

# Pensions Committee

6 September 2017

<b>Report title</b>	Risk and Compliance Monitoring 1 April to 30 June 2017	
<b>Originating service</b>	Pension Services	
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## Recommendations for action or decision:

The Committee is asked to note:

1. The top ten risks for West Midlands Pension Fund. (appendix 1)
2. The compliance monitoring for the quarter and the resolutions put in place to address non-compliance.
3. Markets in Financial Instruments Directive II (MiFID II) classification process.
4. The changes to the Trustee Training Policy to reflect practice throughout the year.

## **1.0 Purpose**

- 1.1 To provide the Pensions Committee with the quarterly update of compliance monitoring for the Fund for the period 1 April 2017 – 30 June 2017.

## **2.0 Risk register**

- 2.1 Each quarter the Fund's compliance team reviews the top ten risks which are drawn from detailed risk registers separately maintained for each department of the Fund. The Risk register is an active document which is regularly monitored to ensure it reflects the most recent activity of the Fund. The reporting period for risks is the most current quarter (July to September) as it is looked upon as both a reactive and proactive document to ensure risks are immediately mitigated.
- 2.2 The Fund's risks are assessed using a 5 x 5 scoring matrix to decide how likely they are to occur and how much of an impact they would have. The scoring is based on 1 being the lowest impact or likelihood with 5 being the highest impact or likelihood of the risk occurring. The scores for both impact and likelihood are multiplied together to create an overall rating (scores 1-4 low rating (4 being an even rating of 2 for impact and 2 for likelihood), 4-12 medium rating (4 being a high impact and low likelihood or vice versa) and 15-25 high rating). The Fund scores each risk for both pre and post-implementation of mitigating controls, this enables the Fund to identify any weaknesses in the controls and provide assurance that its risks are reduced as much as possible.
- 2.3 The top 10 risks for this quarter are highlighted in Appendix 1 together with the actions taken by the Fund to mitigate those risks. One of the top 10 risks has changed during the period but all other remain the same as those reported to Pensions Committee in June 2017. The new risk is in Finance (F6), this risk is in relation to non-payment or receipt of monies due to the Fund and includes employer contributions (previously included in PA1 – employer adherence to the Pensions Administration Strategy).

The reason for the addition is to ensure the Fund manages the risk of any financial impact caused by an employer's failure to pay the contributions when they fall due. The Fund mitigates this risk by monitoring the contributions and income through debtors and liaising with individual employers through the Fund's Employer Team.

## **3.0 Compliance monitoring programme**

- 3.1 The Fund has in place a programme, which aims to ensure its internal and external operations meet acceptable standards and best practice.
- 3.2 The programme is directly linked to the risk register; testing the effectiveness of the controls in place.
- 3.3 The results of the tests carried out for the April to June 2017 quarter are summarised below on an exception reporting basis. For compliance monitoring purposes the period

reviewed is commenced at the end of each quarter, therefore the latest information available is for the April to June 2017 quarter which was tested during July.

### 3.4 **Exception reporting**

Out of all of the tests carried out, the following was found:-

#### 3.4.1 Governance

A review was conducted on the Fund's officer access to our online banking administration systems. The review concluded that 1 officer who had ceased employment with the Fund still had an active login for both online banking systems. This access has now been removed and we can confirm that no access to the Fund's accounts was granted during the period.

#### 3.4.2 Investments

For trades executed during the period April-June 2017 on the USA equity portfolios, PDF copies of the dealing books for the period had not been produced at the time of conducting the monitoring check (which was completed early this quarter). The team has now produced copies and they are on file and have been encouraged to complete these as when actioned to ensure all are up to date throughout the quarter.

The Fund is continuing to monitor late trades executed by the custodian, and is reporting 15 late trades this quarter. Having noted the increase, Compliance continue to engage with the custodian on a monthly basis and can report no financial detriment has resulted from the late trades.

### 4.0 **The Pensions Regulator (TPR) Code of Practice compliance monitoring**

4.1 The code of practice sets out the legal requirements for public service pension schemes and standards of conduct and practice expected of those who exercise functions in relation to those legal requirements.

4.2 In response to this, the Fund has compiled a compliance monitoring programme to evaluate its compliance in line with the Pensions Regulator Code of Practice. This is the second quarter the Fund has completed testing under this program and are pleased to confirm that no issues have been identified.

4.3 The general compliance monitoring programme tests cover fund administration (i.e. pensions administration, internal disputes, publishing information etc.), finance (i.e. payment of contributions etc.), governance arrangements (i.e. Pensions Committee and Pensions Board arrangements, conflicts, breaches and risk) and investments (i.e. maintaining investment returns to cover liabilities etc.). The TPR monitoring provides assurance on the governance and administration of the scheme and ties into the annual survey of funds carried out by TPR. As this is an assurance tool rather than a monitoring tool it is proposed to be completed once a year rather than on a quarterly basis. Committee can be assured that the Fund's compliance monitoring program manages pension administration compliance on a quarterly basis

## **5.0 General Data Protection Regulation**

- 5.1 The European Union have issued a directive to replace the existing Data Protection Act creating the new General Data Protection Regulations (GDPR). This directive is required to be implemented with effect from 25 May 2018. Updates have been provided to Committee on a quarterly basis on the work of the Fund in this area and can confirm that the Fund is on course to complete the project in line with the workplan.
- 5.2 Most recently, the Fund has begun work on producing the Fair Processing Notice to be published on the website confirming to Members how their information is used by the Fund together with drafting Privacy Impact Assessments which will risk assess the Fund's use and management of data under different processes.

## **6.0 MiFID II classification update**

- 6.1 In July 2017 the Financial Conduct Authority (FCA) released a secondary policy statement on the implementation and requirements of the Markets in Financial Instruments Directive II (MiFID II) which has identified the criteria to a lower threshold for the size of portfolio that a local authority has to have, which makes it easier for LGPS pension funds to opt-up to professional client status.
- 6.2 The Fund currently considers itself as a Professional Client under MiFID I rules, however under MiFID II the criteria for LGPS pension funds has changed and the Fund will automatically be considered as a Retail Client but are proposing to opt up to Professional status as noted in another report.
- 6.3 Following engagement between the FCA and LGPS funds, the FCA have amended the opt up process making it easier for Funds to opt up to Professional Client status. The opt up process allows the Fund to continue on with its existing investment activities with no impact. If the Fund were to be classified as a Retail Client without the opt up process, it would be restricted on the types of assets it can invest and transact within due to the nature of the classification.

Retail Clients are deemed to be not as knowledgeable within the investment markets as Professional Clients and therefore are offered more protection against engaging in certain types of investment activity but are also restricted from certain assets or markets.

## **7.0 Trustee Training Policy update**

- 7.1 The Fund has in place a Trustee Training policy which outlines the expectation of Trustees to undertake training and development in line with the CIPFA requirements. The policy outlines the support provided by the Fund in helping Trustees achieve their required training hours of 22 hours per year which includes the provision of structured in-house training, self-development (reading), together with attendance at external conferences and seminars.
- 7.2 Throughout the year in consultation with the Chair, the Fund has amended the policy to provide an opportunity for all Trustees to attend off-site training and/or an external conference or event, typically once a year, subject to cost and in agreement with the Chair.
- 7.3 The Trustee Training policy has been updated to reflect these changes as agreed with the Chair and a copy is attached at Appendix 2

## **8.0 Financial implications**

- 8.1 The budget for Trustee training is incorporated within the Fund's administration budget.
- 8.2 Failure by the Fund to adhere to regulatory changes could result in fines being imposed on the Fund by either the Pensions Regulator or the Information Commissioner.

## **9.0 Legal implications**

- 9.1 The need for effective risk management is reflected throughout guidance and regulation in the LGPS, notably in Regulation 7(2) of the *Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016*.
- 9.2 The Pensions Committee, as the body charged with governance of the administering authority's pensions operations, takes the responsibility for ensuring that there is effective risk management over those operations.
- 9.3 The requirements for Trustee training are set out in the Regulator's code of practice and CIPFA guidance. Trustees and Board members have a legal duty to ensure they have the required knowledge and skill to undertake their roles. Failure to adhere to these duties may result in challenge from external parties. There is also a possibility of intervention from the Pensions Regulator.

## **10.0 Equalities implications**

- 10.1 The Trustee Training Policy has been drafted in consideration of the Equalities Act and associated guidance.

## **11.0 Environmental implications**

11.1 This report contains no direct environmental implications.

## **12.0 Human resources implications**

12.1 The report contains no direct human resource implications.

## **13.0 Corporate Landlord**

13.1 There are no corporate landlord implications.

## **14.0 Schedule of background papers**

14.1 General Data Protection Regulations

<https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/>

14.2 Pension Regulator's Toolkit

<https://trusteetoolkit.thepensionsregulator.gov.uk/>

14.2 Pension Regulator's Code of Practice

<http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx>

14.3 Financial Conduct Authority Markets in Financial Instruments Directive II Implementation – Policy Statement II

<https://www.fca.org.uk/publication/policy/ps17-14.pdf>

## **15.0 Schedule of Appendices**

15.1 Appendix 1 – Risk Register Summary

Appendix 2 – Trustee Training Policy