

Pensions Committee

13 December 2017

Report title	Risk and compliance monitoring 1 July 2017 – 30 September 2017	
Originating service	Pensions	
Accountable employee(s)	Rachel Howe	Head of Governance
	Tel	01902 552091
	Email	rachel.howe@wolverhampton.gov.uk
Report to be/has been considered by	Rachel Brothwood	Director of Pensions
	Tel	01902 551715
	Email	rachel.brothwood@wolverhampton.gov.uk

Recommendations for decision:

The Committee is recommended to:

1. Approve entering into a contract for digitisation services in preparation for GDPR (General Data Protection Regulations).
2. Save the dates for Trustee Training Events.
3. Provide their quarterly training hours to the Trustee Management Officer.

Recommendations for noting:

The Committee is asked to note:

1. The top ten risks for West Midlands Pension Fund.
2. The compliance monitoring for the quarter and the resolutions put in place to address non-compliance.
3. The Markets in Financial Instruments Directive II (MiFID II) classification update.
4. Trustee training report for this quarter together with the planned future training events up to March 2018.

1.0 Purpose

- 1.1 To provide the Pensions Committee with the quarterly update of compliance monitoring for the Fund for the period 1 July 2017 – 30 September 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 (September - December) as it is looked upon as both a reactive and proactive document to ensure new and/or changing risks are reviewed and managed early.
- 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.
- 2.4 This quarter the Fund has undertaken work to assess the compliance of employers with the Pension Administration Strategy (PAS) in relation to the Annual Returns for 2017. This work has highlighted a number of employers who have failed to either meet the deadline for data, or who have caused an increase in work for the Fund due to the quality of their data (as outlined in the Data Quality report). The Fund is writing out to those employers outlining their charges. However, this area of work has shown significant improvement from the 2016 Annual Return with errors reducing by 11% overall.
- 2.5 There are no increases in risk noted in the register.

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 July to September 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 July to September 2017 quarter which was tested during October.

3.4 **Exception reporting**

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

3.4.1 Finance

This quarter the Fund is noting 19 employers for failing to pay their monthly contributions on time. A further 7 are yet to pay and these are being contacted by the Finance team. For a number of employers who have failed to pay, the Fund believes there is a common payroll provider for the majority of these employers and is working with them to assist their contract management. The Finance team continue to engage with employers to ensure the contributions are received. Timely contributions is being monitored on a monthly basis with engagement from the Employer Services Team led by the Relationship Management Officer.

3.4.2 For the period of July to September, there was one late trade executed out of 226. This was due to incorrect settlement details being entered which resulted in the trade being completed one day late. There was no financial detriment to the Fund.

4.0 **General Data Protection Regulation**

4.1 As previously reported to Committee, the Fund has been working with a number of LGPS Funds across the country in preparation for the changes to Data Protection in May 2018. The latest piece of work has seen the production of template documents for use by LGPS Funds which have been submitted to the LGA for review. The LGA have appointed Squire Patton Boggs to provide an overview and guidance note for LGPS on the key issues to consider when preparing for GDPR, the Fund assisted in drafting the questions to be addressed and have provided comments on the draft note back to the LGA. It is expected the LGA will release these as national templates and an update will be provided at the meeting on this work.

4.2 In addition, the Fund has responded to the Information Commissioner's consultation on draft guidance for Data Controller and Data Processor contracts and we are waiting final publication of that guidance to enable us to review our existing data sharing agreements and third-party contracts. Work has already commenced on contacting our service providers to ensure they are preparing for GDPR with positive responses having been received.

4.3 The GDPR requires data controllers to ensure they hold accurate and up to date information, that it is held securely, and held for no longer than necessary. The Fund currently has circa 228,000 microfiche records held in cabinets in the Fund offices. Historically, the Fund has been undertaking a program of scanning fiches on to its UPM system for some time now however, work is still required and has recently stopped due to the current machine used by the Fund no longer being compliant with the Council's

ICT Cyber Security Policy. Therefore, any required microfiche scanning is on hold pending a new machine/approach.

- 4.4 Having conducted some research into the cost of a new machine and officer time to scan the fiches onto the system, it has been determined that a program of digitisation is the most beneficial solution taking into consideration cost and the requirements of GDPR, the Pensions Regulator and the impact on processing times. The Fund recently undertook a mini competition under a framework contract and have identified a potential supplier to undertake a 6 month scanning program to digitise all the Fund's microfiche in readiness for the May GDPR deadline.
- 4.5 The cost of this work has been competitively assessed and committee are asked to approve the entering of a contract for the sum of £110,000 (Committee are asked to note that this is a quote based on an estimated number of microfiches, there will be additional charges per fiche for those over a certain figures). This would ensure the secure transferring of microfiche images to our member records and will ensure compliance by the Fund with GDPR to hold accurate data securely and ensure the quality of data held.

5.0 MiFID II classification update

- 5.1 Committee will recall from our last report that the Fund is required to "opt-up" our status under MIFID II to ensure we retain the classification of Professional Client. Work has been undertaken by the Compliance and Investment teams to write out to our Fund Managers with the majority (65%) having already responded, confirming our opted-up status.
- 5.2 A number of managers (c30%) have raised further queries which have been addressed. A small number are yet to reply (less than 5%) and the Fund is chasing these to ensure our status is confirmed prior to the January deadline.
- 5.3 The National Scheme Advisory Board is monitoring the progress of the opt-up process across the LGPS and has published on its website details of those funds who have achieved opted up status. The fund remains in contact with their representative updating them on our progress in this area.

6.0 Trustee Training

- 6.1 So far this year the Fund is reporting Trustee Training Hours as 569 an average of 28.45 hours per Trustee.
- 6.2 Recently the Fund has seen an increase in interest from the Pensions Regulator in the training and development of pension fund Trustees and Local Pension Board members. The Regulator recently issued its latest survey for LGPS funds asking the question of effectiveness and how it was monitored. The Fund are reviewing its Feedback policy to ensure Trustees and Local Pension Board members are adequately able to assess their effectiveness in their roles.

6.3 The Fund continually reviews its Trustee Training Program to ensure the Committee and the Local Pension Board receives up to date training on issues relevant to the LGPS. Attached at Appendix 2 is an outline of the forthcoming training opportunities up to the year end (March 2018). Committee are asked to note the dates for their diary and to provide Jane Hazeldine, Trustee Management Officer with their reported training hours for this quarter.

7.0 Financial implications

7.1 Failure by the Fund to adhere to regulatory requirements could result in fines being imposed on the Fund by either the Pensions Regulator or the Information Commissioner.

7.2 The cost of the microfiche contract will be funded from the Fund's approved operating budget for 2017/18.

7.3 The budget for Trustee training is incorporated within the Fund's administration budget.

8.0 Legal implications

8.1 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*.

8.2 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.

8.3 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.

9.0 Equalities implications

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

10.0 Environmental implications

10.1 This report contains no direct environmental implications.

11.0 Human resources implications

11.1 The report contains no direct human resource implications.

12.0 Corporate Landlord

12.1 There are no corporate landlord implications.

13.0 Schedule of background papers

13.1 General Data Protection Regulations

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

13.2 Pension Regulator's Toolkit

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

13.3 Pension Regulator's Code of Practice

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

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

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

14.0 Schedule of Appendices

Appendix 1 – Risk Register Summary

Appendix 2 – Trustee Training Events for the year up to March 2018