53) schemes.
- Assessing the completeness of all data was also part of the review among several Local Government schemes (12 out of 53).
- A quarter of Local Government schemes (14 out of 53) mentioned that the content varied in each review.

**Figure 4.13-8: Schemes require participating employers to provide timely and accurate data**




In all scheme types the vast majority of schemes require employers to provide data on a timely and accurate basis. In a minority of cases, Central schemes, Fire and rescue schemes and Police schemes do not have this requirement.

**Figure 4.13-9: Proportion of scheme employers which provide data that is timely, accurate and complete as a matter of course**



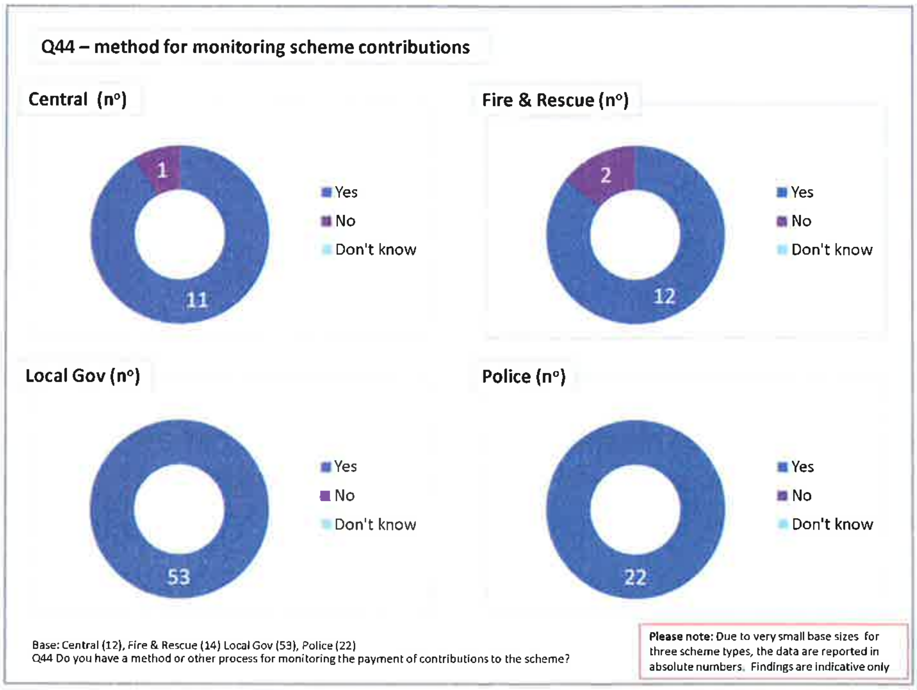

Overall (51%) of schemes reported that 90%-100% of scheme employers provided schemes with timely, accurate and complete data as a matter of course; three in ten (32%) stating 100%.

3 out of 7 Central schemes submitted that 90% of employers provided timely, accurate and complete data. The same figure for Local government schemes was 17 out of 46 schemes. Most Fire and& rescue (6 out of 8 schemes) and Police schemes (15 out of 17) who answered the question indicated that 100% of employers provided timely, accurate and complete data.

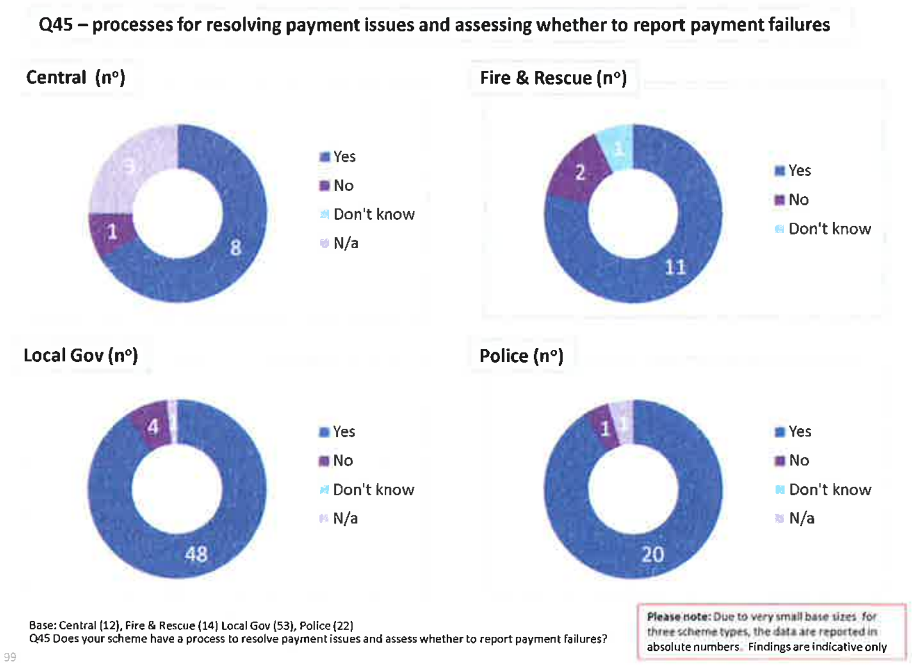
## 4.14 Maintaining contributions

Almost all schemes (98 out of 101, 97%) regardless of type had a method or other process for monitoring the payment of contributions to the scheme in place. The vast majority also had processes in place to resolve payment issues and assess whether to report payment failures.

**Figure 4.14-1: Method or other process for monitoring the payment of contributions into the scheme**

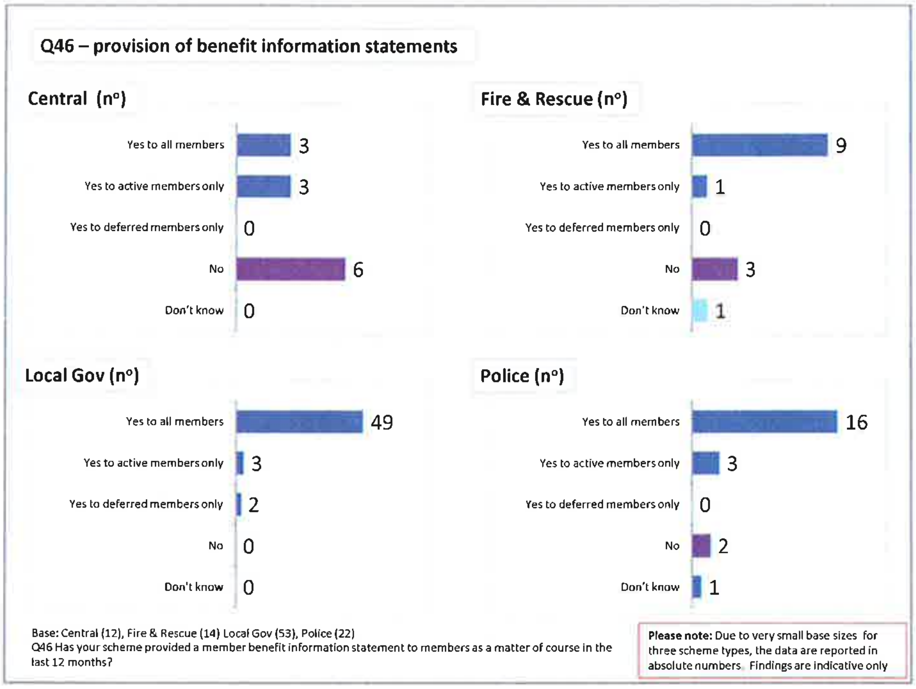


## Figure 4.14-2: Processes in place to resolve payment issues and assess whether to report payment failures



## 4.15 Providing information to members

**Figure 4.15-1: Provision of benefit information statements to members as a matter of course in the last 12 months**



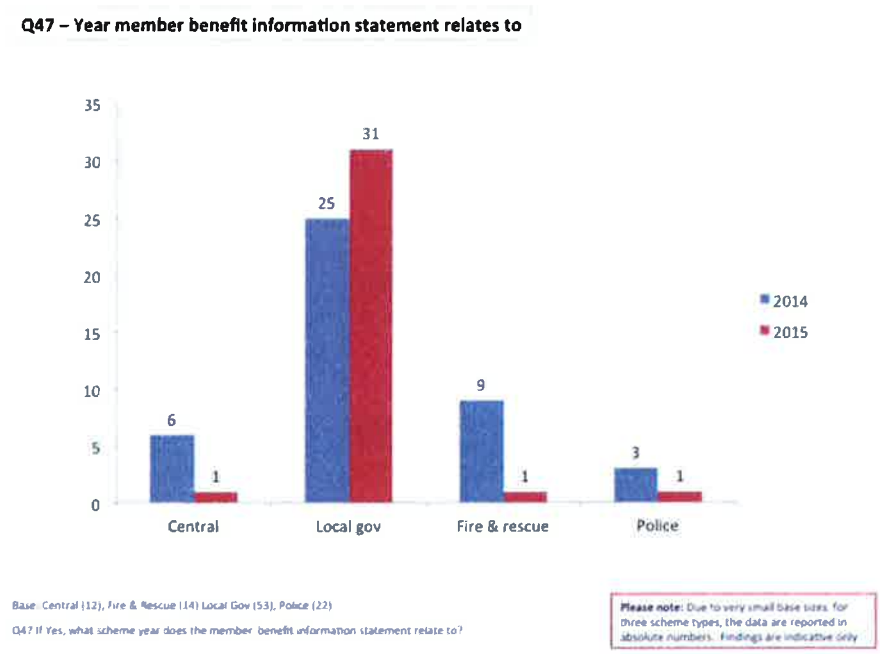

Overall, 77 out of 101 (76%) of schemes reported that they had issued a member benefit statement to all members as a matter of course in the last 12 months.

Half of Central schemes (6 out of 12) had provided member benefit information statements to members as a matter of course in the last 12 months. Three provided these to all members and three to active members only.

The majority of Fire and rescue (9 out of 14) and Police (16 out of 22) schemes had provided member benefit information statements to all members as a matter of course in the last 12 months

Among Local government schemes, all schemes had provided member benefit information statement to members as a matter of course in the last 12 months, with the vast majority being provided to all members (49 out of 53).

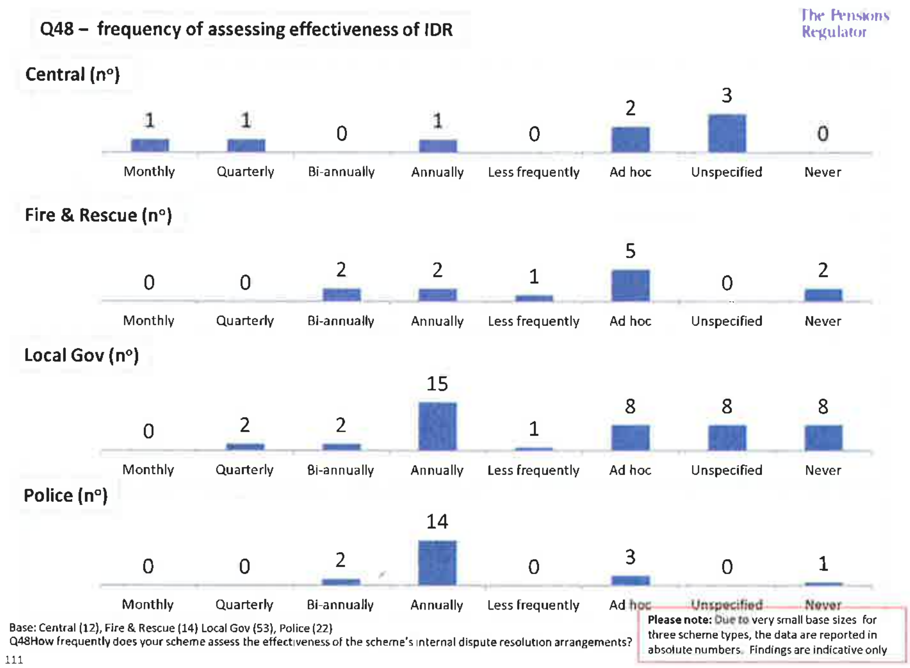
**Figure 4.15-2: Year that the member benefit statement refers to**



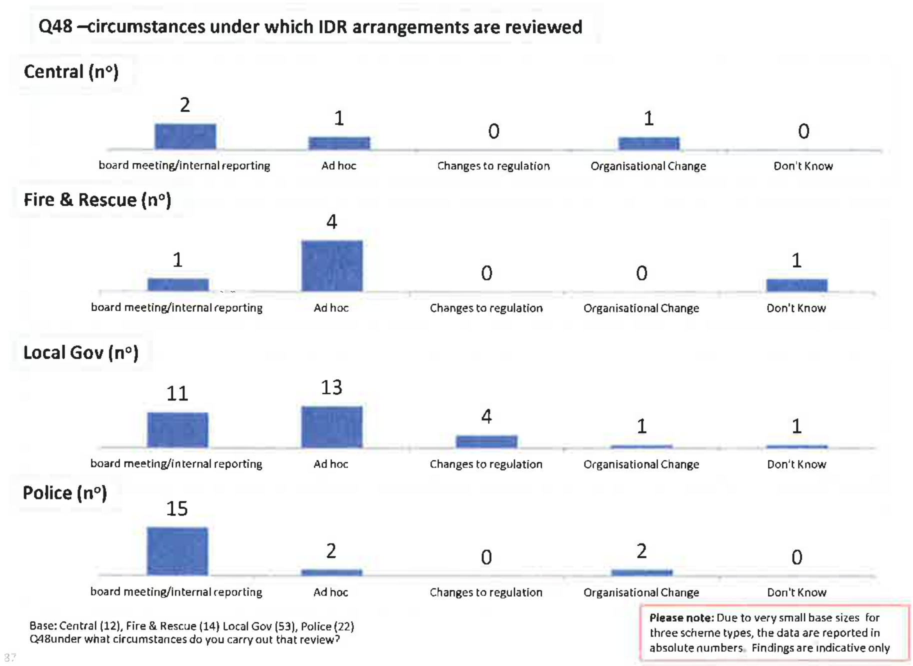

Of the schemes that had provided a member benefit statement in the previous 12 months, the majority related to the year ended 31 March 2014 for Central, Fire and rescue and Police schemes. For Local government, the majority related to the year ended 31 March 2015.

## 4.16 Internal Dispute Resolution

### Figure 4.16-1: frequency of assessing effectiveness of Internal Dispute Resolution arrangements



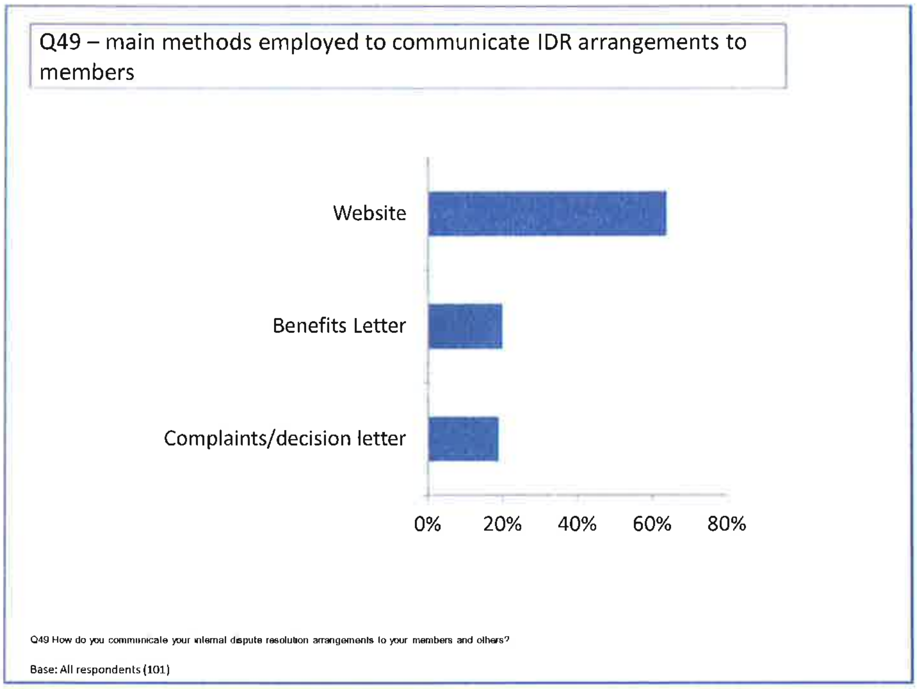

### Figure 4.16-2: circumstances under which Internal Dispute Resolution arrangements are reviewed



In terms of internal dispute resolution (IDR) arrangements, assessments tended to be carried out on infrequent or ad hoc basis for all scheme types. 14 out of 22 Police schemes and 15 out of 53 Local Government schemes reported that they carried out reviews annually. Schemes reported that they typically reviewed arrangements as part of a wider internal reporting review.

Online methods were prevalent as a form of communication, but IDR arrangements were either included with or mentioned in hard copy communications by a large minority of schemes. This was consistent across all scheme types.

**Figure 4.16-3: main methods employed to communicate Internal Dispute Resolution arrangements to members**




## 4.17 Reporting breaches

Training was provided to the scheme managers and pension board members on their duty to report breaches of the law to the regulator for 71 out of 101(70%) schemes. Overall, 56 out of 101 (55%) schemes reported that their scheme had procedures in place to enable the scheme manager, pension board members and those who have a duty to report to identify and assess breaches of the law.

Among Central schemes, training was provided in two-thirds of the schemes (8 out of 12). The same proportion of schemes (8 out of 12) had procedures in place regarding identifying and assessing breaches of the law.

Just over half (8 out of 14) of Fire and rescue schemes stated training was provided regarding reporting breaches of the law, with five schemes stating they had procedures relating to identifying and assessing breaches of the law in place.

Training was provided regarding duties to report breaches of the law among two-thirds of Local government schemes (37 out of 53). With regard to having procedures in place relating to identifying and assessing breaches of the law, half of the Local government schemes stated they were doing this (27 out of 53).

The vast majority of Police schemes (18 out of 22) provided training regarding reporting breaches of the law. Around three-quarters (16 out of 22) had procedures relating to identifying and assessing breaches of the law in place.

**Figure 4.17-1: Provision of training for scheme managers and pension board members on their duty to report breaches of the law to the regulator**

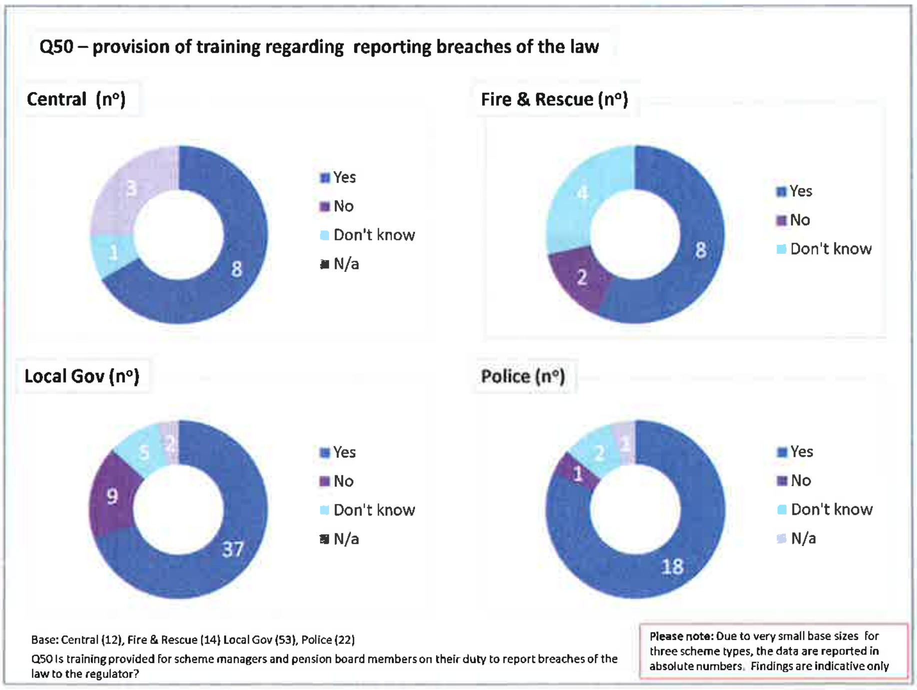
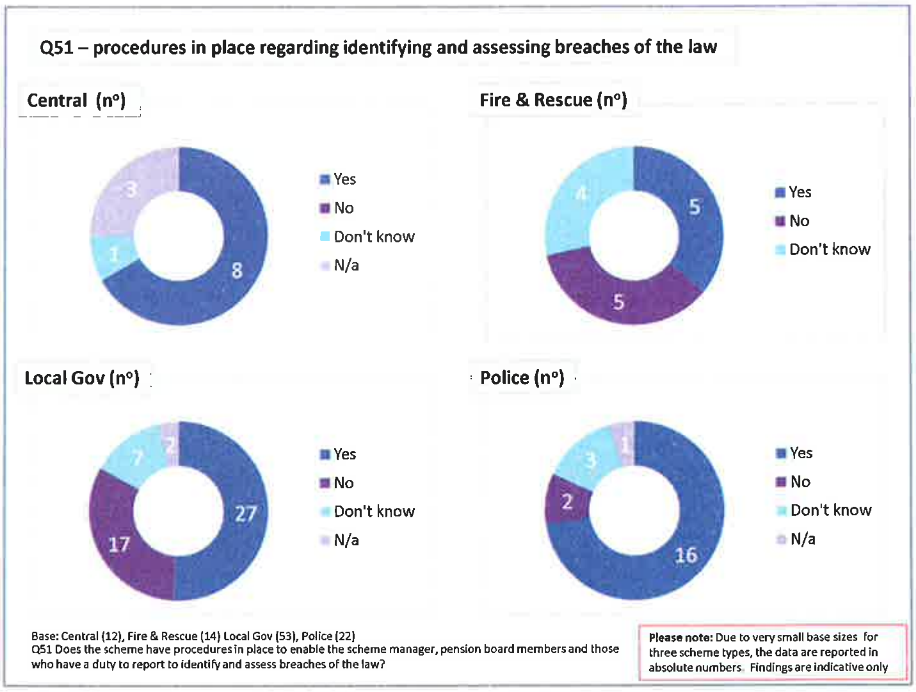


**Figure 4.17-2: Procedures in place to enable the scheme manager, pension board members and those who have a duty to report to identify and assess breaches of the law**



# Agenda Item 6

Report for INFORMATION

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Review of Pension Fund Panel Papers and Minutes from 18 January and 9 February 2016 meetings |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | Pension Board |


**Report Summary**
The purpose of this report is to bring to the Pension Board the papers and minutes from the last meeting of the Berkshire Pension Fund Panel and Pension Fund Advisory Panel with particular reference to the Stewardship Report.


| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

Members of the Pension Board are required to review Pension Fund Panel papers and minutes in its role to assist the Scheme Manager in securing compliance with the Scheme Regulations, associated legislation and the requirements imposed by the Pensions Regulator.

**RECOMMENDATION:** That the Berkshire Pension Board review the panel papers previously circulated (with specific regard to the Stewardship Report) and consider any recommendations to take to the next meeting of the Berkshire Pension Fund Panel and Pension Fund Advisory Panel.

**2. Reason for Recommendation(s) and Options Considered**

The Pension Board has a duty to assist the Administering Authority in securing compliance with all governance and administration issues.

**3. Key Implications**

Failure to fulfil the role and purpose of the Pension Board could lead to the Pension Fund and the Administering being open to challenge and intervention by the Pensions Regulator.

**4. Financial Details**

Not applicable.

**5. Legal Implications**

None.

**6. Value For Money**

Not relevant.

**7. Sustainability Impact Appraisal**

There are no known implications.

**8. Risk Management**

None.

**9. Links to Strategic Objectives**

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

**10. Equalities, Human Rights and Community Cohesion**

There are no known implications.

**11. Staffing/Workforce and Accommodation implications:**

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

## 14. Consultation

Not applicable.

## 15. Timetable for Implementation

Not applicable.

## 16. Appendices

None.

## 17. Background Information

Berkshire Pension Fund Panel and Pension Fund Advisory Panel papers and minutes from 18th January and 9th February 2016.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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THE ROYAL COUNTY OF BERKSHIRE PENSION FUND

# STEWARDSHIP REPORT

## QUARTER 3 – 2015/16

## 1ST SEPTEMBER 2015 TO 30TH NOVEMBER 2015

# TABLE OF CONTENTS

## 1. INVESTMENT PERFORMANCE AND ASSET ALLOCATION

### *1.1 Pension Fund key financial indicators*

| Table 1 | March 2010 | March 2013 | November 2015 |
|---|---|---|---|
| **Asset Value (Smoothed)** | £1,307.7m | £1,561.8m | £1,660.5m |
| **Asset Value (Unsmoothed)** | £1,319.4m | £1,572.4m | £1,687.8m |
| **Liabilities (Smoothed)** | £1,618.4m | £2,088.8m | £2,291.4m |
| **Liabilities (Unsmoothed)** | £1,618.4m | £2,107.7m | £2,313.2m |
| **Deficit (Smoothed)** | £310.7m | £527.0m | £630.9m |
| **Deficit (Unsmoothed)** | £299.0m | £535.3m | £625.5m |
| **Funding Level (Smoothed)** | 81% | 75% | 72% |
| **Funding Level (Unsmoothed)** | 82% | 75% | 73% |
| **Deficit Recovery Period** | 30 years | 27 years | 25 years |
| **Nominal Discount Rate** | 6.8% | 6.1% | 6.0% |
| **Real Discount Rate** | 3.3% | 3.4% | 3.4% |
| **Investment Performance Target (CPI + 4%)** | 7.0% | 6.7% | 7.3% |
| **Nominal Earnings Inflation Assumption** | 4.7% | 4.5% | 4.4% |
| **Consumer Price Index Inflation Assumption** | 3.0% | 2.7% | 2.6% |
| **Employers Contributions – Future Service** | 12.8% | 12.7% | 12.4% |
| **Employers Contributions – Past Service Deficit** | 3.7% | 6.9% | 7.8% |

### *1.2 Change in the smoothed liabilities*

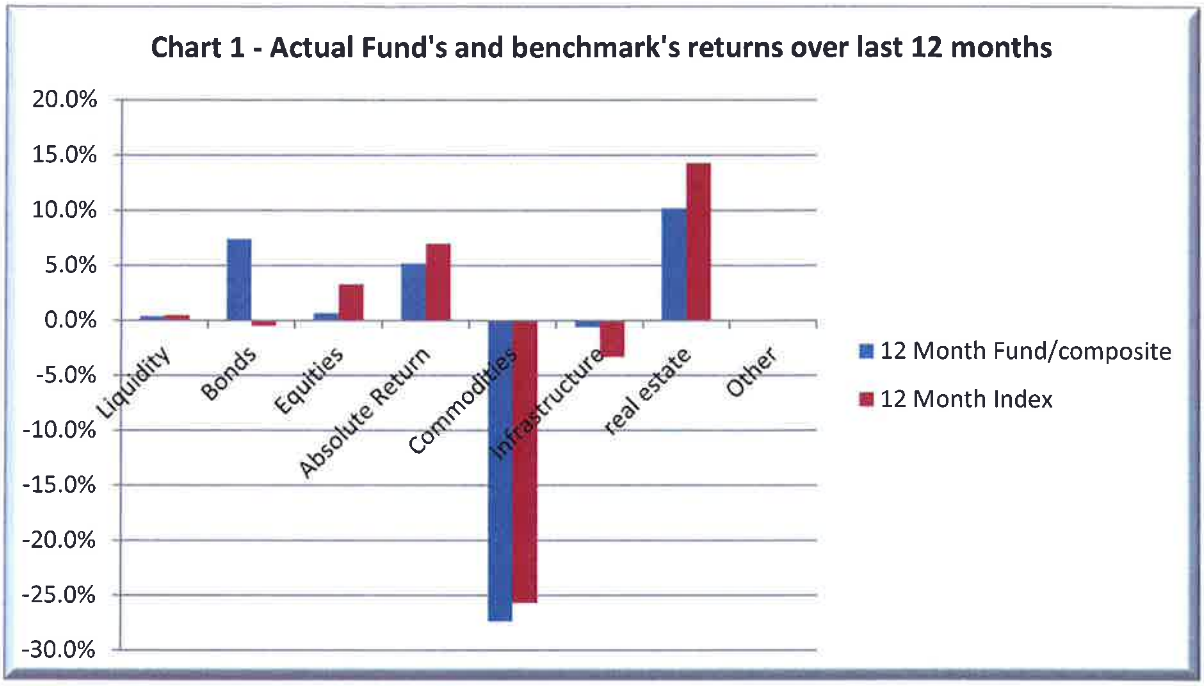
| Table 2 | 30 Nov 2015 |
|---|---|
| **Liability reconciliation** | **£m** |
| | |
| **Disclosed smoothed liability at 31/03/2013** | **2,088.8** |
| New liabilities (excluding transfers in) | 208.1 |
| Liabilities extinguished | -244.7 |
| Net new liabilities from bulk transfers in/out | -79.8 |
| Interest on liabilities | 339.9 |
| Change due to discount rate | 47.5 |
| Change due to inflation assumption | -71.7 |
| Change in value of longevity insurance contract | 3.3 |
| ***Increase in Liabilities*** | **202.6** |
| **Smoothed liability at 30 November 2015** | **2,291.4** |

NOTE: The actuary smooths liabilities by taking the average liability figure over the last 6 months.

## 1.3 Market returns

| Table 3 | | 3 month | 12 month | 36 month |
|---|---|---|---|---|
| **Liquidity** | **Fund** | 0.09% | 0.35% | 0.35% |
| 1 Week GBP Libor | **Index** | 0.12% | 0.48% | 0.48% |
| | **Relative** | -0.03% | -0.13% | -0.13% |
| **Bonds** | **Fund** | 2.02% | 7.38% | n/a |
| Barclays Global Aggregate | **Index** | 1.21% | -0.47% | -0.05% |
| | **Relative** | 0.81% | 7.85% | n/a |
| **Developed Markets Equities** | **Fund** | 4.78% | 2.53% | n/a |
| Morgan Stanley Capital International (MSCI) World | **Index** | 5.67% | 3.28% | 13.31% |
| | **Relative** | -0.89% | -0.75% | n/a |
| **Emerging Markets Equities** | **Fund** | 3.03% | -9.15% | 4.00% |
| Morgan Stanley Capital International EM Equities | **Index** | 2.03% | -13.64% | -2.54% |
| | **Relative** | 1.00% | 4.49% | 6.54% |
| **Private Equity** | **Fund** | 4.98% | 11.35% | n/a |
| 9% per annum | **Index** | 2.18% | 9.00% | 9.00% |
| | **Relative** | 2.81% | 2.36% | n/a |
| **Total Equities** | **Fund** | 4.33% | 0.65% | n/a |
| Morgan Stanley Capital International World | **Index** | 5.67% | 3.28% | 13.31% |
| | **Relative** | -1.34% | -2.63% | n/a |
| **Absolute Return** | **Fund** | 0.91% | 5.15% | n/a |
| 7% per annum | **Index** | 1.70% | 7.00% | 7.00% |
| | **Relative** | -0.79% | -1.85% | n/a |
| **Commodities** | **Fund** | -9.79% | -27.42% | -17.28% |
| Custom Equal Weights | **Index** | -8.89% | -25.67% | -15.86% |
| | **Relative** | -0.90% | -1.75% | -1.42% |
| **Infra-structure** | **Fund** | 0.41% | -0.62% | 5.02% |
| FTSE Global Core 50/50 | **Index** | 2.13% | -3.32% | 10.54% |
| | **Relative** | -1.73% | 2.69% | -5.52% |
| **Real Estate** | **Fund** | 0.39% | 10.20% | 7.12% |
| UK Investment Property Databank | **Index** | 3.23% | 14.28% | 14.29% |
| | **Relative** | -2.83% | -4.09% | -7.16% |

## *1.4 Fund performance*




## *1.5 Exception Traffic Lights November 2015*

**Table 4**

**Traffic Lights November 2015**

| Colour | | £ m | Fund % | Comment |
|---|---|---|---|---|
| | **BONDS** | | | |
| | **Convertible Bonds** | | | |
| Amber | Aviva | 36.1 | 2.1% | Change in management team & weak performance |
| Amber | Blue Bay Global | 27.1 | 1.6% | Currency volatility has resulted in disappointing GBP returns. |
| | **EQUITIES** | | | |
| | **Developed World** | | | |
| Amber | IPM Fundamental Umbrella Fund | 169.2 | 10.0% | Performance remains below target. |
| | **Private Equity** | | | |
| Amber | South East Growth Fund | 4.1 | 0.2% | Terms of additional extension to fund life agreed |
| Amber | Stafford Sustainable Fund | 4.6 | 0.3% | Disappointing performance. Buyer not found |
| | **INFRASTRUCTURE** | | | |
| Amber | Macquarie SBI Infrastructure Ltd | 3.0 | 0.2% | Performance adversely affected by delays in construction of key assets |
| | **COMMODITIES** | | | |
| Amber | Gresham | 37.2 | 2.2% | Change in ownership. Poor performance continues |
| | **Total Fund Valuation (excl prepaid contribs)** | **1,687.8** | | |

**Key**

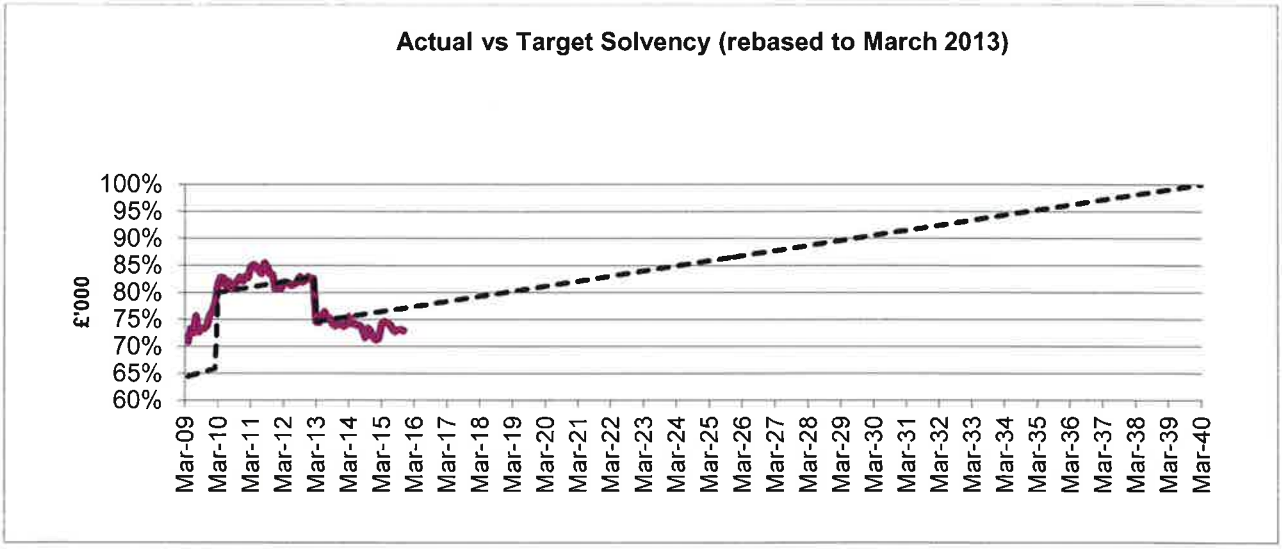
| Colour | Comment |
|---|---|
| Red | **Recommendation that action be taken:** following a review by officers. |
| Amber | **Performance being reviewed by officers:** the fund is not meeting its target return over the medium term (ie over a 1 to 2 year rolling period) or there are adverse material changes to processes/people/the firm. |
| Green | **Satisfactory perfomance:** performance at least in line with target return or expectations. |
| Blank | **Too early in the life of a fund to comment on performance.** |

### 1.6 *Asset allocation update*

| Table 5 | Comparison of Strategic Asset Allocation "SSA" changes | | | | |
|---|---|---|---|---|---|
| **SSA Weights** | **31/03/2010** | **31/03/2013** | **30/11/2015** | **12 month change** | **Change since 31 March 2013** |
| ***Liquidity*** | ***7.9%*** | ***1.1%*** | ***6.0%*** | ***0.6%*** | ***4.9%*** |
| Investment Grade Debt | 20.4% | 7.9% | *5.0%* | *-1.2%* | *-2.9%* |
| Other Debt | 11.7% | 8.7% | *8.2%* | *0.3%* | *-0.5%* |
| ***Total Debt*** | ***32.1%*** | ***16.6%*** | ***13.2%*** | ***-0.9%*** | ***-3.4%*** |
| Developed Market Equities | 17.3% | 17.2% | *21.3%* | *3.1%* | *4.1%* |
| Developing Market Equities | 6.2% | 14.7% | *11.6%* | *-1.9%* | *-3.1%* |
| Private Equity | 6.7% | 9.2% | *9.0%* | *1.1%* | *-0.2%* |
| ***Total Equities*** | ***30.2%*** | ***41.1%*** | ***41.9%*** | ***2.3%*** | ***0.8%*** |
| ***Absolute Return*** | ***9.9%*** | ***17.2%*** | ***17.6%*** | ***1.3%*** | ***0.4%*** |
| Infrastructure | 1.9% | 4.7% | *4.2%* | *0.2%* | *-0.5%* |
| Commodities | 8.2% | 9.7% | *3.4%* | *-4.4%* | *-6.3%* |
| Real Estate | 7.3% | 9.8% | *13.0%* | *1.5%* | *3.2%* |
| Other | 2.5% | -0.3% | *0.7%* | *-0.6%* | *1.0%* |
| ***Real Assets*** | ***19.9%*** | ***23.9%*** | ***21.3%*** | ***-3.3%*** | ***-2.6%*** |
| **Fund Total** | **100%** | **100%** | ***100%*** | | |

### 1.7 *Solvency*

**Chart 2**

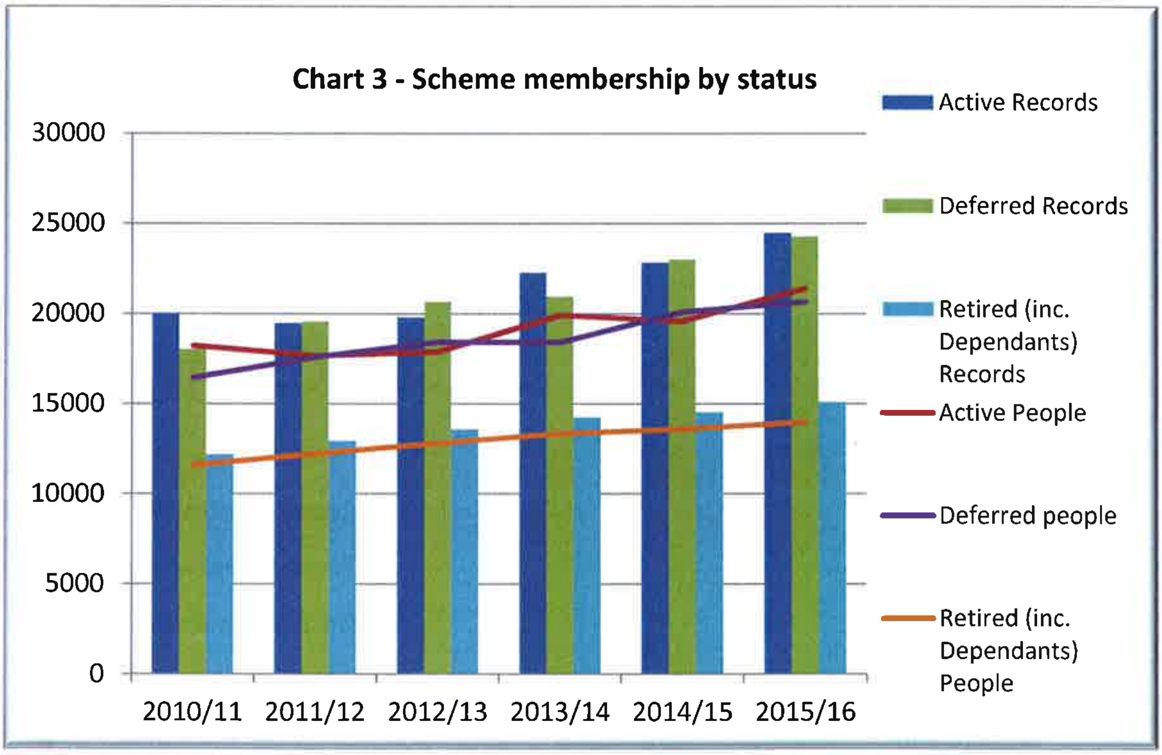


| Table 6 - Cashflow | Year to 31/03/2014 (actual) £'000's | Year to 31/03/15 (actual) £'000's | Year to 31/03/16 (forecast) £'000's |
|---|---|---|---|
| **Contributions** | 81,272 | 87,691 | 93,700 |
| **Transfers received** | 5.924 | 1,916 | 1,900 |
| **Employers' early retirement payments** | 2,602 | 1,400 | 3,000 |
| **Investment income via Custodian** | 15,928 | 23,762 | 17,000 |
| **Pension paid (gross)** | -70,625 | -73,625 | -74,400 |
| **Retirement lump sums** | -16,818 | -18,045 | -17,300 |
| **Transfers paid** | -5,641 | -67,201 | -1,900 |
| **Investment management costs** | -2,694 | -3,654 | -3,700 |
| **Employee costs** | -824 | -693 | -700 |
| **Other costs** | -978 | -1,106 | -700 |
| **Net cash flow** | **8,147** | **-49,555** | **16,900** |

NOTE: Transfers paid during year to 31 March 2015 were inflated by the statutory transfer of Thames Valley Probation staff to the Greater Manchester Pension Fund.

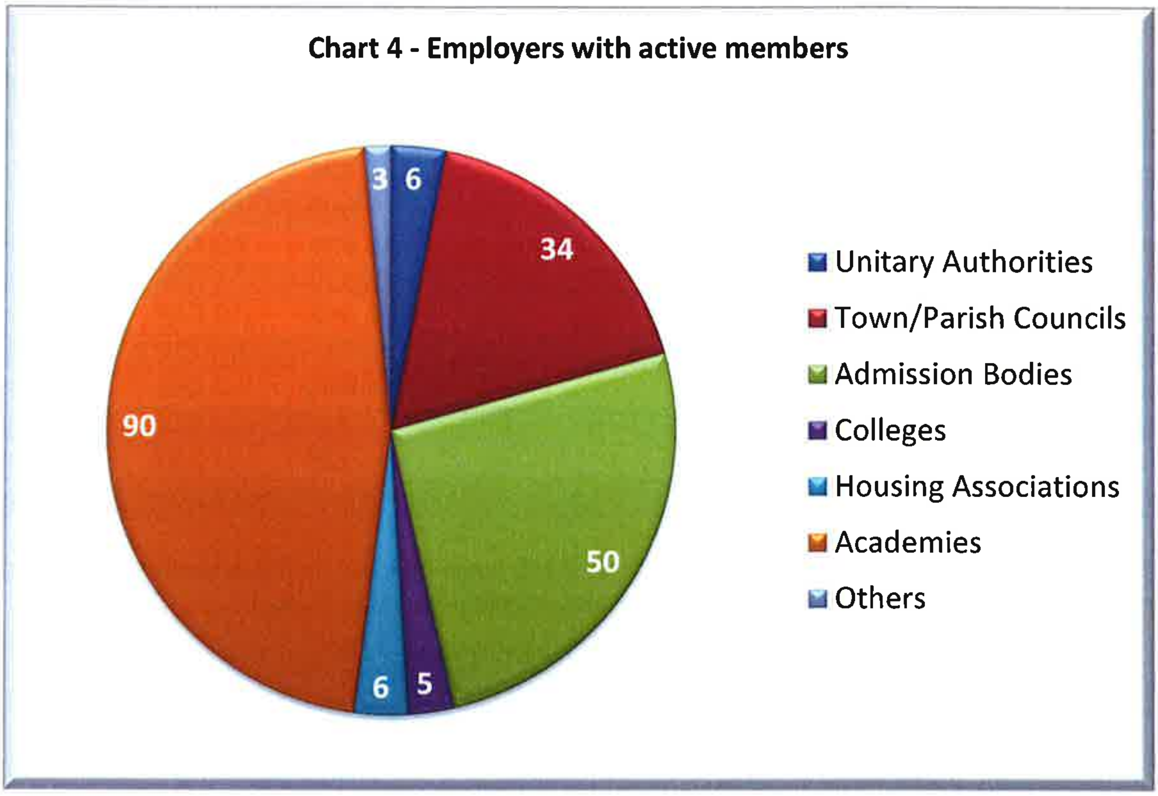
## 2 GOVERNANCE AND ADMINISTRATION

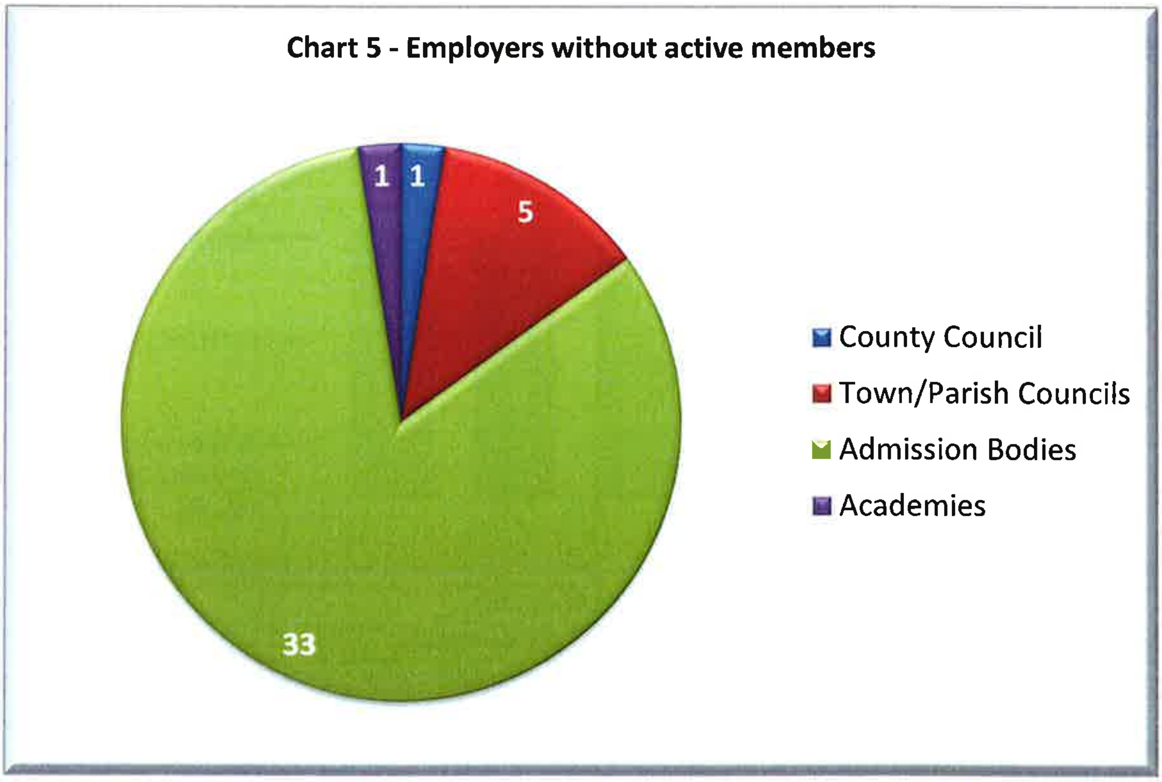
### *2.1 Scheme membership*




| TOTAL MEMBERSHIP | | | |
|---|---|---|---|
| Active Records | 24484 | Active People | 21401 |
| Deferred Records | 24293 | Deferred People | 20670 |
| Retired Records | 15098 | Retired People | 13996 |
| **TOTAL** | **63875** | **TOTAL** | **56067** |

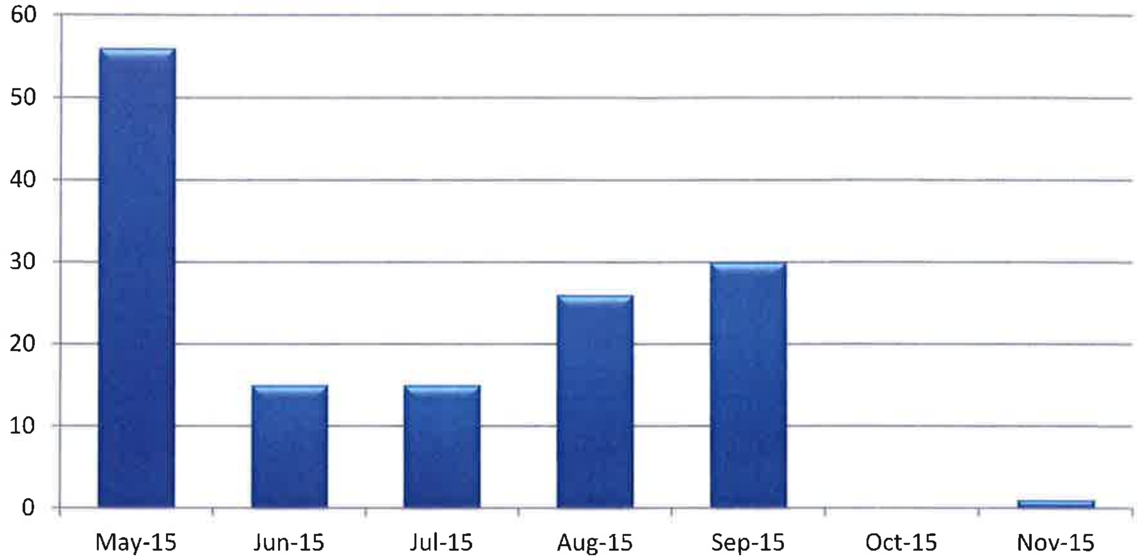
### 2.2 *Scheme Employers*



## 2.3 Notices of unsatisfactory performance

**Chart 6 - Notices issued**

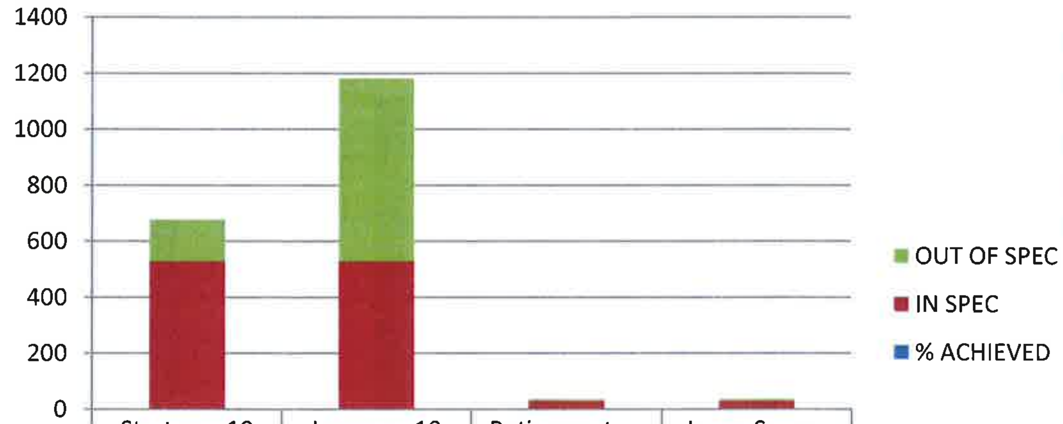



| | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 | |
|---|---|---|---|---|---|---|---|---|
| Total | 56 | 15 | 15 | 26 | 30 | 0 | 1 | 0 |

NOTE: No cases have been deemed to be of material significance and so have not been reported to the Pensions Regulator. A summary of cases can be found at Annex 1 to this report

## 2.4 Scheme Employer Key Performance Indicators

**Chart 7 - Scheme Employer KPIs Q2 2015-16**

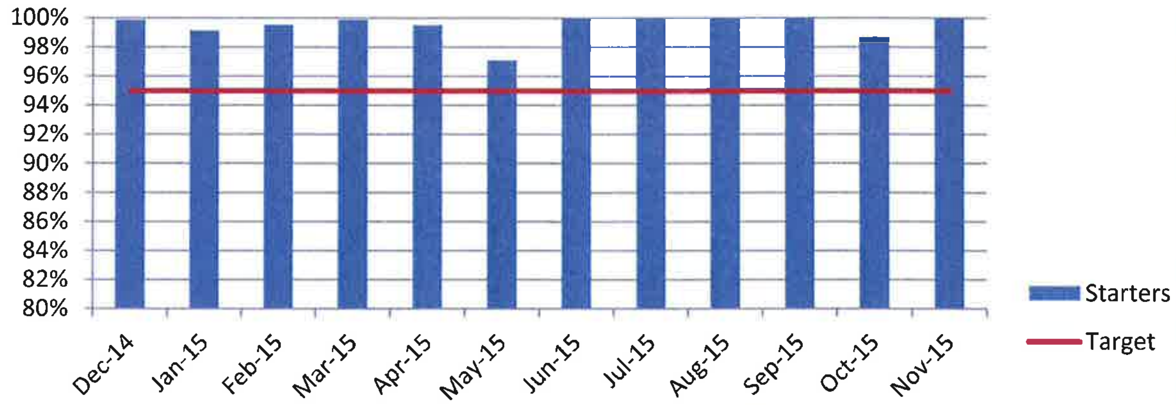



| | Starters - 10 days | Leavers - 10 days | Retirements - 5 days | Lump Sums - 30 days |
|---|---|---|---|---|
| OUT OF SPEC | 148 | 653 | 7 | 7 |
| IN SPEC | 529 | 529 | 28 | 28 |
| % ACHIEVED | 78.14% | 44.75% | 80.00% | 80.00% |

| Table 8 | TREND | STARTERS | LEAVERS | RETIREMENTS | LUMP SUMS |
|---|---|---|---|---|---|
| 2015-16 | Q2 –OUT | 1168 | 171 | 18 | 22 |
| | Q2 – IN | 307 | 82 | 30 | 25 |
| | % ACHIEVED | 20.81% | 32.41% | 62.50% | 53.19% |
| 2015-16 | Q1 –OUT | 593 | 477 | 8 | 8 |
| | Q1 – IN | 212 | 262 | 6 | 6 |
| | % ACHIEVED | 26.34% | 35.45% | 42.86% | 42.86% |

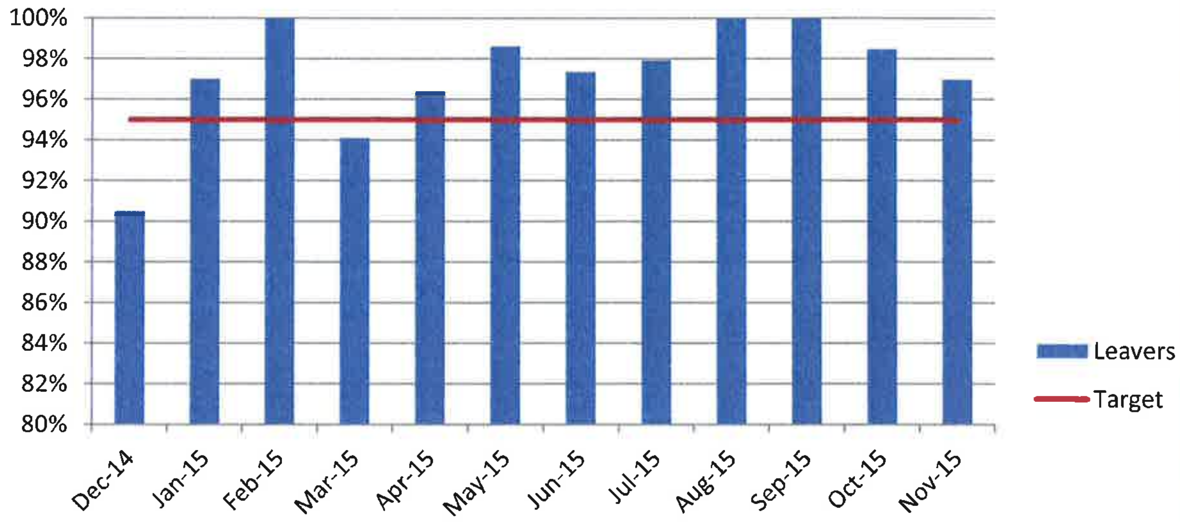
## *2.5 Administration – Key Performance Indicators*

**Chart 8A - KPI 1 - Starters processed within 20 working days**



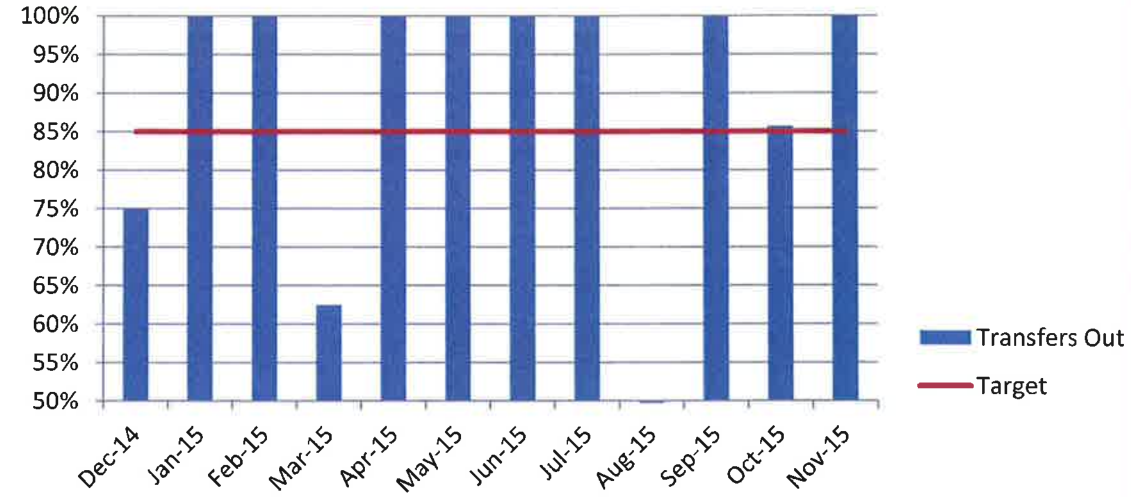

| | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Starters | 99.85 | 99.14 | 99.53 | 99.89 | 99.5 | 97.1 | 100 | 100 | 100 | 100 | 98.67 | 100 |
| Target | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 |
| Total | 649 | 347 | 642 | 948 | 369 | 102 | 383 | 299 | 403 | 277 | 296 | 254 |

**Chart 8B - KPI 2 - Leavers processed within 15 working days**



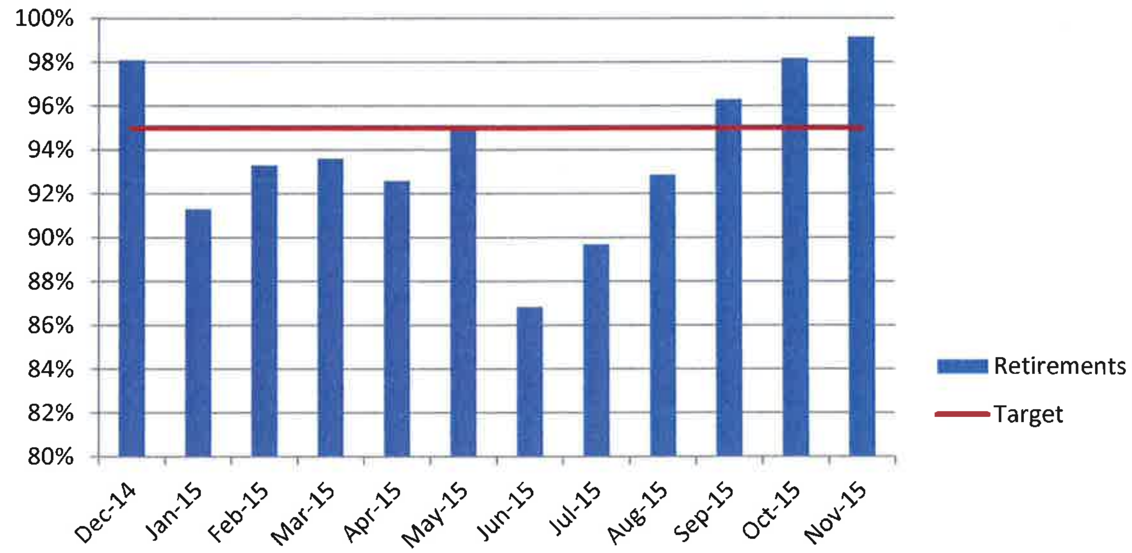

| | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Leavers | 90.48 | 97.01 | 100 | 94.1 | 96.4 | 98.62 | 97.36 | 97.92 | 100 | 100 | 98.47 | 96.98 |
| Target | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 |
| Total | 252 | 402 | 350 | 322 | 222 | 217 | 221 | 289 | 320 | 281 | 386 | 321 |

## Chart 8C - KPI 3 - Transfers out processed within 15 working days



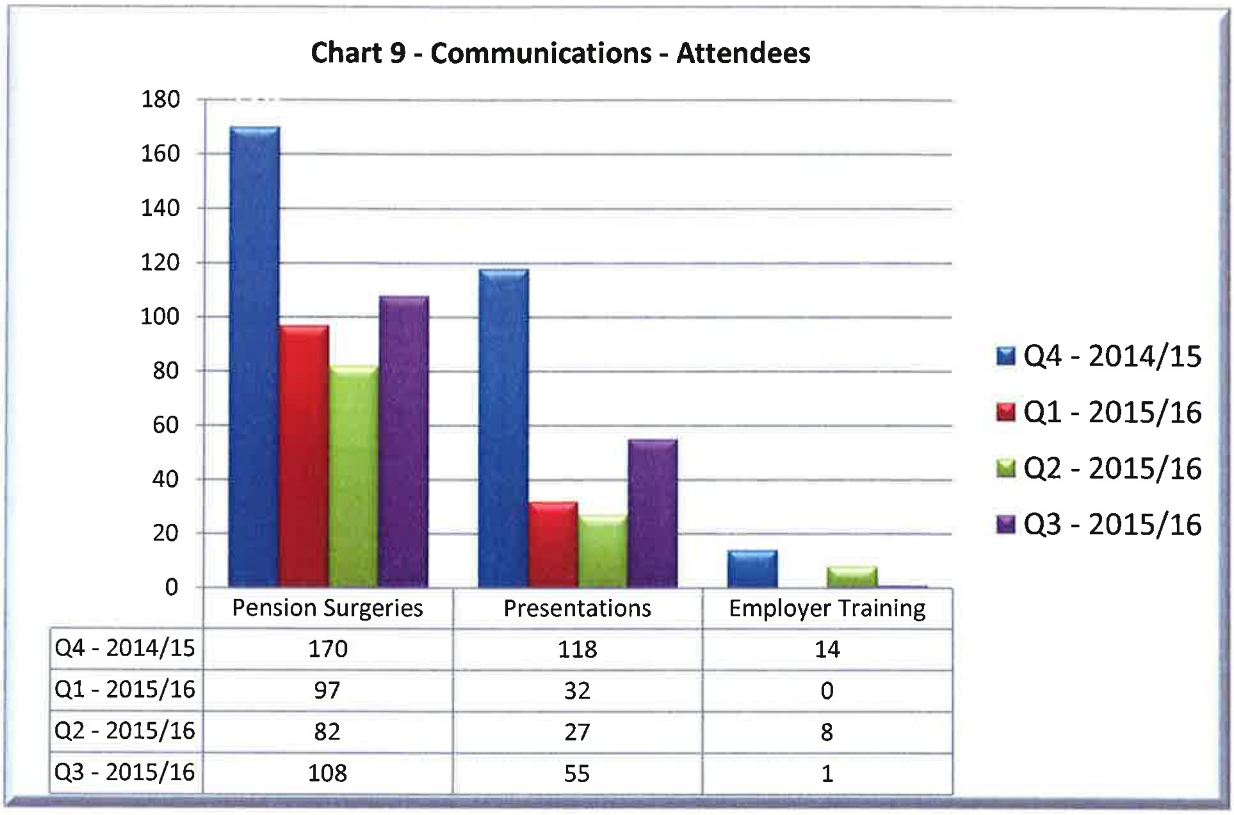

| | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Transfers Out | 75 | 100 | 100 | 62.5 | 100 | 100 | 100 | 100 | 0 | 100 | 85.71 | 100 |
| Target | 85 | 85 | 85 | 85 | 85 | 85 | 85 | 85 | 85 | 85 | 85 | 85 |
| Total | 4 | 3 | 3 | 5 | 1 | 5 | 3 | 3 | 1 | 7 | 6 | 3 |

## Chart 8D - KPI 4 - Retirements processed within 7 working days



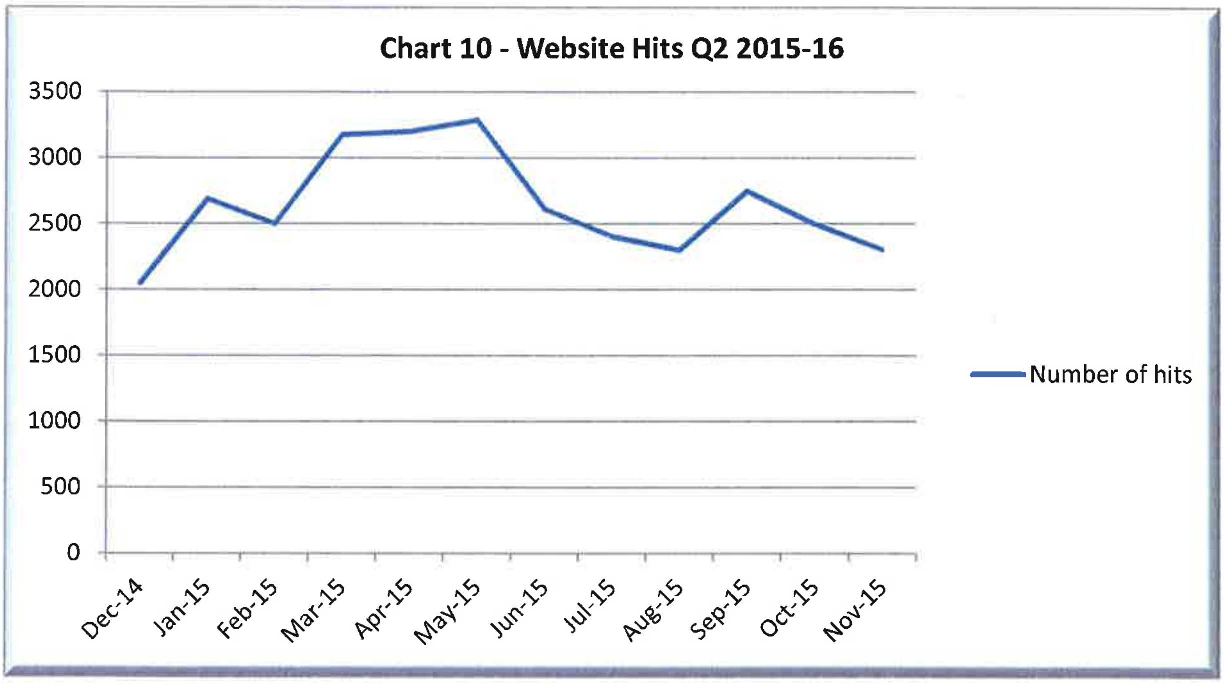

| | Dec-14 | Jan-15 | Feb-15 | Mar-15 | Apr-15 | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Retirements | 98.1 | 91.3 | 93.3 | 93.6 | 92.59 | 95.12 | 86.84 | 89.69 | 92.86 | 96.3 | 98.18 | 99.15 |
| Target | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 | 95 |
| Total | 53 | 92 | 75 | 94 | 222 | 41 | 76 | 97 | 98 | 104 | 108 | 116 |

## 2.6 *Administration - Communications*




| | Pension Surgeries | Presentations | Employer Training |
|---|---|---|---|
| Q4 - 2014/15 | 170 | 118 | 14 |
| Q1 - 2015/16 | 97 | 32 | 0 |
| Q2 - 2015/16 | 82 | 27 | 8 |
| Q3 - 2015/16 | 108 | 55 | 1 |

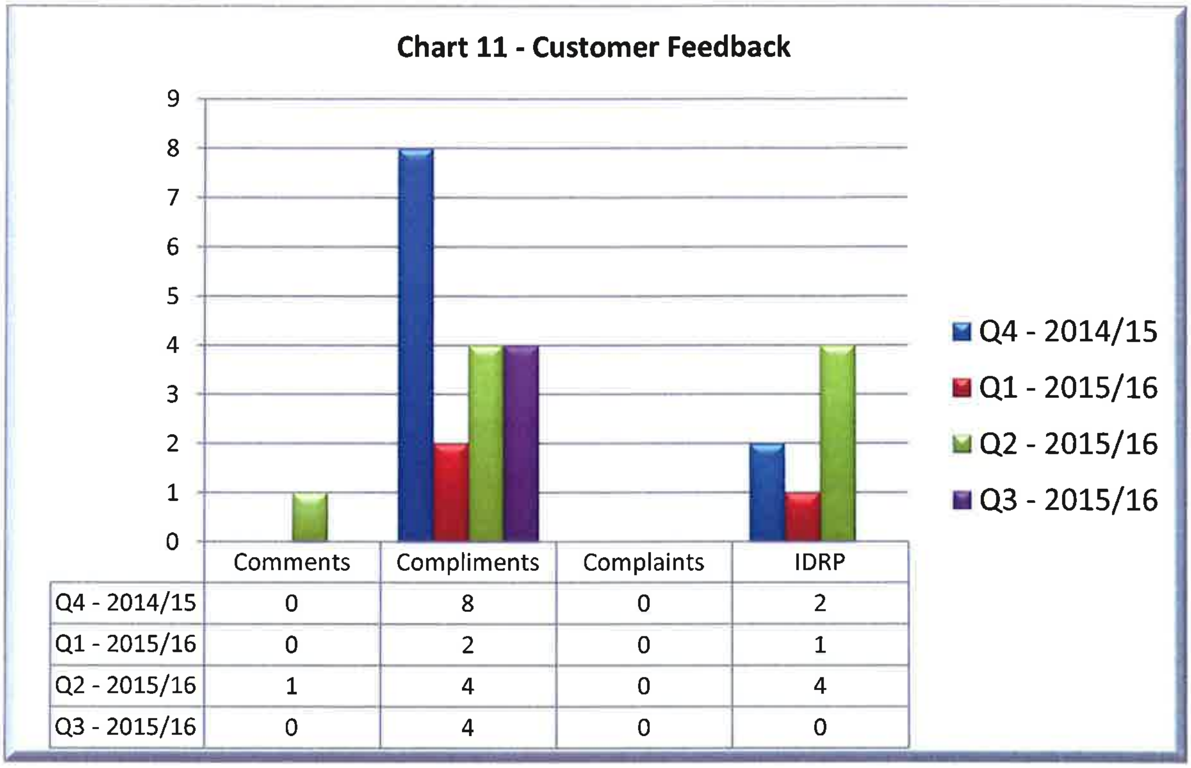
## 2.7 *Website hits*




## 2.8 *Special projects*

- GMP reconciliation
- i-Connect
- PASA
- Software Tender

## 2.9 Comments, compliments and complaints




| | Comments | Compliments | Complaints | IDRP |
|---|---|---|---|---|
| Q4 - 2014/15 | 0 | 8 | 0 | 2 |
| Q1 - 2015/16 | 0 | 2 | 0 | 1 |
| Q2 - 2015/16 | 1 | 4 | 0 | 4 |
| Q3 - 2015/16 | 0 | 4 | 0 | 0 |

**TABLE 9 - INTERNAL DISPUTE RESOLUTION PROCEDURES (IDRP)**

| Period | Case | Summary of complaint | Stage 1 | Stage 2 | Stage 3 | Resolution |
|---|---|---|---|---|---|---|
| Q4 – 2014/15 | 1 | Request for early release of deferred benefits due to permanent ill health. | √ | √ | X | Case rejected at both stage 1 and 2. Not referred to PO. |
| | 2 | Claim made for survivor's pension not due under regulation | √ | X | X | Rejected at Stage 1 as no statutory right to benefit. |
| Q1 – 2015/16 | 1 | Request for early release of benefits due to permanent ill health. | √ | √ | X | Case rejected at stage 1 but accepted at Stage 2. |
| Q2 – 2015/16 | 1 | Disputing the tier awarded for ill health retirement. | √ | √ | | Case rejected at stage 1. Currently under review at stage 2. |
| | 2 | Request for early release of deferred benefits on compassionate grounds. | √ | X | X | Case rejected at stage 1. No application made under stage 2. |
| | 3 | Disputing termination of employment and affect on pension benefits | √ | | | Case currently under review at stage 1. |
| | 4 | Request for early release of deferred benefits due to permanent ill health. | √ | √ | | Case rejected at stage 1. Currently under review at stage 2. |

NOTE: Stage 1 refers to Adjudicator at Scheme Employer level
Stage 2 refers to adjudicator at Administering Authority level
Stage 3 refers to the Pensions Ombudsman

*Annex 1 – Notices of unsatisfactory performance*

| Form | May-15 | Jun-15 | Jul-15 | Aug-15 | Sep-15 | Oct-15 | Nov-15 |
|---|---|---|---|---|---|---|---|
| **1** | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **2A** | 4 | 6 | 1 | 0 | 0 | 0 | 0 |
| **2B** | 3 | 0 | 0 | 6 | 7 | 0 | 0 |
| **2C** | 46 | 9 | 11 | 20 | 23 | 0 | 0 |
| **3** | 3 | 0 | 3 | 0 | 0 | 0 | 1 |
| **Total** | **56** | **15** | **15** | **26** | **30** | **0** | **1** |

Key: Form 1: Administering Authority additional costs arising from employers' poor performance
Form 2A: Contributions unpaid
Form 2B: Contributions paid late
Form 2C: Contribution breakdown not received
Form 3: Late settlement of Capital Cost invoices

*Annex 2 - Summary of employer KPIs*

**Starters received within specification Q3**

| Employer | IN | OUT | Total | % IN | Q2 | Q1 |
|---|---|---|---|---|---|---|
| Academies | 74 | 32 | 106 | 69.81% | 10.99% | 0.07% |
| Bracknell Forest Council | 72 | 3 | 75 | 96.00% | 69.89% | 73.20% |
| RBWM | 59 | 6 | 65 | 90.77% | 15.54% | 16.33% |
| Reading BC | 58 | 27 | 85 | 68.24% | 12.00% | 0.00% |
| Slough BC | 51 | 3 | 54 | 94.44% | 47.06% | 59.62% |
| University of West London | 0 | 0 | 0 | 0.00% | 0.00% | n/a |
| West Berkshire Council | 151 | 15 | 166 | 90.96% | 19.42% | 27.12% |
| Wokingham BC | 19 | 8 | 27 | 70.37% | 20.80% | 12.96% |
| Wokingham BC (Selima) | 2 | 5 | 7 | 28.57% | 22.64% | 39.13% |

**Leavers received within specification Q3**

| Employer | IN | OUT | Total | % IN Spec | Q2 | Q1 |
|---|---|---|---|---|---|---|
| Academies | 61 | 100 | 161 | 37.89% | 15.97% | 15.50% |
| Bracknell Forest Council | 98 | 77 | 175 | 56.00% | 49.19% | 46.94% |
| RBWM | 63 | 72 | 135 | 46.67% | 42.74% | 45.21% |
| Reading BC | 106 | 108 | 214 | 49.53% | 27.47% | 29.09% |
| Slough BC | 50 | 29 | 79 | 63.29% | 58.67% | 58.93% |
| University of West London | 1 | 0 | 1 | 100.00% | 100.00% | 66.67% |
| West Berkshire Council | 58 | 99 | 157 | 36.94% | 62.42% | 64.00% |
| Wokingham BC | 29 | 23 | 52 | 55.77% | 7.14% | 10.34% |
| Wokingham BC (Selima) | 9 | 52 | 61 | 14.75% | 4.88% | 9.09% |

**Retirements not notified within 5 days from retirement date – Q3 2015-16**

| Employer | Member | Days Over 5 |
|---|---|---|
| Mott MacDonald | DLW | 7 |
| Optalis Ltd | DAD | 4 |
| Park House School Newbury | JBL | 12 |
| Reading BC | MP | 11 |
| Reading BC | GMW | 4 |
| West Berkshire Council | IEV | 8 |
| Wokingham BC | PG | 3 |

**Lump sums paid >30 days after retirement date – Q3 2016-16**

| Employer | Member | Days Over 30 | Interest | Reason |
|---|---|---|---|---|
| Mott MacDonald | DLW | 21 | £15.17 | 2 |
| Optalis Ltd | DAD | 14 | £23.25 | 2 |
| Park House School Newbury | JBL | 13 | £0.86 | 1 |
| Reading BC | MP | 11 | £21.59 | 1 |
| Reading BC | GMW | 4 | £28.95 | 2 |
| West Berkshire Council | IEV | 8 | £47.88 | 1,2 |
| Wokingham BC | SFV | 25 | £5.95 | 2 |

NOTE: All interest paid by the pension fund.

Reason key:
1 Scheme employer delay in sending leaver from
2 Member delay in returning retirement forms
3 Pension Fund delay in calculation and/or making payment

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BERKSHIRE PENSION FUND PANEL

MONDAY, 18 JANUARY 2016

PRESENT: Councillors Lenton (Chairman), Hilton (RBWM), Tickner (Reading), Stanton (Wokingham), Worrall (Bracknell Forest), Law (West Berks) and Nicholls (Unison).

Independent Adviser to the Panel: Mr Dhingra

Officers: Mr Greenwood, Mr Taylor, Mr Brooker, Mr Pedro, Mr Boyton and Mr Cook.

## APOLOGIES

Apologies for absence were received by Councillors Hill, Love and Brooker.

## DECLARATIONS OF INTEREST

There were no declarations of interest received.

The Panel agreed to vary the running order of the agenda.

## LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

**RESOLVED: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on items 5-8 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of part I of Schedule 12A of the Act.**

## MINUTES

The Part I minutes of the meeting held on 26 October 2016 were approved as a true and correct record with the alteration of Cllr Worrall's name on page 9.

## PENSIONS ADMINISTRATION

The Deputy Pension Fund Manager informed the Panel that the report under consideration covered the four areas where the administering authority had by statute to have policies; they were:

- Pension Administration Strategy (Annex 1)
- Administering Authority Decisions (Annex 2)
- Risk Assessment and Risk Register  (Annex 3)
- Reporting of Breaches of the Law (Annex 4)

With regards to the Pension Administration Strategy the Panel were informed that the Pensions Regulator now had responsibility for ensuring that an Administering Authority of a Local Government Pension Fund was compliant with certain standards relating to all areas of governance and administration.  Officers were seeking the approval of the strategy document (Annex 1) to support them in formulating and delivering to scheme employers, training with regard to their statutory obligations contained within the service level agreement.

Councillor Hilton asked for an update to the i-Connect. The Pension Administration Manager informed the Panel that RBWM had agreed to implement the system and inform the Berkshire Treasurers of progress; the Head of Finance informed that this would be done in a couple of weeks. Reading Borough Council was the only authority that had not expressed an interest. The Chairman asked Cllr Tickner if she knew why and was informed that she would make enquiries.

Cllr Law mentioned that the recommendation did not mention that I-Connect was a pilot and by agreeing to the document they would be agreeing to its implementation. Cllr Hilton responded that the policy was supporting the implementation of I-Connect; it would be for the other authorities to decide if they wished to install it.

As the recommendation was for the Panel to approve the strategy for implementation after consultation it was approved to change the recommendation to 'subject to changes made as a consequence of the consultation'.

With regards to Administering Authority Decisions (Annex 2) the Panel were informed that there were many occasions where the administering authority had certain discretion as to how the regulations could be applied.

Annex 2 to the report set out each of the individual regulations where an administering authority decision was required along with a brief explanation of what each regulation meant, policy options and a recommendation as to which policy should be adopted to each regulation.

The Panel considered each option contained in Annex 2 of the report page 39 to 49 of the agenda pack and all the recommended options within the report were approved.

With regards to the Risk Assessment and Risk register (Annex 3) the Panel were informed that the Scheme Manager had a legal duty to establish and operate internal controls and thus was recommending the appendix as an appropriate risk assessment and register. The document was in line with the RBWM register.

Cllr Stanton reported that he welcomed the document and asked if all major pieces of work had been risk assessed. The Panel were informed that they were and that they were being asked if they wished to see risk reported by exception or the whole register.

Cllr Tickner replied that she would like to see just the 'dashboard' for every meeting with further information being supplied on risks reporting 'Red'. The Panel were informed that during the summer consultants were being used to look at risk and get a dashboard focused on the Pension Fund rather then operational risks.

It was noted that 'Pooling' had not been added as a risk as there was insufficient information to put in mitigating actions.

It was agreed that the full list, as appended, would come to Panel for a final decision and that any further comments to be emailed to the Chairman and the Pension Fund Manager.

With regards to reporting breaches of the law (Annex 4) the Panel were informed that the document set out the reporting process. The Annex was noted and the Chairman said that any comments to be sent to the Deputy Pension Fund Manager.

**Resolved unanimously: That the Panel:**

i. **Considered the pension administration strategy at Annex 1 and agreed to its implementation from 1 April 2016 subject to changes made as a consequence of the consultation;**

ii. **adopted the administering authority decisions matrix as set out in Annex 2;**
iii. **noted the risk assessment and risk register as set out in Annex 3; and**
iv. **accepted the guide to reporting breaches of the law including the traffic light framework for reporting breaches as set out in Annex 4.**

PENSION ADMINISTRATION SOFTWARE TENDER

The Pension Administration Manager introduced the report that informed the Panel of the procurement of pension and payroll administration software.

The Panel were informed that the contract with *Heywood* Limited would end on 15 June 2016. Under the terms of the contract there was an option, at the Council's discretion, to extend for a further period of five years.

Although the functionality of *Heywood* package had served the administration team well for many years it was accepted that there now existed other suppliers that could deliver a software solution capable of administering the LGPS. There was also the issue that due to the number of changes to the LGPS that required software investment the costs had increased from £850k to over £1 million.

It was proposed that the tender criteria would be:

- Matching the Council's Specification
- In-house Demonstration
- Reference Site Visit
- Price

As previously discussed I-Connect was part of the administrating authorities plans and thus moving away from *Heywood* would be an unknown that would need to be considered. There remained an option to extend the existing contract for five years.

The Chairman questioned that as there was uncertainty over pension fund pooling if it would be possible to extend the contract by just one or two years. The Panel were informed that this would be a variation in the contract and would require agreement with the supplier.

Cllr Law raised concern that the contract was due to end on 15 June 2016 and he felt there would be insufficient time to carry out the tender process, evaluation and implementation. Cllr Law also recommended seeing if it was possible to extend the contract.

It was agreed that officers would investigate if it was possible to extend the contract outside the permitted five years.

STEWARDSHIP REPORT

The item was deferred.

LGPS COLLABORATION

The Pension Fund Manager introduced the report that detailed the discussion on three potential investments pools as required in the Local Government Pension Scheme: Investment Reform Criteria and Guidance published by the Department for Communities and Local Government ("DCLG") in November 2015.

The report detailed the potential pools officers had identified; these were:

- LPFA/LCC

- South West
- Central, East South East
- Midlands
- Northern
- Wales
- Cumbria/Surrey/East Riding
- London Collective Investment Vehicle

The report detailed initial discussions that officers had with the South West Group and the LPFA/LCC Group. It was noted that by the 19th February the fund had to give a commitment to pooling and its proposed arrangements.

The Chairman reported that in principal they would say yes, the Panel would look at the proposals and would report back at its next meeting.

INVESTMENT GOVERNANCE

The item was deferred.

DEVELOPING MARKETS INVESTMENT STRATEGY

The item was deferred.

The meeting, which began at 4.00 pm, finished at 6.40 pm

CHAIRMAN………………………………

DATE……………………………..........

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# BERKSHIRE PENSION FUND PANEL

## TUESDAY, 9 FEBRUARY 2016

PRESENT: Councillors Lenton (Chairman), Hilton (RBWM), Tickner (Reading), Stanton (Wokingham) and Law (West Berks).

Independent Adviser to the Panel: Mr Dhingra

Officers: Mr Greenwood, Mr Taylor, Mr Pedro and Mr Cook.

## APOLOGIES

Apologies for absence were received by Cllr Love, Cllr Hill, Cllr Worrall, Sue Nichols and Asia Allison.

## DECLARATIONS OF INTEREST

There were no declarations of interest received.

(Cllr Tickner joined the meeting)

The Panel agreed to change the agenda running order.

## LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

> **RESOLVED: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on items 5-8 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of part I of Schedule 12A of the Act.**

## INVESTMENT POOLING

The Pension Fund Manager introduced the report that dealt with the Funds initial response to investment pooling.

The Panel were informed that the Department for Communities and Local Government published on 25th November 2015 “Local Government Pension Scheme: Investment Reform Criteria and Guidance” setting out the criteria to be imposed to enforce pooling of investments by Local Government Pension Funds.

The letter, attached as appendix 1, was a short response to the DCLG confirming that the Borough would comply with the directive to pool.

In addition the Borough had informed that officers have held discussions with a number of the nascent pools regarding three key criteria:

- Ability of a pool to deliver the Fund’s investment strategy.
- The proposed governance arrangements.
- The quality of management of the pool.

In response to questions the Panel were informed that a more detailed response would be required in July 2015 where objections such as investing into infrastructure projects could be raised.

**Resolved unanimously: That the Panel approve the submission attached at Annex 1 and officers be authorised to submit the response by 19th February 2016.**

## INVESTMENT GOVERNANCE

The Pension Fund Manager introduced the report that sought to clarify the process for making investment decisions for the Fund and requested the Panel to delegate authority to the Investment Working Group and Officers.

The Panel were informed that internal audit had asked for clarity on delegated authority contained in the RBWM Constitution regarding the authorities of the Panel, Investment Working Group and officers.

The report contained a table that detailed the proposed specific delegated authorities and gave the rationale behind them. In short the Panel would be responsible for strategy, the IWG would Review investment opportunities / new managers and officers would undertake the management of the Fund.

During the discussion it was recommended that the IWG terms of reference be amended so that an Advisory Panel member had to be a member of IWG and that a maximum threshold of £20 million for a single investment be added for IWG. It was agreed that the Pension Fund Manager would review the wording of the table following these recommendations and amend accordingly.

**Resolved unanimously: That the table detailing specific delegated authorities be amended and sent to Panel members.**

## DEVELOPING MARKETS INVESTMENT STRATEGY

The Pension Fund Manager introduced the report that recommended the development of a multi-asset approach to investing in Developing Markets.

The Panel were informed that IWG had resolved that the Fund should increase its investment in developing markets up to 25% of the Fund's assets. The report provided a proposed approach to creating a multi-asset approach. There were two tables within the report one showing exposure and the other showing what the broad asset allocation would look like.

Cllr Tickner recommended that some Panel and Advisory Panel members may wish to have a training session on investments and investments terminology.

**Resolved unanimously: That the Panel:**

- **i. Approve the Developing Markets Investment Strategy at Annex 1.**
- **ii. Authorise officers to implement the strategy after consultation with the Investment Working Group on specific investment opportunities.**

## STEWARDSHIP REPORT

The Deputy Pension Fund Manager introduced the report that dealt with the stewardship of the Pension Fund for the period 1 September to 31 November 2015. The Panel were informed that the Pension Board had recommended that historical trend analysis be added to the report and where applicable this had been added.

The Independent Advisor questioned what action was being taken about the Amber traffic lights in table 4 and was informed that the IWG would be reviewing convertible bonds, with regards to the IPM Fundamental Umbrella Fund due to continued under performance they will be looking if it was best to remain or move to something else and with regards to the remaining investments they had to retain.

With regards to the notices of unsatisfactory performance it was noted that the issues of receiving the appropriate information would be addressed by I-Connect. RBWM were due to implement I-Connect and inform lessons learnt to the other Berkshire authorities.

**Resolved unanimously: That the Panel note:**

- **The investment performance and asset allocation of the Fund.**
- **All areas of governance and administration as reported.**
- **All key performance indicators.**

The meeting, which began at 4.00 pm, finished at 5.40 pm

CHAIRMAN……………………………….

DATE……………………………..........

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Report for INFORMATION

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Member Handbook |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | Pension Board |

**Report Summary**
The purpose of this report is to ensure that Board members are aware of how they access the Member Handbook and to request feedback from members.

| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

In accordance with the Pension Regulators Code of Practice No. 14 (Governance and Administration of Public Service Pension Schemes) every individual member of the Berkshire Pension Board must:

a) Be conversant with:

i) the rules of the Local Government Pension Scheme (LGPS), in other words the Regulations and other regulations governing the LGPS (including the Transitional Regulations, the Investment Regulations and earlier regulations as they still apply); and

ii) any document recording policy about the administration of the Pension Fund, and

b) Have the knowledge and understanding of:

i) the law relating to pensions; and
ii) such other matters as may be prescribed.

A Member Handbook has been produced to assist Board members in achieving their goals.

**RECOMMENDATION:** Each Pension Board member is asked to review the Member Handbook, available from the Pension Board section of Pension Fund's website and to regularly provide feedback to ensure the handbook meets their needs.

**2. Reason for Recommendation(s) and Options Considered**

Pension Board members are required to have a 'working knowledge' of the Scheme and associated pension legislation in order to carry out their duties. It is implicit that Members of the Board understand their responsibilities and obligations as set out in their Terms of Reference and Members need to be able to challenge any failure to comply with the Scheme rules.

Pension Board members must continuously analyse their knowledge, training needs and personal development to ensure that they are confident in fulfilling their legal responsibilities and the handbook should be used as the first point of reference to assist members in achieving those aims.

**3. Key Implications**

Pension Board Members have a legal duty to fulfil their obligations with regard to the level of knowledge and understanding required. Failure to achieve this could lead to a loss of public confidence.

**4. Financial Details**

Failure by the Board to fulfil its statutory responsibilities could lead to fines being imposed by the Pensions Regulator.

**5. Legal Implications**

Failure by the Board to meet its statutory obligations under legislation could lead to a number of potential possibilities including the intervention of the Pensions Regulator, a judicial review, a complaint to the Local Government or Pensions Ombudsman or an adverse comment by the Administering Authority auditor or the national Scheme Advisory Board.

**6. Value For Money**

Not relevant.

**7. Sustainability Impact Appraisal**

There are no known implications.

## 8. Risk Management

Members of the Pension Board to be clear as to the legal responsibilities placed upon them in order to mitigate the risk of the Board being ineffective.

## 9. Links to Strategic Objectives

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

## 10. Equalities, Human Rights and Community Cohesion

There are no known implications.

## 11. Staffing/Workforce and Accommodation implications:

None.

## 12. Property and Assets

None.

## 13. Any other implications:

None.

## 14. Consultation

Not applicable.

## 15. Timetable for Implementation

Immediate.

## 16. Appendices

None.

## 17. Background Information

Public Service Pensions Act 2013, Local Government Pension Scheme Regulations 2013 (as amended), The Pensions Regulator's Code of Practice.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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# Agenda Item 9

The Royal Borough
Windsor & Maidenhead

| |
|---|
| Report for ACTION |

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Training Progress |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | Pension Board |

**Report Summary**
The purpose of this report is to request Board members to update their training logs and identify future training needs.

| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

In accordance with the Pension Regulators Code of Practice No. 14 (Governance and Administration of Public Service Pension Schemes) every individual member of the Berkshire Pension Board must:

a) Be conversant with:

i) the rules of the Local Government Pension Scheme (LGPS), in other words the Regulations and other regulations governing the LGPS (including the Transitional Regulations, the Investment Regulations and earlier regulations as they still apply); and

ii) any document recording policy about the administration of the Pension Fund, and

b) Have the knowledge and understanding of:

i) the law relating to pensions; and
ii) such other matters as may be prescribed.

The Pension Board have developed a training policy and need to ensure that they engage with that policy and maintain a log of all training undertaken.

**RECOMMENDATION:** Each Pension Board Member is asked to provide details of all training undertaken to date by completion of the attached training log and to identify key future training needs.

**2. Reason for Recommendation(s) and Options Considered**

Pension Board members are required to have a 'working knowledge' of the Scheme and associated pension legislation in order to carry out their duties. It is implicit that Members of the Board understand their responsibilities and obligations as set out in their Terms of Reference and Members need to be able to challenge any failure to comply with the Scheme rules.

Pension Board members must continuously analyse their own training needs and personal development to ensure that they are confident in fulfilling their legal responsibilities.

**3. Key Implications**

Pension Board Members have a legal duty to fulfil their obligations with regard to the level of knowledge and understanding required. Failure to achieve this could lead to a loss of public confidence.

**4. Financial Details**

Failure by the Board to fulfil its statutory responsibilities could lead to fines being imposed by the Pensions Regulator.

**5. Legal Implications**

Failure by the Board to meet its statutory obligations under legislation could lead to a number of potential possibilities including the intervention of the Pensions Regulator, a judicial review, a complaint to the Local Government or Pensions Ombudsman or an adverse comment by the Administering Authority auditor or the national Scheme Advisory Board.

**6. Value For Money**

Not relevant.

**7. Sustainability Impact Appraisal**

There are no known implications.

## 8. Risk Management

Members of the Pension Board to be clear as to the legal responsibilities placed upon them in order to mitigate the risk of the Board being ineffective.

## 9. Links to Strategic Objectives

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

## 10. Equalities, Human Rights and Community Cohesion

There are no known implications.

## 11. Staffing/Workforce and Accommodation implications:

None.

## 12. Property and Assets

None.

## 13. Any other implications:

None.

## 14. Consultation

Not applicable.

## 15. Timetable for Implementation

Immediate.

## 16. Appendices

None.

## 17. Background Information

None.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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## BERKSHIRE PENSION BOARD - TRAINING LOG

| Name: | Date Completed | Suggested Further Action? |
|---|---|---|
| **TPR's Public Sector Online Toolkit (7 modules):** | | |
| Conflicts of Interest | | |
| Managing Risk and Internal Control | | |
| Maintaining Accurate Records | | |
| Maintaining Member Contributions | | |
| Providing Information to Members and Others | | |
| Resolving Internal Disputes | | |
| Reporting Breaches of the Law | | |
| **TPR Code of Practice No.14** | | |
| Governing Your Scheme | | |
| Managing Risks | | |
| Administration | | |
| Resolving Issues | | |
| **Pensions Legislation** | | |
| The Legislative Framework for Pensions in the UK | | |
| LGPS Regulations and Statutory Guidance | | |
| LGPS Discretions | | |
| Other Legislation | | |
| **Pensions Governance** | | |
| Understanding National and Local Governance Structure | | |
| Knowledge of Pension Fund Stakeholders | | |
| Knowledge of Pension Fund Stakeholder Consultation and Communication | | |
| Governance Policies | | |
| **Pension Administration** | | |
| Understanding Best Practice | | |
| Interaction with HMRC | | |
| Additional Voluntary Contributions | | |
| The Role of the Scheme Employer | | |
| Stewardship Report | | |

| Pensions Accounting and Auditing Standards | | |
|---|---|---|
| Understanding the Accounts and Audit Regulations | | |
| The Role of Internal and External Audit | | |
| Third Party Contracts | | |

| Investment Performance and Risk Management | | |
|---|---|---|
| Monitoring Assets and Assessing Long-Term Risk | | |
| Myners Principles of Performance Management | | |
| Awareness of Support Services | | |
| Understanding Risk and Return of Fund Assets | | |
| Understanding the Financial Markets | | |
| LGPS (Management and Investment of Funds) Regulations | | |
| HMRC and Overseas Taxation | | |

| Procurement and Relationship Management | | |
|---|---|---|
| Public Procurement Policy and Procedures | | |
| Brief Overview of UK and EU Procurement Legislation | | |
| How the Pension Fund Monitors and Manages its Outsourced Providers | | |



| Additional Training | | |
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The Royal Borough Windsor & Maidenhead

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|---|
| Report for:<br>INFORMATION |

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Risk Register |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | *Insert relevant key words* |


**Report Summary**

The purpose of this report is to bring to the Pension Board the Pension Fund's current Risk Register for review.


| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1.Better governance and administration of the Pension Fund. | Ongoing |

**1. Details of Recommendations**

A Scheme Manager (RBWM) of a public service pension scheme must establish and operate internal controls which must be adequate to ensure compliance with the scheme regulations and the requirements of the Pensions Regulator. It is important that operational and strategic risks are identified, controls put in place and where necessary, actions taken to ensure that the Pension Fund complies with its strategic aims.

**RECOMMENDATION:** That Pension Board consider the attached Risk Register.

**2. Reason for Recommendation(s) and Options Considered**

The Scheme Manager has a legal duty to establish and operate internal controls. Failure to implement an adequate and appropriate risk assessment and register could lead to breaches of law and where the effect and wider implications of not having in place adequate internal controls are likely to be materially significant the Pension Regulator must be notified in accordance with the Scheme Manager's policy on reporting breaches of the law.

**3. Key Implications**

Failure to operate an adequate level of internal controls could leave the Scheme Manager open to challenge and potential fine.

**4. Financial Details**

The Pensions Regulator has powers to impose penalties under Section 10 of the Pensions Act 1995. The maximum amount of a penalty in relation to each breach is £5,000 in the case of an individual and up to £50,000 in any other case.

**5. Legal Implications**

The Scheme Manager has a legal duty to establish and operate internal controls regarding the governance and administration of the Pension Fund.

**6. Value For Money**

Not applicable.

**7. Sustainability Impact Appraisal**

There are no known implications.

**8. Risk Management**

See attached paper.

**9. Links to Strategic Objectives**

Linked to the strategic objectives of the Pension Fund in accordance with overriding regulation.

**10. Equalities, Human Rights and Community Cohesion**

There no known implications.

**11. Staffing/Workforce and Accommodation implications:**

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

**14. Consultation**

Not applicable.

**15. Timetable for Implementation**

Immediate.

**16. Appendices**

See attached paper on managing Risks.

**17. Background Information**

The Pensions Regulator's Code of Practice No. 14 and Compliance and enforcement policy for public service pension schemes.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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## 9 RISK REGISTER

| | | | | | | | Current risk rating | | | | | | | Target risk rating | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Impact | Likelihood | Score | Level of risk | Further actions necessary to manage the risk | Risk action owner | Date Complete | Impact | Likelihood | Score | Level of risk | Date of review |
| PEN 001 | Failure to comply with Scheme regulations and associated pension law. | Operational | Lack of technical expertise / staff resources to research regulations, IT systems not kept up to date with regulations. | Incorrect pension payments made or estimates given. Unhappy customers, employers, risks of fines, adverse audit reports, breaches of the law. | Nick Greenwood | Sufficient staffing. Training and regulatory updates for all individuals associated with the Fund. Competent software provider and external consultants. | 2 | 2 | 4 | Low | Work continues to ensure that the Fund complies fully with all governance and administration requirements. | Nick Greenwood Kevin Taylor Philip Boyton | Ongoing | 2 | 2 | 4 | Low | Dec 2015 |
| PEN 002 | Late issue of Scheme regulation amendments. | Operational | DCLG do not issue changes to regulations well in advance of effective date. | Resource issues for Fund. Administering Authority has a duty to ensure that all stakeholders receive and have access to most up to date information. | Nick Greenwood | Required actions to be considered in view of draft regulations. Senior managers to consider appropriate requirements and prioritise communications accordingly. | 4 | 1 | 4 | Low | Details to be included on welcome page of website and information to be distributed to Scheme employers for dissemination to scheme members via intranet and email. | Kevin Taylor Philip Boyton | N/A | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 003 | The appropriate knowledge and understanding is not maintained by the Administering Authority. | Operational | Lack of technical expertise, training, professional development and continuous self-assessment to identify gaps in knowledge. | Failure to secure compliance with statutory obligations and tPR requirements leading to poor governance and administration of the Scheme. Dissatisfied customers, adverse audit reports, risk of fine. | Nick Greenwood | Training plans in place for officers and Members of the Pension Fund Panel, Pension Fund Advisory Panel and Pension Board. Members of Pension Board to assist Administering Authority in ensuring compliance. | 4 | 1 | 4 | Low | Continual review of training needs and staff levels with succession plans developed. | Kevin Taylor Philip Boyton | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 004 | Failure to maintain a high quality member database. | Operational | Poor or non-existent notification of member data by Scheme employers. | Incorrect records, incorrect benefit estimates, potentially incorrect pension benefits being paid. Scheme members access wrong information via self-service. Loss of reputation, more complaints, poor performance. | Nick Greenwood | Fund continues to work with employers to improve data quality. Pro-active checks when benefits are calculated. Membership information is checked as part of year-end processing | 4 | 3 | 12 | High | Key aim of the Pension Administration Strategy is to engage employers in the use of i-Connect | Philip Boyton | March 2017 to March 2019 | 4 | 1 | 4 | Low | Dec 2015 |

| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Current risk rating: Impact | Current risk rating: Likelihood | Current risk rating: Score | Current risk rating: Level of risk | Further actions necessary to manage the risk | Risk action owner | Date Complete | Target risk rating: Impact | Target risk rating: Likelihood | Target risk rating: Score | Target risk rating: Level of risk | Date of review |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PEN 005 | Failure to hold personal data securely. | Operational | Poor procedures for data transfer to and from partner organisations, poor security of systems, poor data retention and disposal, poor backup and recovery of data. | Poor data, lost or compromised. Risk of fines, adverse audit reports, breaches of the law. | Nick Greenwood | Database hosted off-site and backed up in 2 separate locations. Access to systems is available to a limited number of users via dual password and user identification. Data transferred is encrypted. Compliant with RBWM data protection and IT policies. No paper files all managed via image and system document generation. Confidential waste shredded and disposed of in line with RBWM policy. | 4 | 1 | 4 | Low | Annual audit undertaken. Staff undertake annual data protection training in line with RBWM policy. | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 006 | Failure to make pension payments on time. | Operational | Systems not in place to ensure payments made on time. | Payments paid late and in some cases after statutory deadline. Fund open to criticism and possible fine. | Nick Greenwood | Schedule of payment dates is maintained and written procedures adopted. Sufficient cover is provided within team to ensure payments can be made on time. | 4 | 1 | 4 | Low | Continual review of training needs and staff levels with succession plans developed. | Philip Boyton | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 007 | Continue making payments to deceased members. | Operational | Systems not in place to ensure that payments stop at appropriate time. Fund not advised of the death of a member. | Payments continue to be made incorrectly at a potential cost to the Pension Fund. Can cause distress for deceased member's dependants. | Nick Greenwood | The Fund undertakes a monthly mortality screening exercise and participates in the biennial National Fraud Initiative (NFI). | 2 | 2 | 4 | Low | The Fund has signed up to the Information Sharing Agreement hosted by WYPF and the DWP 'Tell Us Once' service. | Philip Boyton | Ongoing | 2 | 2 | 4 | Low | Dec 2015 |
| PEN 008 | Unable to access pension administration software during normal office hours or extended hours where required. | Operational | Links to system not working, internet access denied. | Unable to carry out administrative duties for duration of outage. | Nick Greenwood | Procedures are in place to contact software provider's helpdesk and action plan implemented. Outage times will be recorded and reported. | 4 | 1 | 4 | Low | As part of contract consideration needs to be given to means of compensation for loss of service. | Philip Boyton | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |

| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Current risk rating | | | | Further actions necessary to manage the risk | Risk action owner | Date Complete | Target risk rating | | | | Date of review |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Impact | Likelihood | Score | Level of risk | | | | Impact | Likelihood | Score | Level of risk | |
| PEN 009 | Late or non-receipt of pension contributions from Scheme employer. | Operational | Scheme employers fail to make payment of employee and employer contributions to Pension Fund within statutory deadlines. | Loss of pension investment. Employer at risk of being reported to tPR with action and fines being imposed if considered to be of material significance. | Nick Greenwood | Receipt of contributions is monitored very closely and employers chased and reminded of their statutory duties. All occurrences recorded in stewardship report. Templates and guides issued to scheme employers. | 2 | 1 | 3 | Low | Scheme employers engaging with i-Connect will automatically upload contributions to member records monthly improving reconciliation processes. | Kevin Taylor | Ongoing | 2 | 2 | 4 | Low | Dec 2015 |
| PEN 010 | Increased liabilities as a result of large number of early retirement cases. | Operational | Scheme employer early retirement policies. | Potential for unfunded liabilities through strain costs. Financial loss to the Fund. | Nick greenwood | The Fund monitors the incidences of early retirements closely and procedures are in place to ensure that Scheme employers are invoiced for any strain costs that arise. | 1 | 1 | 2 | Low | Settlement of invoices required within 21 days of issue with failures resulting in the issue of a notice of unsatisfactory performance to employer. | Kevin Taylor | Ongoing | 2 | 2 | 4 | Low | Dec 2015 |
| PEN 011 | Loss of key staff. | Operational | The specialist nature of the work means that certain staff have become experts in the LGPS regulations and investment policies. | If someone leaves or becomes ill a big knowledge gap is left behind. | Nick Greenwood | In the event of a knowledge gap external consultants and independent advisors can help in the short-term. | 2 | 2 | 4 | Low | N/A | Nick Greenwood | Ongoing | 2 | 2 | 4 | Low | Dec 2015 |
| PEN 012 | Failure to communicate properly with stakeholders | Operational | Lack of clear communications policy and action particularly with Scheme members and employers. | Scheme members are not aware of the rights and privileges of being in the Scheme and might make bad decisions as a result. Employers are not aware of the regulation and their responsibilities and so data flow is poor. | Nick Greenwood | The Fund has a Communication Manager and a Communications Policy. The website is maintained to high standard and all guides, factsheets and training notes are published. | 4 | 1 | 4 | Low | The Communication Policy continues to evolve. | Kevin Taylor | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 013 | Loss of office premises | Operational | Fire, bomb, flood etc. | Temporary loss of service. | Nick Greenwood | A business continuity plan is in place. Systems hosted, staff can work at home. | 4 | 1 | 4 | Low | N/A | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |

| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Current risk rating | | | | Further actions necessary to manage the risk | Risk action owner | Date Complete | Target risk rating | | | | Date of review |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Impact | Likelihood | Score | Level of risk | | | | Impact | Likelihood | Score | Level of risk | |
| PEN 014 | Loss of funds through fraud. | Operational | Fraud or misappropriation of funds by an employer, agent or contractor. | Financial loss to the Fund. | Nick Greenwood | The Fund is internally and externally audited to test that controls are adequate. Regulatory control reports from investment managers, custodian. Due diligence is carried out when new investment managers appointed. Fund participates in biennial National Fraud Initiative (NFI). | 4 | 1 | 4 | Low | Monthly spot checks are undertaken as requested by internal audit to ensure that no 'ghost' members have been added to payroll and that all payment runs have been processed appropriately. | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 015 | Poor management of cashflows. | Operational | Day to day cashflows not monitored effectively. | Funds not available to make pension payments. | Nick Greenwood | Officers of the Pension Fund monitor cashflows on a daily basis and are aware of the payment schedules produced by payroll. | 4 | 1 | 4 | Low | N/A | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 016 | Failure to delegate duties appropriately. | Operational | Delegation of duties not understood. | Officers fail to fulfil their delegated duties resulting in poor performance and potential loss of reputation. | Nick Greenwood | Officers carry out their duties in accordance with the Administering Authority's Schedule of Delegations as contained in the Council's Constituion. | 3 | 2 | 6 | Medium | Schedules of delegation to be reviewed for all aspects of the Pension Fund's duties. | Nick Greenwood | March 2016 | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 017 | Funding Level below 100%. | Strategic | Lack of proper strategy to achieve 100% funding level. Actual investment returns fail to meet expected returns. | Fund remains underfunded and employer contribution rates increase. | Nick Greenwood | Fund has published Funding Strategy Statement. Deficit recovery plan implemented following the triennial valuation 2010. Fund regularly monitors investment returns and the Actuary provides a funding update each month. | 4 | 2 | 8 | Medium | N/A | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |

| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Current risk rating Impact | Current risk rating Likelihood | Current risk rating Score | Current risk rating Level of risk | Further actions necessary to manage the risk | Risk action owner | Date Complete | Target risk rating Impact | Target risk rating Likelihood | Target risk rating Score | Target risk rating Level of risk | Date of review |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PEN 018 | Unstable employer contribution rates. | Strategic | Actual investment returns fail to meet expected returns. | Volatile employer contribution rates leading to Scheme employers having difficulties in setting budgets. | Nick Greenwood | The Fund aims to keep employer contribution rates stable by agreeing with employers and the Actuary and appropriate deficit recovery plan. | 4 | 1 | 4 | Low | N/A | Nick Greenwood | To be reviewed as part of the 2016 triennial valuation | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 019 | Inappropriate funding targets. | Strategic | Failure of investment strategy to deliver adequate returns. | Immediate cash injections required from employers. Increase in employer contributions. | Nick Greenwood | The Fund has issued a Funding Strategy statement and Statement of Investment Principles. The Fund has a broadly diversified portfolio with no one asset class dominating. | 3 | 1 | 3 | Low | Ongoing | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 020 | Unsatisfactory investment performance | Strategic | Poor economic conditions, wrong investment strategy, poor selection of investment managers. | Poor / negative investment return, employer contribution rates increase, funding level falls, pressure on Council tax and employer costs. | Nick Greenwood | Use of expert consultants in the selection of investment strategy and managers. Regular review via Investment Working Group. | 2 | 2 | 4 | Low | N/A | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 021 | Life Expectancy risk. | Strategic | As life expectancy rises liabilities increase disproportionately. | Employer contributions rise causing upward pressure on Council Tax and employer costs. | Nick Greenwood | In December 2009 the Fund entered into a longevity insurance SWAP covering its liabilities for pensioners as at 31 July 2009. | 3 | 1 | 3 | Low | The Pension Fund Panel continues to investigate how to protect the Fund against increasing longevity and reviews the cost of insuring longevity risk of pensioners retired since July 2009. | Nick Greenwood | Ongoing | 3 | 1 | 3 | Low | Dec 2015 |
| PEN 022 | Currency risk. | Strategic | Values of investments overseas are affected by unrelated changes in foreign exchange rates. | Investment returns become volatile in the medium to long-term. | Nick Greenwood | In April 2012 the Fund's currency hedging policy was amended so currency exposures are managed against a strategic currency benchmark. | 3 | 1 | 3 | Low | Pension Fund Panel continues to monitor currency hedging policy. | Nick Greenwood | Ongoing | 3 | 1 | 3 | Low | Dec 2015 |

| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Current risk rating: Impact | Current risk rating: Likelihood | Current risk rating: Score | Current risk rating: Level of risk | Further actions necessary to manage the risk | Risk action owner | Date Complete | Target risk rating: Impact | Target risk rating: Likelihood | Target risk rating: Score | Target risk rating: Level of risk | Date of review |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| PEN 023 | Interest rate risk. | Strategic | Changes in long-term interest rates affect the net present value of the Fund's liabilities. | Investment returns become volatile in the medium to long-term. | Nick Greenwood | The Pension Fund Panel has considered how long-term interest rate risk can be hedged and authorised officers to investigate how this can be achieved within the constraints of the LGPS regulations. | 3 | 1 | 3 | Low | Under review by Pension Fund Manager. | Nick Greenwood | March 2016 | 3 | 1 | 3 | Low | Dec 2015 |
| PEN 024 | Inflation risk. | Strategic | Benefits paid to Scheme members are linked (upwards only) to Consumer Price Index (CPI). | Liabilities increase disproportionately at times of high inflation. | Nick Greenwood | The Pension Fund Panel has considered how long-term inflation risk can be hedged and authorised officers to investigate how this can be achieved within the constraints of the LGPS regulations. | 2 | 1 | 2 | Low | Inflation rates currently low but risk to be reviewed should inflation rates increase. | Nick Greenwood | Ongoing | 4 | 1 | 4 | Low | Dec 2015 |
| PEN 025 | Inability of Scheme employers to meet their obligations. | Strategic | When a Scheme employer no longer has any active members a cessation valuation is triggered and an exit payment required if a funding deficit exists to meet future liabilities. | Failure to collect cessation payments means the cost of funding future liabilities will fall to the Fund and therefore all Scheme employers that remain in it meaning a potential increase in employer contributions. | Nick Greenwood | The Pension Fund Panel has authorised officers to take appropriate steps to review employer covenants and take the necessary action to mitigate the impact that the failure of one Scheme employer can have on all other Scheme employers. | 3 | 2 | 6 | Medium | Pension Fund Manager is undertaking a feasibility study of entering into an insurance policy designed to protect the Fund with sufficient cover should exit payments be required from ceasing employers. | Nick Greenwood | March 2016 | 3 | 1 | 3 | Low | Dec 2015 |
| PEN 026 | Pooling of LGPS assets | Strategic | The Fund needs to respond to Government's consultation for pooling of LGPS assets. | If not involved in forming proposals the Government may impose a pooling arrangement over which the Fund has no control. If implemented incorrectly could be cost e.g. fees and poor returns. | Nick Greenwood | The Fund is actively trying to find other Funds to work with. Progress and update reports will e reported to Panel. | 2 | 4 | 8 | Medium | The Fund is closely monitoring the Government's consultation and will respond appropriately. | Nick Greenwood | Feb 2016 | 1 | 4 | 4 | Low | Dec 2015 |

| | | | | | | | Current risk rating | | | | | | | Target risk rating | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ref | Risk | Risk Category | Cause | Impact | Risk owner | Controls in place to manage the risk | Impact | Likelihood | Score | Level of risk | Further actions necessary to manage the risk | Risk action owner | Date Complete | Impact | Likelihood | Score | Level of risk | Date of review |
| PEN 027 | Ability to implement the Public Sector exit cap. | Operational | Introduction of exit cap will place an additional burden of the administration team. | Changes need to be communicated to individuals and Scheme employers. Systems will need to be adapted once revised regulations have been issued. | Nick Greenwood | Currently monitoring the progress and briefings being communicated. | 1 | 4 | 4 | Low | Awaiting issue of regulations in order to formulate action plan. | Kevin Taylor Philip Boyton | July 2016 | 1 | 4 | 4 | Low | Dec 2015 |
| PEN 028 | Reconciliation of GMP records | Operational | From 6 April 2016 changes to the State Pension Scheme remove the contracting-out nature of the LGPS. | GMPs no longer provided by HMRC. GMP information held by Fund could be wrong resulting in potential for liabilities being paid by Fund. | Nick Greenwood | Data analysis being undertaken with a proposal to employ an external resource to assist in the reconciliation process. | 2 | 4 | 8 | Medium | To review resources against scope of project and agree approach or correcting errors. | Philip Boyton | March 2018 | 1 | 3 | 3 | Low | Dec 2015 |
| PEN 029 | Failure by Pension Board members to fulfil their Terms of Reference and associated protocols | Operational | Members of the Pension Board so not fulfil their statutory obligations set out in their Terms of Reference. | Failure by Pension Board members to assist the Administering Authority in securing compliance with pension legislation and requirements set out by the Pensions Regulator leading to poor governance and administration of the scheme. Dissatisfied customers, loss of reputation, risk of fine. | Nick Greenwood | Training plans in place for Pension Board members. | 4 | 1 | 4 | Low | Annual review of Terms of Reference and regular review of training needs. | Kevin Taylor | Ongoing | 4 | 1 | 4 | Low | Jan 2016 |

The Royal Borough Windsor & Maidenhead

Report for INFORMATION

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Administering Authority Discretion Policy |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | *Insert relevant key words* |

**Report Summary**
The purpose of this report is to bring to the Board's attention the Administering Authority's discretions policy with regard to 45 occasions on which Scheme Regulations require an Administering Authority decision.

| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

The key role of the Pension Board is to assist the Administering Authority in securing compliance with Scheme Regulations and associated legislations and the requirements of the Pensions Regulator. It is important that the Board are aware of, and keep under review, the actions of and decisions taken by the Administering Authority.

**RECOMMENDATION:** That the Pension Board review the attached policy document.

## 2. Reason for Recommendation(s) and Options Considered

To enable the Pension Board to operate in line with its agreed Terms of Reference.

## 3. Key Implications

The Pension Board is required to operate in line with The Pensions Regulator's Code of Practice and other statutory legislation. Failure to do so could leave the Borough open to challenge.

## 4. Financial Details

There are no financial implications.

## 5. Legal Implications

None.

## 6. Value For Money

Not applicable.

## 7. Sustainability Impact Appraisal

There are no known implications.

## 8. Risk Management

N/A.

## 9. Links to Strategic Objectives

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

## 10. Equalities, Human Rights and Community Cohesion

There are no known implications.

## 11. Staffing/Workforce and Accommodation implications:

None.

## 12. Property and Assets

None.

## 13. Any other implications:

None.

## 14. Consultation

Not applicable.

## 15. Timetable for Implementation

N/A.

## 16. Appendices

See attached statement of policy.

## 17. Background Information

Local Government Pension Scheme Regulations 2013 (as amended).

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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**Administering authority decisions**

| No. | Regulation | Administering Authority Discretion | Administering Authority Decision |
|---|---|---|---|
| 1 | **LGPS13**: 3(5) & Sch. 2, Part 3, para. 1 | Whether to agree to an admission agreement with a body applying to become an admission body other than where a body as defined in paragraph 1(d) must be admitted providing they undertake the requirements of the regulations. | Report to be submitted to the Pension Fund Panel for approval subject to an employer covenant review being undertaken. |
| 2 | **LGPS13**: 16(1) | Whether the administering authority deems it inappropriate for a scheme member to pay APCs over a period of time due to the contribution being very small. | Pension Fund Panel have set an agreed minimum level of contribution whereby the scheme member will be required to pay APC as a lump sum - £100. |
| 3 | **LGPS13**: 16(10) | Whether to require a scheme member to have a medical (at their own expense) in order to satisfy the administering authority of their reasonably good health before agreeing to the scheme member's application to pay APCs/SCAPCs (Shared Cost Additional Pension Contributions). | Require a medical in circumstances where a scheme employer has already taken action to investigate the scheme member's possible ill health retirement. |
| 4 | **LGPS13**: 17(12) | To whom any AVC fund should be paid upon the scheme member's death. | To follow scheme member's expression of wish where appropriate. If non-contentious delegate to officers for a decision or report to the Pension Fund Panel where decision could be contentious. |
| 5 | **LGPS13**: 22(3)(c) | Pension accounts to be kept in a form as considered appropriate. | Pension accounts to be maintained in line with regulatory and pension software requirements. |
| 6 | **LGPS13**: 32(7) | Whether to extend beyond three months the time limits within which a scheme member must give notice of the wish to draw benefits before normal pension age or upon flexible | To restrict the time limit to three months as set out in regulation. |

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| | | retirement. | |
| 7 | **LGPS13**: 34(1) | Whether to commute the payment of a small pension into a trivial commutation lump sum within the meaning of section 164 of the Finance Act 2004. | To commute upon request from the scheme member in line with the rules and limits imposed by HMRC. |
| 8 | **LGPS13**: 36(3) | Whether to approve or not a scheme employer's choice of Independent Registered Medical Practitioner (IRMP). | Approval delegated to officers. |
| 9 | **LGPS13**: 38(3) | Whether a deferred member of a former employer that no longer exists meets the criteria for release of deferred benefits due to permanent ill health and the likelihood of not obtaining gainful employment before normal pension age or within three years, whichever is sooner. | Potentially contentious cases to be reported to Pension Fund Panel for a decision otherwise delegated to officers. |
| 10 | **LGPS13**: 38(6) | Whether a suspended tier-3 ill health pension should be reinstated upon request from a deferred pensioner member of a former employer that no longer exists where that member is unlikely to be capable of undertaking gainful employment before normal pension age. | Potentially contentious cases to be reported to Pension Fund Panel for a decision otherwise delegated to officers. |
| 11 | **LGPS13**: 40(2), 43(2), 46(2) & **TP14**: 17(5) to (8) | To whom a death grant should be paid following the death of a scheme member. | To follow scheme member's expression of wish where appropriate. If non-contentious delegate to officers for a decision or report to the Pension Fund Panel where decision could be contentious. |
| 12 | **LGPS13**: 49(1)(c) | To determine the benefit payable to a scheme member, in the absence of an election from the scheme member, where the scheme member is entitled to a benefit under 2 or more of the regulations in respect of the same period of membership. | Delegated to officers who will pay the benefit most beneficial to the scheme member. |

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| 13 | **LGPS13**: 54(1) | Whether to establish an "admission agreement fund" in addition to the "main fund". | Not to establish a separate fund. |
| 14 | **LGPS13**: 59(1) & (2) | Whether to produce and publish a written pension administration strategy and the matters to be included. | To produce and publish a pension administration strategy. |
| 15 | **LGPS13**: 64(4) | Whether to obtain a revised rates and adjustment certificate from the pension fund Actuary where it is considered that a scheme employer will become an exiting employer. | Delegated to officers to identify those scheme employer's with a poor covenant and report to the Pension Fund Panel on action taken. |
| 16 | **LGPS13**: 65 | Whether to obtain a revised rates and adjustment certificate from the pension fund Actuary following amendments to the scheme regulations by the Secretary of State as a result of a valuation under regulation 63 (aggregate scheme costs). | Delegated to officers to consider and take advice from the pension fund Actuary and report to the Pension Fund Panel. |
| 17 | **LGPS13**: 68(2) | To require a scheme employer to make a strain (capital) cost payment to the pension fund in all cases where a scheme employer's decision results in the immediate release of a scheme member's benefits because of flexible retirement, redundancy or retirement due to business efficiency. | In all cases the scheme employer will be required to make payment of a strain (capital) cost in full and within 21 days of receipt of an invoice from the scheme manager. |
| 18 | **LGPS13**: 69(1) | To consider the frequency that payments of contributions should be made to the pension fund by scheme employers and whether scheme employers should make a contribution towards to the cost of administration. | Payments required by the 19th day of the month following deduction in accordance with statutory regulations. Currently no administration charges are made. |
| 19 | **LGPS13**: 69(4) | To consider the form and frequency of information required from a scheme employer to support the payment of contributions. | Delegated to officers. Failures by scheme employers to meet requirements to be reported to the Pension Board. |

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| 20 | **LGPS13**: 70 & **TP14**: 22(2) | Whether to recover sums from a scheme employer where additional costs have been incurred because of the scheme employer's unsatisfactory level of performance. | Pension administration strategy provides details of when notices of unsatisfactory performances will be issued to scheme employers and reported to the Pension Fund Panel and Pension Board. |
| 21 | **LGPS13**: 71(1) | Whether to charge interest on payments received from a scheme employer later than prescribed in the pension administration service level agreement or the pension administration strategy. | Instances to be reported to the Pension Fund Panel and Pension Board as part of a stewardship report for decision and where considered material, invoice to be raised, sent to scheme employer and reported to the Pensions Regulator. |
| 22 | **LGPS13**: 76(4) | To determine the procedure to be followed at stage 2 of the IDRP and the manner in which the exercise of those procedures should be undertaken. | The appointed adjudicator at stage 2 of the IDRP is the Head of Finance for the administering authority who will seek advice and guidance from relevant officers and the Pension Board before making a determination. |
| 23 | **LGPS13**: 79(2) | Whether to appeal to the Secretary of State against a scheme employer's decision, or lack of decision, on a question arising under regulation 72 of LGPS13 (first instance decisions). | Cases to be reported to the Pension Fund Panel and Pension Board as part of a stewardship report but decision delegate to officers. |
| 24 | **LGPS13**: 80(1)(b) & **TP14**: 22(1) | To specify the format in which information supplied by a scheme employer is provided to the administering authority. | Delegated to officers who provide all standard forms and spreadsheets to scheme employers to assist them in providing all information required to enable the administering authority to discharge its scheme functions. |
| 25 | **LGPS13**: 82(2) | Whether to pay out in full or part a death grant due from the Pension Fund without having to obtain grant of probate or letters of administration where the value does not that specified in section 6 of the Administration of Estates | Delegated to officers for a decision where non-contentious but referred to the Pension Fund Panel where decision could be contentious. |

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| | | (Small Payments) Act 1965. | |
| 26 | **LGPS13**: 83 | Whether, where a person (other than an eligible child) appears to be incapable of managing their affairs by reason of mental disorder or otherwise, to make payment of benefits to another person. | Delegated to officers for a decision where non-contentious but referred to the Pension Fund Panel where decision could be contentious. |
| 27 | **LGPS13**: 89(5) | To consider the date to which annual benefit statements are to be calculated. | Annual Benefit Statements to be calculated to the end of scheme year – 31st March. |
| 28 | **LGPS13**: 98(1)(b) | Whether to agree to bulk transfer payments where two or more scheme members' membership ends on their joining a different registered pension scheme. | Delegated to officers who will in all instances seek the advice and guidance of the pension fund Actuary. |
| 29 | **LGPS13**: 98(4)(a) | Whether to determine that the amount set aside for a bulk transfer should be in cash or in assets or both. | Delegated to officers who will in all instances seek the advice and guidance of the pension fund Actuary. |
| 30 | **LGPS13**: 100(6) | Whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from date scheme member joined the LGPS. | Delegated to officers as Scheme employers are required to include a statement in their discretions policy and where it is agreed to extend beyond the 12 month period the administering authority will endorse the scheme employer's decision unless it is clearly identified that such a decision would be detrimental for the Pension Fund. |
| 31 | **LGPS13**: 100(7) | Whether to allow the transfer of relevant pension rights into the pension fund. | To permit the transfer of relevant pension rights for credit to the member's pension account. |
| 32 | **LGPS13**: 106(6) | To determine the procedures applicable to a local pension board. | Terms of reference set out in the Council's Constitution. |
| 33 | **LGPS13**: 107(1) | To determine the membership of the local pension board and the manner in which members may be appointed and removed. | Approved by Pension Fund Panel. |

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|---|---|---|---|
| 34 | **LGPS13**: 108(1) | To determine the method by which to confirm that a member of the pension board does not have a conflict of interest. | Set out in Council's code of conflict policy. |
| 35 | **LGPS13**: Sch. 1 & **TP14**: 17(9) | In accordance with definition of eligible child determine whether to treat a child as being in continuous education or vocational training despite a break. | Pensions payable to eligible children will continue to be paid during breaks in education or training of up to one year. |
| 36 | **LGPS13**: Sch.1 & **TP14**: 17(9)(b) | In accordance with definition of cohabiting partner determine the evidence required to confirm financial dependence of a cohabiting partner on a scheme member or financial interdependence of cohabiting partner and scheme member. | Delegate to officers for a decision where non-contentious or to the Pension Fund Panel where decision could be contentious. |
| 37 | **LGPS13**: Sch. 2, Part 3, para. 9(d) | To determine the right to terminate an admission agreement under circumstances listed in regulation. | Report to be submitted to the Pension Fund Panel. |
| 38 | **LGPS13**: Sch. 2, Part 3, para 12(a) | To consider definition of the term "employed in connection with the provision of the service or assets". | Must be continuously employed for a minimum of 50% of the time in connection with the provision of the service or assets as referred to in the admission agreement. |
| 39 | **TP14**: 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) & **B07**: 10(2) | In respect of a scheme member who retains a right to have the use of the average of 3 years pay for final pay purposes, to determine, should the member die before making an election, whether to make that election on behalf of the deceased scheme member. | Delegated to officers to calculate and apply the best option for the scheme member's dependants. |
| 40 | **TP14**: 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) & **T08**: Sch. 1 & **LGPS97**: 23(9) | In respect of a scheme member who retains a certificate of protection of pension benefits under former regulations to determine should the member die before making an election as to the use of that certificate, whether to make an election on behalf of the deceased scheme | Delegated to officers to calculate and apply the best option for the scheme member's dependants. |

| | | | |
|---|---|---|---|
| | | member. | |
| 41 | **TP14**: 10(9) | In the absence of an election from a scheme member within 12 months of ceasing a concurrent employment, to determine, where the scheme member has more than one on-going employment, to which pension account the ceasing employment benefits should be aggregated. | Delegated to officers to calculate and apply the best option for the member. |
| 42 | **TP14**: 12(6) | Whether to use a certificate produced by an IRMP under the LGPS2008 for the purposes of making an ill health determination under the LGPS2013 in respect of a scheme employer that no longer exists. | Delegated to officers to make the necessary determination on a case by case basis. |
| 43 | **TP14**: 15(1)(c) & **T08**: Sch. 1 & **LGPS97**: 83(5) | Whether to extend the time period for capitalisation of ongoing added years contracts still in force under previous regulations. | Delegated to officers to make the necessary determination on a case by case basis. |
| 44 | **TP14**: 15(1)(d) & **A08**: 28(2) | Whether to charge a scheme member for the provision of an estimate of additional pension that would be provided for by the scheme in return for the transfer of in house AVC funds (where the arrangement was entered into before 1 April 2014). | No charge to be applied. |
| 45 | **TP14**: Sch. 2, para. 2(5) | Whether to require a strain (capital) cost to be paid "up front" by a scheme employer following their decision to waiver any actuarial reduction to benefits under the 85-year rule. | A scheme employer must make payment of a strain (capital) cost to the pension fund in full and "up front" on every occasion that such a cost arises. |

In the above table the statutory references relate to the following regulations where indicated:

**LGPS13**: The Local Government Pension Scheme Regulations 2013 (S.I. 2013 No. 2356)[1]

**TP14**: The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014 No. 525)[2]

**A08**: Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008 No. 239)[3]

**LGPS97**: Local Government Pension Scheme Regulations 1997 (SI 1997 No. 1612)[4]

**B07**: Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (SI 2007 No. 1166)[5]

**T08**: Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (SI 2008 No. 238)[6]

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[1] http://www.legislation.gov.uk/uksi/2013/2356/contents/made
[2] http://www.legislation.gov.uk/uksi/2014/525/contents/made
[3] http://www.legislation.gov.uk/uksi/2008/239/contents/made
[4] http://www.legislation.gov.uk/uksi/1997/1612/contents/made
[5] http://www.legislation.gov.uk/uksi/2007/1166/contents/made
[6] http://www.legislation.gov.uk/uksi/2008/238/contents/made

The Royal Borough
Windsor & Maidenhead

Report for INFORMATION

| | |
|---|---|
| **Contains Confidential or Exempt Information** | NO - Part I |
| **Title** | Audit Plans and Specifications |
| **Responsible Officer(s)** | Kevin Taylor |
| **Contact officer, job title and phone number** | Kevin Taylor<br>Deputy Pension Fund Manager<br>01628 796715 |
| **Member reporting** | n/a |
| **For Consideration By** | Berkshire Pension Fund Board |
| **Date to be Considered** | 22 February 2016 |
| **Implementation Date if Not Called In** | n/a |
| **Affected Wards** | None |
| **Keywords/Index** | Pension Board |


**Report Summary**
The purpose of this report is to provide Board members with details of the Internal and External Audit Plans for 2016/17 and of the findings from the recent internal Audit of the Fund.


| **If recommendations are adopted, how will residents, fund members and other stakeholders benefit?** | |
|---|---|
| Benefits to residents, fund members and other stakeholders and reasons why they will benefit | Dates by which they can expect to notice a difference |
| 1. Better governance and administration of the Pension Fund | Ongoing |

**1. Details of Recommendations**

Boards members are required to assist the Administering Authority is securing compliance with Scheme regulations and the governance and administration of the Scheme. Part of this process will involve the appropriate auditing of the Pension Fund and Scheme administration to ensure that proper processes are in order to fulfil the statutory duties of the Scheme Manager.

**RECOMMENDATION:** That Pension Board members review the Draft Internal Audit Plan for 2016/17, the draft External Audit Plan for 2016/17 and the Management Action Plan resulting from the most recent internal audit (all documents attached to this paper) and consider if the current auditing processes are sufficient to meet statutory requirements.

**2. Reason for Recommendation(s) and Options Considered**

Pension Board members are required to help the Administering Authority in managing the LGPS in accordance with the statutory nature of the scheme and to highlight any areas where they consider the Administering Authority may be open to challenge should they fail to comply with the Scheme rules.

**3. Key Implications**

Pension Board Members have a legal duty to fulfil their obligations in assisting the Administering Authority in ensuring the appropriate governance and administration of the scheme is maintained. Failure to achieve this could lead to a loss of public confidence.

**4. Financial Details**

Failure by the Board to fulfil its statutory responsibilities could lead to fines being imposed by the Pensions Regulator.

**5. Legal Implications**

Failure by the Board to meet its statutory obligations under legislation could lead to a number of potential possibilities including the intervention of the Pensions Regulator, a judicial review, a complaint to the Local Government or Pensions Ombudsman or an adverse comment by the Administering Authority auditor or the national Scheme Advisory Board.

**6. Value For Money**

Not relevant.

**7. Sustainability Impact Appraisal**

There are no known implications.

**8. Risk Management**

Members of the Pension Board to be clear as to the legal responsibilities placed upon them in order to mitigate the risk of the Board being ineffective.

**9. Links to Strategic Objectives**

Linked to strategic objectives of the Pension Fund in accordance with overriding pension scheme regulations.

**10. Equalities, Human Rights and Community Cohesion**

There are no known implications.

**11. Staffing/Workforce and Accommodation implications:**

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

**14. Consultation**

Not applicable.

**15. Timetable for Implementation**

Immediate.

**16. Appendices**

None.

**17. Background Information**

Draft Audit Plans and Management Action Plan.

| Full name of report author | Job title | Full contact no: |
|---|---|---|
| Kevin Taylor | Deputy Pension Fund Manager | 01628 796715 |

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Royal Borough of Windsor and Maidenhead Proposed 2016/17 Draft Internal Audit Plan

| MANDATORY KEY SYSTEMS | | | Days |
|---|---|---|---|
| **PEN0001** | **Corporate and Community Services** | **Pensions Payroll & Administration incl. assurance for partners and Pensions Governance Arrangements** | **25** |

**The above days are directly attributable and do not include management or review time etc.**

# Management Action Plan

**Please complete both the Management Action Plan**

**For any one concern, you may decide upon one or more countermeasures**

**PLEASE CUT AND PASTE THE TICK SHOWN INTO THE APPROPRIATE COUNTERMEASURE(S) CELL(S)**

**Audit Title: Pensions Governance 2015/16**

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**Report No: 9008**

| | | | | Counter Measure | | | | | If Countermeasure is 'Treat' then complete these columns | | Complete where applicable |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **REF** | **CONCERN** | **RISK** | **CAUSE** | **Treat** | **Tolerate** | **Transfer** | **Terminate** | **COUNTER MEASURE EXPLANATION** | **RESPONSIBLE OFFICER** | **TARGET DATE** | **DATE: TRANSFER OR TERMINATE** |
| 1 | As Administering Authority, difficulties could arise if governance arrangements relating to the Berkshire Pension Fund are not appropriately documented and readily accessible.<br><br>**O/S Reports:**<br>**2012/13 (Concern 1)**<br>**2013/14 (Concern 1)**<br>**2014/15 (Concern 1)** | Moderate | Whilst the Constitution contains the Terms of Reference relating to the Berkshire Pension Fund Panel and Advisory Panel, there is lack of clarity over the delegated powers granted to the Head of Finance and Pension Fund Manager. Delegated emergency power (authorised by Council 23/2/2010) is not detailed in governance documentation. | √ | | | | Pension Fund Panel will be asked to approve a scheme of delegation on Feb 9th | Nick Greenwood | 29/02/2016 | |
| 2 | Without a review of specific competencies and the technical skills required, the Pension Fund Panel and Advisory Panel may be unable to:<br>a) fulfil all areas identified in their Terms of Reference.<br>b) demonstrate that Members can fulfil their responsibilities.<br><br>**O/S Reports: 2011/12 (Concern 1) 2012/13 (Concern 2) 2013/14 (Concern 2) 2014/15 (Concern 2)** | Moderate | Primary responsibilities and duties of the Pension Fund Panel and Advisory Panel are outlined in the Terms of Reference. No specific competency or technical skill requirements have been identified. Regulations are awaited, in respect of Public Services Pensions Act 2013. | | √ | | | | | | |

| REF | CONCERN | RISK | CAUSE | Treat | Tolerate | Transfer | Terminate | COUNTER MEASURE EXPLANATION | RESPONSIBLE OFFICER | TARGET DATE | DATE: TRANSFER OR TERMINATE |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 3 | Members will not be aware of the correct procedure to follow. | Moderate | The Pension Board Terms of Reference (approved 26th November 2015) details a quorum of 50% of employer representatives and scheme members (minimum one of each) This would equate to three members, whereas the Constitution details four members for a quorum. | √ | | | | Request has been made of Democratic Services to amend the Council Constitution to read a quorum of 3. | Kevin Taylor | 31/03/2016 | |
| 4 | A conflict of interest by a Pension Board Member may go undetected.<br><br>Non adherence to the Code of Conduct and Conflict of Interests Policy. | Moderate | Declarations of Interests have not been completed by all members of the Pension Board. | √ | | | | 7 out of 10 received. Other 3 members will be chased at next Board meeting. | Kevin Taylor | 22/02/2016 | |
| 5 | A conflict of interest by an officer may go undetected. | Moderate | Staff declaration of interests are not completed on an annual basis. Documentation held dated June and July 2014.<br><br>Evidence not seen to confirm that new staff employed since December 2014 have completed a Declaration of Interest. | | | | | | | | |
| 6 | Governance could be weakened as it may be difficult to assess progress. | Moderate | Action Tracking Reports have not been seen in the 2015 minutes monitoring actions recorded at previously meetings. | √ | | | | | Nick Greenwood | 09/02/2016 | |
| 7 | Governance will be weakened as members will not be aware of the correct procedure to follow. | Moderate | The Investment Working and Liability Management Working Group Terms of Reference, whilst being reviewed on 13th January 2015, do not detail members and define the quorum for meetings. This was incorporated in the Terms of Reference approved on 23rd July 2012, following a previous audit. | | | | | | | | |
| 8 | The Risk Register will not provide an effective management tool if appropriate controls have been omitted. | Moderate | The Risk Register does not include a control relating to the Pension Board in respect of Terms of Reference and Protocol. | √ | | | | To be added to risk register as PEN029. | Kevin Taylor | 22/02/2016 | |

| REF | CONCERN | RISK | CAUSE | Treat | Tolerate | Transfer | Terminate | COUNTER MEASURE EXPLANATION | RESPONSIBLE OFFICER | TARGET DATE | DATE: TRANSFER OR TERMINATE |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | Incorrect payments could be made or incorrect documentation held, if invoices are not appropriately checked. | Moderate | The Reassure invoices for October and November are incorrect and do not add up to the net monthly payment due (difference £50k). | | | | | Has now been rectified | | | |
| 10 | There is no regular update or monitoring of the longevity arrangement to ensure that this is operating in accordance with the approval in 2008/09. | Minor | Evidence has not been seen in minutes provided that the longevity arrangement is reported to the Pension and Advisory Panel on an annual basis. | | √ | | | | | | |
| 11 | The Terms of Reference cannot be confirmed as the current approved document. | Minor | Terms of Reference for the Pension Board has not been signed and dated by the Chairs of the Administering Authority and Pension Board. | √ | | | | Will be rectified at next Panel and Board meeting | Kevin Taylor | 22/02/2016 | |
| 12 | Conflicts and disputes may arise, which could affect the Pension Fund if the Administering Authority cannot demonstrate members have received the guidance document detailing the responsibilites and requirements of Board/Panel/Committee Members.<br><br>**O/S Report 2012/13 (Concern17), 2013/14 (Concern 12) 2014/15 (Concern 6)** | Minor | A completed members log book recording receipt of the Members Handbook has not been seen. | √ | | | | Handbook published on-line and all amendments to be made on-line. Email to be sent to Members requesting an acknowledgment from them that they know the handbook is available and how they can gain access it. | Kevin Taylor | 31/01/2016 | |

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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