Division(s): N/A

PENSION FUND COMMITTEE – 14 SEPTEMBER 2018

ADMINISTRATION REPORT

Report by the Director of Finance

Introduction

1. This report is to update members on scheme administration data and issues, not covered in the Administration Improvement Plan report elsewhere on today's agenda.

Workload and Staffing

2. The revised reporting looks at performance against the service level agreements set out in the Administration Strategy. We believe this presentation enables the Committee to be better able to identify areas of concern.

Subject	Working Days	% Within Target	% Achieved April to June 2018	Number of Cases
Annual Allowance	10	90	100.00	1/1
APC	10	90	77.50	11/18
Data Changes	10	90	64.72	241/676
Deaths	10	95	55.45	79/332
Deferred Benefits	40	90	28.71	422/1843
Divorces	10	95	62.92	27/37
Estimates – Employer	10	90	53.95	53/94
Estimates – Member	10	90	63.55	132/186
General Queries – Employer	10	90		
General Queries - Member	10	90	77.53	231/258
Other			45.37	18/43
Re-employments	40	90	33.28	538/983
Refund of Benefits	10	95	61.57	590/890
Retirements	10	95	67.02	201/257
Transfers In	10	90	56.02	92/156
Transfers Out	10	95	63.26	97/155

3. Current staffing levels are 26.09 FTE against an establishment of 35.38 FTE, leaving the team with vacancies of 9.29 FTE. This includes the recently approved Team Leader post to which we are currently recruiting. Given previous experiences using temporary staff, these vacancies have been covered in part by staff overtime where possible. Over past few months the team has worked flexibly to support project work to ensure that key deadlines have been met.

Project Work

4. Current project work in the team is:

Project	Status	Notes
Administration to Pay	Red	On hold whilst issues with software are resolved
Annual Benefit Statements	Green	Please see separate report
Backlog of Work	Red	Please see separate report
Data Quality		Please see separate report
Employer Relationship Module - Altair	Amber	This Altair module is in and being used. However, the functionality is limited hence amber rating
GDPR	Amber	Some tidying up to do
GMP Reconciliation	Amber	Please see below
I-Connect	Red	Project not yet started – due to start later this month
Member Self Service	Green	This is now available to all active, deferred and pensioner members. Work will be scheduled to increase functionality for members.

Changes to Scheme Employers

5. Between April 2017 and March 2018 there have been 17 new admission agreements issued to:

Barnardo's; The School Lunch Company – St Nicholas School, St Michael's, St Christopher's, The Blake School, Wroxton Primary and Orchard Fields; Alliance in Partnership – Queen Emma's School; EnergyKidz at John Hampden; APCOA Parking; Rapid Clean – Stockham Primary; Hill End Outdoor Educational Trust; Busy Bee Cleaning – Ridgeway Education; Edwards and Ward – South Moreton and Stockham Primary; Service Master – East Oxford Primary; Publica.

Additionally, Kingston Bagpuize with Southmoor Parish Council has admitted staff to the Fund.
18 Admission agreements have also ended during the same period.

Complaints

6. Twelve complaints have been received in the year to date. Just over half of these have been made using the internal procedure to complain about delays in replying to queries. In response some changes have been made to better balance conflicts between responding to customers; other workloads and staffing. The remaining

complaints have been made using the formal complaint procedure about a decision affecting their pension; of these two have been not found and the remainder are in progress. The above number equates to 0.06% of active scheme members - which compares with a figure of 0.14% in 2017.

Write Offs

7. In line with the Scheme of Delegation Policy (last reviewed in June 2017), the approval for writing off outstanding debts is given by:

Pension Fund Committee	For amounts above £10,000
Service Manager – Pensions (in conjunction with Director of Finance	For amounts between £7,500 and £10,000
Service Manager – Pensions	For amounts up to £7,500
Pension Services Manager	For amounts up to £500

All debts below £10,000 need to be reported to Committee following write off. This report provides the details of those debts written off in the last quarter.

8. In the current period, £47.91 has been written off in respect of seven cases where the member has died. In the period December 2017 to September 2018 a total of £123.74 has been written off, in respect of 23 cases where the member has died.

Fire Service Pension Schemes

9. Pension Services also provide administration services to Oxfordshire Fire & Rescue in respect of the Fire Service Pension Schemes. The table below shows the work for January 2018:

Subject	Working Days	% Within Target	Achieved April to June 2018	
Annual Allowance	10	90	n/a	
APC	10	90	100.00	1/1
Data Changes	10	90	n/a	
Deaths	10	95	100.00	1/1
Deferred Benefits	40	90	n/a	
Divorces	10	95	n/a	
Estimates – Employer	10	90	n/a	
Estimates – Member	10	90	25.00	1/4
General Queries – Employer	10	90	n/a	

General Queries - Member	10	90	100.00	13/13
Other			0.00	1/1
Re-employments	40	90	85.71	6/7
Refund of Benefits	10	95	n/a	
Retirements	10	95	100.00	4/4
Transfers In	10	90	n/a	
Transfers Out	10	95	50.00	1/2

Other Administration Issues

10. The LGPS (Amendment) Regulations SI 2018/493 came into force from 14 May 2018. Much of the contents is to sort drafting errors and inconsistencies between intent and the regulations issued for the new scheme in 2014.

11. There are new policy areas, on which a consultation was issued in 2016, although not everything in the consultation is included in this set of amending regulations. The following outlines the new policy areas for the attention of the committee.

12. Early Payment of deferred benefits

- Changes for members and the administering authority
- Payment of deferred benefits at age 55 for leavers before 1 April 1998
- Payment of deferred benefits from age 55 for leavers between 1 April 1998 and 31. March 2008
- Payment of deferred benefits from age 55 for leavers between 1 April 2008 and 31 March 2014

13. These changes bring in opportunities for members with a deferred pension to request an early payment and for leavers from 1 April 1998 brings their options for an early payment in line with those for leavers since April 2014. However, the reduced pension cannot be paid if below the statutory protected level of requisite benefit or guaranteed minimum, and the fund will be required to support the cost. It cannot be passed back to employers.

14. The costs for releasing an early payment between age 55 and 60 under these changes is for the member because this early pension will be reduced, and the member loses any protections which might have otherwise been in place for early leavers having the employers' consent, subject to the statutory values referred to above.

15. The early release of a pension does not cover members who may have a deferred pension following an option out of the scheme or a withdrawal of scheme membership, until they leave the job or office that gave rise to the pension.

16. Employers will now have to review their discretions policies to incorporate these changes, because they can waive a reduction.

17. The options for other employer approved early payments - on the grounds of permanent ill health; using the discretion to waive reductions and on compassionate grounds as applicable, remain.

18. The MHCLG report that the intention had been for the regulations to remove the need for members aged at least 55 from seeking employer approval for an early payment at any time, however the regulation amendments do not fully deliver the intention for the earliest group of leavers, who can only ask for an early payment **at** age 55.

19. *This fund needs to consider whether it wishes the administration to apply the intention for the pre-1998 leavers and allow member request for early payment at any time from age 55 for that group, or to wait until all options are covered in a further set of consultations and new regulations*.

20. The Oxfordshire Pension fund also must act as if the employer where that former employer no longer exists, to amend their policy statements to incorporate the latest option, if the authority will 'switch-on' the former 85-year protections for someone with a deferred benefit and also for any deferred pensioner members between 55 and 60 requesting now an early payment under these provisions, who left the scheme between 1 April 1998 and 31 March 2014.

21. *This fund will / will not consider applications to 'switch on' the 85 year as this would increase costs/ on an individual application initially to the Pension Services Manager for decision.*

22. Also, to amend the policy requirement for employers to also pay immediately any 'hidden costs incurred by switching on the 85-year rule for these former employees and councillors.

23. This fund agrees to the inclusion of this group/ these groups in the administration strategy as events requiring the upfront full cost to be provided by the employer agreeing to the request/ having a policy incurring this cost.

Admission agreement changes

24. For agreements on and from 14 May 2018, there are changes to the reporting and publication details of new admission agreements. The guidance is that the fund annual report will meet the new requirements, although will not include the list of persons included in the agreement. More guidance may be specified from the CIPFA pensions panel.

25. Backdating start date - Where admissions have taken longer than expected to set up, or where the transfer has not been disclosed, the regulations now allow backdating to the transfer, and therefore authorisation for the collection of member contributions. The effective date of this can be taken back to April 2014.

26. Payment of exit credits - In the event of an exiting employer's liabilities being fully funded, with surplus assets the fund and actuary may consider a payment to the

exiting employer. Admission agreement documents may need to be changed to ensure clarity and prevent a later future claim. There is no tax charge due on an exit payment and no requirement to report to HMRC.

27. Linking previous pension records – application of time limit - Aggregating previous membership from before 2014 into the new scheme has not unintentionally had a time limit since the introduction of new scheme from 1 April 2014. For all new joiners from 14 May 2018 this window is now closed- although cannot be backdated for those earlier joiners.

28. Statutory underpin - Backdated to April 2014, the protection of final salary benefits for members transferring from other public-sector schemes is now extended to include them in the check at retirement to ensure the member is no worse off by joining the Career Average Revalued Earnings Scheme (CARE), and including the transferred in membership period.

29. Additional voluntary contributions (AVCs) - From 14 May 2018 the amendment regulations require administration changes in dealing with members with an AVC account. The effects of the changes will bring older plans which started before April 2014 and continue, into line with recent plans, by applying the same level of maximum contribution now (100% of pensionable pay, under the 2014 definitions). Members must link their AVC accounts when their LGPS records are aggregated, and decisions about the use of AVC fund must be taken no later than when the main LGPS fund is drawn.

30. The tie to the main LGPS pension is not absolute. A member can stop their AVC and transfer it away from the Prudential even when remaining as an active LGPS member.

31. For AVC plans – and all councillor members, where the member left before 1 April 2014 the changes above do not apply.

32. Regardless when the plan began, on a member's death before an AVC has come into payment, the administering authority may now use their discretion to disperse an AVC fund as it does for a LGPS death grant.

Children's pensions

33. This Committee has already made a discretionary policy decision, in respect of children's pensions, to confirm that a gap year does not constitute a break in continuous education.

34. The administration team now has a case where further confirmation of this committee's discretionary policy decision needs to be sought.

- The Regulations state: R27(3) "an eligible child cease to be entitled to a pension when he ceases to be a child within regulation 26".
- R26(3) "a dependent child who has reached the age of 18 but has not reached the age of 23 and is in full time education or undertaking vocational training at the date of the member's death is an eligible child"

- R26(4) “an appropriate administering authority may treat a dependent child who commenced full time education or vocational training after the date of the member’s death as an eligible child after he reaches the age of 18 and until he reaches the age of 23”.
- R26(6) “and appropriate administering authority may treat a dependent child who is disabled within the meaning of the Disability Discrimination Act 1995 as an eligible child”

35. The administration team has a case where the dependent child, who is disabled (as confirmed by their GP / in line with the 1995 Act), has reached aged 18. Taking the above Regulations in to account this report is to ask the committee to consider:

    - whether payment of the child’s pension can continue from present until age 23:
    - whether dependency would hold after that date?
    - What medical information the committee would require?
    - Whether the committee has a view on the frequency of reviewing continued payment?

Escrow Account

36. The LGPS Regulations (including the 1995, 1997, 2008 and 2013) require that where a death grant is not paid within 2 years of the date of the death, or within 2 years of the date on which the administering authority could reasonably be expected to have become aware of the member's death (except for the 1995 Regulations which only mention date of the death) payment must be made to personal representatives. So, in essence, the regulations provide that if the death grant has not been paid within the 2-year period, the administering authority can no longer exercise a discretion over to whom to pay the death grant but must, instead, pay it to the personal representatives.
    From 6 April 2016 death grants paid after two years are no longer unauthorised payments but where they are being paid to the personal representatives are subject to the special lump sum death charge of 45%.

37. It goes without saying that administering authorities should do their utmost to ensure that they don’t get themselves into a position where they end up paying out a death grant after the 2 year period has expired. However, we are aware that they sometimes experience difficulties in determining whether there is anyone they can pay the death grant to (under their discretionary power) or in ascertaining who is administering the estate and consequently payments are not always made within the 2 year period.

    Q1. Is it acceptable for administering authorities to pay the death grant into a separate bank account <u>just before the expiry of the 2-year period</u> to avoid the death grant being subject to the special lump sum death charge?
    Q2. If the answer to question 1 is yes, what form would the bank account would have to take to meet the requirement of our Regulations that payment must be made to the personal representatives? That is, would a separate bank account need to be set up for each case, with the account being set up in the name of “The legal personal representatives of XXXXX deceased” (with XXXX being the name of the deceased)

in order to meet the requirements of our regulations (if this is even possible?) or would it be acceptable for the administering authority to set up one ESCROW account (a holding account held by a third party during the process of a transaction between two parties) and pay all such death grants into it until payment can be made to the personal representatives?

38. **Legal opinion.** We agree that the payment of the death grant to a separate bank account held outside of the Fund, before the two-year period has expired is likely to prevent the death grant from being subject to a special lump sum death benefits charge. However, we don't think this solution would work in respect of payments made after two years. This is because section 40(4) of the LGPS Regulations 2013 makes clear that after the expiry of two years the payment should be made to the personal representatives, it does not allow the Authority to hold the death grant "for the benefit of" the personal representatives.

39. Section 40(2) of the LGPS Regulations 2013, however, states that "the appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member". So, as long as the payment is made out of the Fund before the expiry of two years from the date of death (or the date the Authority should have reasonably known about the member's death) holding the death grant in an escrow account is likely to fulfil this criteria, such that the payment could be made tax free to the member's personal representative. Whilst the money would still be held by the Authority (albeit outside the Fund) it would not be the Authority's money. The death grant would be held on constructive trust for the benefit of the personal representatives.

40. We don't see any reason why a separate bank account should be set up in respect of each death grant where the personal representatives are being located so long as the monies can be identified and the appropriate funds credited to the escrow account before the two-year period expires. Just to note this approach is common in private trusts so we see no reason why this approach couldn't be adopted by the Authority too.

41. Officers are therefore seeking views of this committee ahead of looking in to setting up such an account.

GMP Reconciliation

42. With the abolition of contracting out in 2016 all schemes needed to decide whether to carry out a GMP reconciliation exercise, although it would have been difficult to justify not undertaking this exercise until the Fund had sufficient data to assess the value of any liabilities.

43. The GMP reconciliation is the comparison of membership and GMP figures between the administrator's database and the HRMC member records. If GMP is recorded inaccurately this means that pension payments can be incorrect as GMP is the minimum level of pension a scheme is required to pay to members who were contracted out of the State Earnings Related Pension Scheme prior to 6 April 1997.

This is a complex and time-consuming exercise which Oxfordshire, like most Funds, contracted out to an external provider of this service.

44. ITM Limited has now provided a report for the stage 2 reconciliation and a proposal for stage 3 of the project which will be the benefit rectification. Both reports have been emailed to members for ease of reading.

45. The Stage 2 interim report details the current situation and work needed to complete this part of the process. At present there are some 3,800 records to be reviewed by the Oxfordshire Pension Fund, which once completed may result in conversion to an HMRC query where it is believed that the liability does not sit with the Fund.

46. In terms of the discrepancies in the value of the GMP, this exercise has been undertaken in line with LGA guidance of a tolerance level of £2.00 and the table on page 9 sets out the records which will need to be reviewed where the discrepancies are outside of this tolerance. Members will need to determine how any under / over payments of pension resulting from this exercise are dealt with. From discussions with various peer groups the generally agreed approach is to correct any underpayments and to pay arrears of pension; for overpayments it has been to reduce the value of the pension paid, but to write off any recovery of the overpaid pension.

47. ITM has modelled the likely costs to the fund based on the current HMRC response (pages 11-14 of email) as:

Total past under payment	£ 31,394, which would affect 86 members, and
Total past over payment	£262,635, affecting 299 members.

These will change as remaining records are processed.

48. The remaining part of the email sets out the proposal for ITM to process HMRC responses and the completion of the third and final stage of the GMP reconciliation with both timescales and cost.

49. This exercise is also being carried out for Fire Pensions and costs will be advised once received.

RECOMMENDATIONS

50. The Committee is RECOMMENDED to:

(a) to consider whether it wishes to apply the intention of the Regulations for the pre-1998 leavers and allow member request for early payment at any time from age 55 for that group, or to wait until all options are covered in a further set of consultations and new regulations;

(b) determine whether this fund will / will not consider applications to 'switch on' the 85 year as this would increase costs/ on an individual application initially to the Pension Services Manager for decision;

(c) agree to the inclusion of the groups as set out in paragraphs 12-23 in the administration strategy, as events requiring the upfront full cost to be provided by the employer agreeing to the request/ having a policy incurring this cost;

(d) determine in respect of the case set out in paragraph 35;

(e) whether payment of the child's pension can continue from present until age 23:

i. whether dependency in this case would hold after that date?

ii. What medical information the committee would require?

iii. Whether the committee has a view on the frequency of reviewing continued payment?

(f) determine whether to set up an escrow account for the Fund;

(g) determine what approach is to be applied to discrepancies arising from GMP reconciliation; and

(h) agree the appointment of ITM to finalise this project at cost stated.

Lorna Baxter
Director of Finance

Background papers: Nil

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