

AGENDA SUPPLEMENT (1)

Meeting: Local Pension Board

Place: Kennet Room - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 24 May 2023

Time: 10.00 am

The Agenda for the above meeting was published on 16 May 2023. Additional documents are now available and are attached to this Agenda Supplement.

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DATE OF PUBLICATION: 17 May 2023

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WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD
24 May 2023

PENSION FUND – LOW VOLUME PERFORMANCE MONITORING

Purpose of the Report

1. The purpose of this report is to update the Board on the Fund's performance measures for 2022/23 in connection with the following areas;
 - A) ICO Data Protection breach log;
 - B) tPR breach log;
 - C) Freedom of Information (FOI) log;
 - D) Subject Access Request (SAR) log.
 - E) Complaints log; &
 - F) Internal Dispute Resolution Procedures (IDRPs) log;

Background

2. As part of the Fund's good governance arrangements it maintains a range of performance measures which sit alongside the Fund's KPI's such as administration, data quality & benchmarking. However, whilst officers report on high volume KPI's such as administration at each quarterly meeting, it was felt that to provide meaningful analysis of low volume performance measures such as those identified above, the statistics would only warrant being presented to the Board on completion of each scheme year.
3. The scope of the compliance requirements for the maintenance of the low volume performance measures is identified below;
 - a) The Data Protection Act 2018 in respect of Data Protection breaches & Subject Access Requests
 - b) The Pension Regulator's Code of Practice 14 in respect of tPR breaches, complaints & IDRPs
 - c) The Freedom of Information Act 2000

Considerations for the Board

4. The tables illustrated in Appendix I presents a summary of each of the performance measures, which are supported by both an introduction to the measure and an officer comment highlighting any themes which can be observed from the measures recorded.

Conclusions

5. In addition to the individual commentary provided in respect of each low volume performance measure set out in appendix I officers have drawn the following general conclusions on these KPI's;
 - a) **General Activity** – Giving consideration to the circa 80,000 members being managed by the Fund and the volume of activity being experienced, as well as the general nature of that activity, this report suggests that a low impact of performance errors and variances is currently affecting the Fund's day-to-day operating practices. However, as outlined in the Pension Regulator's breach log reporting section, this report excludes the Fund's

disclosure obligations for practical purposes. An area which would significantly alter the results included within this report.

- b) **Reporting to Committee** – In May 2022 the Board agreed that it would only recommend that this report is submitted to the Committee if it felt that a material operational need is present that would warrant the attention of the Committee. It would then only submit that part of the report requiring the Committee’s attention on that exception basis only.

Environmental Impact

- 6) There is no environmental impact from this report.

Financial Considerations

- 7) There are no immediate financial considerations.

Risk Assessment

- 8) There are no risks identified at this time.

Legal Implications

- 9) There are no immediate legal implications arising from this report.

Safeguarding Considerations/Public Health Implications/Equalities Impact

- 10) There are no implications at this time.

Proposals

- 11) The Board is asked to note the findings of the low volume performance measures being monitored by officers on behalf of the Fund.

Jennifer Devine
Head of the Wiltshire Pension Fund

Report Author: Richard Bullen – Fund Governance Manager

Appendix I

Low Volume Performance Schedule 2022-23

A) Information Commissioner Officer (Data breaches) log

Introduction – A personal data breach is ‘a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed’ (GDPR Article 4, definition 12)

Reporting an incident to the ICO is assessed on the impact of an incident on a person’s rights and freedoms, where “impact” is risk assessed in terms of likelihood & severity of that incident. Where a person’s rights & freedoms have been compromised the individual(s) must be informed without delay. Where a breach is not reported to the ICO a justifiable reason must be recorded.

ICO breach by category	Severity rating	Total members affected	No. of breaches
Personal data sent by post to the wrong address	Green	2	2
Personal data sent by email to the wrong email address	Green	1	1
Personal data within an email chain inadvertently forwarded to unauthorised personnel	Green	1	1
Phishing email inadvertently opened	Green	1	1
Total Data Protection breaches recorded in 2021/22		5	5
Last Year 5 incidents were recorded. This represents no change in 2021-22			

ICO breach by category	Severity rating	Total members affected	No. of breaches
Personal data sent by post to the wrong address	Amber	4	1
Personal data sent by email unprotected	Green	1	1
Total Data Protection breaches recorded in 2022/23		5	2
Last Year 5 incidents were recorded.			

Officer comment – Fund officers complete an initial risk assessment employing a formula approach, before referring incidents to the Council’s Information Governance (IG) team. In 2022/23 Fund officers classed all the incidents as immaterial personal data breaches on the basis that they all involved a small number of members, and all arose as a result of human error. On referral to IG it was determined that no incidents would be reported to the ICO.

Of the two incidents identified, one occurred within the Fund’s Member Services team, & the other was in the Employer Services team. The Fund’s procedure to notify affected individuals without delay was carried out. Whilst no evidence is available, concern remains around under reporting, particularly from the Employer Services team where a lack of 3rd party DSAs are present.

B) The Pension Regulator breach log

Introduction – Where a breach is likely to be of material significance to the Regulator there is a duty to report that breach having considered the cause, effect, reaction to and wider implications of that

breach. Consequently, Fund officers have a process in place to monitor, record, assess & escalate any breaches where they are determined to be significant. However, all identified breaches must be recorded on the Fund's breach log, as required by the Regulator, material or not and the table below seeks to summarise the total number of breaches recorded in 2022/23.

Scheme Managers, Board members, Employers, Fund advisers & any other party with a vested interest in the Fund have a responsibility to report breaches to the Regulator, albeit the process would in practice be undertaken by the s151 officer. Fund officers continue to operate to a range of self-challenges in line with the Fund's policy to assess materiality against the Regulator's indistinct and subjective examples.

tPR breach by category	Severity rating	No. of breaches
Late Payment of Future Service Contributions	Green	34
	Amber	35
Contributions not being paid in accordance with the Rates and Adjustments Certificate	Green	4
	Amber	32
Annual Report and Accounts 2019/20 not signed off within statutory deadline	Amber	1
Annual Report and Accounts 2020/21 not signed off within statutory deadline	Amber	1
Pensioner Payroll Reconciliation	Amber	1
Total tPR breaches recorded in 2021/22		108
Last Year 44 incidents were recorded. This represents a 245% increase.		

tPR breach by category	Severity rating	No. of breaches
Late Payment of Future Service Contributions	Green	67
	Amber	32
Contributions not being paid in accordance with the Rates and Adjustments Certificate	Green	42
	Amber	7
Late Payment of Future Service Contributions - previous scheme year	Green	2
Annual Report and Accounts 2021/22 not signed off within statutory deadline	Amber	1
Late settlement of refunds more than 5 years old (Bulk exercise)	Amber	1
Total tPR breaches recorded in 2022/23		152
Last Year 108 incidents were recorded.		

Officer comment – The focus of the Fund's breach log recording covers financial controls, maintenance of key documentation & the disclosure of information to members associated with significant projects. There are two breaches which are not typically recorded on the Fund's breaches log, which are IDPRs & casework disclosures. Both of these are reported separately, within this report & at quarterly Board meetings via the administration KPI statistics. The failure of employers to submit their contributions to the Fund as required is also reported quarterly to both the Board and the Committee via the Key Financial Controls report.

During 2022/23 no breaches were reported to the Regulator. It is noted that whilst there has been an increase in the number of breaches recorded in 2022/23, the number of non-green breaches fell, and during the 2nd half of 2022/23 the number of recorded breaches also fell significantly. Consequently, it should be highlighted that the increase in recorded breaches is at odds with the generally improving situation around contribution management. The new contribution monitoring process put in place by the Investment & Accounting team is having an effect and the reporting in the table above is largely distorted by a handful of small employers who have repeatedly submitted their contributions payments late each month. One employer paying late on eight occasions in the 12 months in 2022/23.

In addition, decisions were also taken to record as an amber breach the lack of auditor sign off on the Annual Report and Accounts 2021/22 and a green breach in respect of the late settlement of member refunds, which were more than 5 years old. The former on the basis that it was recognised that the cause was not associated with the completion of the Fund's accounts and that the Council had appointed a new auditor, and the latter on the grounds of materiality and that a project plan had been implemented to address the breach.

It should be noted that other activities were identified as potential breaches, but on consideration they were not recorded on the breach log. These include the Annual Benefit Statement issuance, the ongoing payroll reconciliation exercise, and the outsourced backlog project, all of which impacted the Fund's disclosure obligations. In all cases, the reason for non-recording was associated with the fact that improvement plans and improvements were put in place to address the issues, coupled with the fact that they had been reported in different ways and in previous years.

Finally, whilst recorded as an Amber breach by the Fund, Swindon Borough Council's (SBC) failure to pay its circa £1.9m monthly contributions to the Fund during April and May 2022 was not recorded as a reportable red breach on the basis that steps were taken by SBC to address its failure. This arose due to the poor implementation of a new payroll system. As this matter has continued to be ongoing, the Fund is keeping SBC's situation under review in the event that there is a requirement to escalate it to a material breach.

C) Freedom of Information (FOI) log

Introduction – As part of Wiltshire Council's compliance requirements with the Freedom of Information Act 2000 the Pension Fund will respond to all FOI requests notified to it by the Council's Information Governance team within the statutory timeframe. The purpose of the Act is to create a general right of access to all types of recorded information held by UK public authorities, which includes the Wiltshire Pension Fund, with the aim of enhancing accountability and transparency by explaining the reasons behind the decisions being taken by the Fund.

Where reasonably possible the Fund will aim to openly publish all relevant information about its operation. However, where a FOI request is made in respect of information which isn't already readily available, the Fund will respond to any valid request by first assessing whether it holds the information requested and secondly by establishing whether any exemption to publishing that information applies.

Information Provided	Date received	Completed within legal requirement	Resolution
Service Area - Investments Requests			
A quarterly breakdown for the Scheme Year 2021/22 of the Fund's private equity, debt funds, real estate funds, infrastructure funds, fund of funds and hedge funds performance. To include details of committed capital, invested capital, distribution, market values, Net IRRs & MOIC/TVPI.	21/04/2022	Yes	Information not held
Has the Fund ever invested in the following companies, either directly or indirectly between 2018 and 2022. Stating the amounts invested in each year. Lockheed Martin Corp, Boeing, Raytheon, BAE Systems, Northrop Grumman Corp, General Dynamics Corp, Airbus Group, Thales, Leonardo, Almaz-Antey, United Tech Corp, L3 Tech, United Shipping Building Corp, Honeywell International, Rolls Royce, Leidos, Naval Group & Textron	21/04/2022	Yes	Information not held
A list of all hedge funds and fund of hedge funds in which the Fund is an investor. To include, the amount invested month by month, the monthly market values to 30/06/22 & the monthly net returns (net of fees) to 30/06/22.	28/09/2022	Yes	Information not held
The Fund's potential investments in Thurrock Council as at the quarter ending 30/06/22, including the amount, start date, maturity date and interest rate. In addition, how much was invested as at 20/09/22.	04/10/2022	Yes	Information not held
Has the Fund ever invested in the following companies, either directly or indirectly between 2018 and 2022. Stating the amounts invested in each year. Lockheed Martin Corp, Boeing, Raytheon, BAE Systems, Northrop Grumman Corp, General Dynamics Corp, Airbus Group, Thales, Leonardo, Almaz-Antey, United Tech Corp, L3 Tech, Huntington Ingalls Industries, United Aircraft, United Shipbuilding Corp, Honeywell International, Rolls Royce, Leidos, Naval Group & Textron	22/11/2022	Yes	Request fulfilled

A list of companies in which the fund directly holds shares, including the market value of each holding. Plus, a list of trackers, pools and CIVs funds in which the pension fund invests, including the name & manager of each fund, as well as the individual companies invested in. Noting the market value of each investment and the total value portfolio value.	28/11/2022	Yes	Exemption Request refused
For 2021/22, the amount of council tax received from Wiltshire residents, the amount of that tax invested in the Fund and which investments were invested in.	09/12/2022	Yes	Exemption Request refused
Details of investments in Russian Fossil fuel companies, split by investment type as at 06/04/22, including the total Fund value and the percentage Russian investments represent. Details of any agreed policy to divest from these investments and any amounts of money divested since the policy was agreed. Alternatively, details of the assets being frozen or the Fund taking other steps.	24/01/2023	Yes	Request fulfilled
Details of all Fund investments as at 31 March 2022, including name, direct or indirect, asset type, individual stocks, investment vehicles, investment values and the total value of the Fund. The information should also include which IM manages each investment. Plus, the information should include the ISIN and LEI identifiers, as required. If no identifier an explanatory note should be added.	19/03/2023	n/a	Determination outstanding
Details of the Fund's information on climate risk, including all adviser guidance and all internal correspondence between 2018 and 2023. To include specific advice sought by the Fund from advisers. In addition, provision of the data points is required in respect of external analysis, noting the date/year and the provider communicating that information in a variety of warming scenarios, as well as the date at which that scenario will be reached. Arising from that data, analysis on the projected gains or losses and as any specific changes to asset allocations recommended	21/03/2023	n/a	Determination outstanding
Service Area - Administration Requests			
For each scheme year between 2018-19 & 2021-22, plus 2022 to date, information on how many people opted out & how many moved to the 50/50 section of the Fund.	11/10/2022	Yes	Information not held

Details of the Investment & AVC Advisers, including contract and contract review arrangements. In addition, details of the contacts and decisions makers for such investments, the Fund's database, membership numbers, AVC members and the current AVC providers.	04/01/2023	Yes	Request fulfilled
Freedom of Information Requests in 2022/23	12		
Last Year 15 incidents were recorded.			

Officer comment – The legal requirement for completing and issuing FOI requests is 20 working days. During the Scheme Year seven requests were exempted (refused), five on the basis that the information wasn't available. The remaining five were fulfilled, with two still outstanding. In addition, officers are not aware of any redactions to any parts of the information provided having occurred. All but two of the requests during 2022/23 were investment related, with most of the requests being made by investment analytical and research organisations.

D) Subject Access Requests

Introduction – Under GDPR a Subject Access Request is a right that can be exercised by a member to receive a copy of their personal data held by the Fund in accordance with Article 15. This right was later included within the Data Protection Act 2018 under Chapter 3, paragraph 45. In summary the Fund is required to provide all member specific information to a member, or their authorised representative within 30 days, however in order to administer such requests effectively Fund officers can request clarification concerning the scope of data requested. Officers will also assess the validity of any such requests prior to their fulfilment. This additional scoping of requests enables the “clock to be stopped” in relation to the fulfilment of requests and in October 2020 the ICO disclosed additional guidance detailing how such clarifications should be managed.

As a Data Controller the Fund will also work in its capacity as a Joint Data Controller with other organisations to fulfil SARs as they occur. Examples of organisations may include the Fund’s AVC Providers, the Actuary and its Scheme Employers.

Subject Access Requests	No.
Fulfilled with 30 days	2
Requests for extensions due to scope clarification	0
Not fulfilled with 30 days, or deadline extended	0
Total Subject Access Requests recorded in 2021/22	2
Last Year 5 SARs were recorded. This is a 60% decrease.	

Subject Access Requests	No.
Fulfilled with 30 days	1
Requests for extensions due to scope clarification	0
Not fulfilled with 30 days, or deadline extended	0
Total Subject Access Requests recorded in 2022/23	1
Last Year 2 SARs were recorded.	

Officer comment – During the last Scheme Year only one request was fulfilled. Since the introduction of SARs, the Fund has seen a gradual reduction in requests year on year, following the

high point in 2020/21 of 5 requests. With the anticipated implementation of the Retained EU Law Bill as of 31 December 2023 and the proposed changes outlined in the Data Protection & Digital Information Bill, it is anticipated that SARs will remain low, as well as granting organisations such as the Fund greater powers to reject invalid requests.

E) Complaints log

Introduction – The threshold definition for a complaint to the Fund is lower than that of an IDPR. A complaint can be made by anyone whether they be a member, beneficiary, or any other person with a legitimate reason to raise a statement of dissatisfaction against the Fund. The definition of “reason” can include the Fund’s conduct, standards of service, action or lack of action which is not considered to be of an acceptable standard. The Pensions Administration Strategy stipulates that the Fund will respond to a complaint within 25 working days.

Nature of Complaint	Date received	Dated resolved	Resolution
Retiree challenged multiple assumed pay calculations used to calculate her pension.	21/10/2020	21/05/2021	Upheld
Overpayment of pension due to incorrect uploading to payroll	09/03/2021	-	Determination outstanding
Concerned the Fund's requirement to execute a court order in relation to a pension sharing agreement	24/08/2021	14/01/2022	Not upheld
Poor administration led to dependent's pension not being paid. Distress payment made to widow	27/08/2021	27/08/2021	Upheld
Adjustment to annual pension. Distress payment made as insufficient notice of change was provided to member (Ref 4)	16/09/2021	22/09/2021	Went to IDRP
Employer did not calculate pensionable pay correctly (Ref 3)	03/11/2021	03/11/2021	Complaint not upheld, went to IDRP
Employer decision to enrol member into the Fund did not include backdated service (Ref 1)	08/11/2021	08/11/2021	Complaint not upheld, went to IDRP
A claim for interest & compensation was made because of a delay in the payment of a death grant, causing a tax charge to occur. (Ref 2)	10/01/2022	19/01/2022	Went to IDRP
Adjustment to annual pension	26/01/2022	08/03/2022	Not upheld
Adjustment to annual pension. Distress payment made as insufficient notice of change was provided to member (Ref 5)	26/01/2022	26/01/2022	Went to IDRP
Employer did not follow correct process on terminating a member's employment (Ref 7)	27/01/2022	01/02/2022	Went to IDRP
Adjustment to annual pension. (Ref 6)	17/02/2022	17/02/2022	Went to IDRP
Adjustment to annual pension.	25/03/2022	31/03/2022	Not upheld
Total Complaints recorded in 2021/22			13
Complaints progressed to IDRPs			7
Last Year 9 complaints were recorded. This represents a 44% increase.			

Nature of Complaint	Date received	Dated resolved	Resolution
Dispute: Concerned at the delay in issuing a transfer out quotation and completing their transfer Outcome: Email issued explaining changes to the regulations and the need to suspend transfers until the regulations were embedded into Fund processes at the beginning in 2022. Case closed after 25 days. Resolved	19/05/2022	25/05/2022	Not upheld
Dispute: Loss of AVC Investment return due to delays in Employer submitting contributions to AVC provider Outcome: Matter addressed during member retirement process. Resolved.	04/08/2022	28/09/2022	Not upheld
Dispute: Loss of AVC Investment return due to delays in Employer submitting contributions to AVC provider Outcome: Loss of investment accepted by AVC provider as delays in the disinvestment to the Fund were recognised, however it was considered an Employer matter. Resolved.	04/08/2022	07/11/2022	Not upheld
Dispute: Enquiry letter issued by Pensions Dept. attempting to establish member's identity, so that benefits can be paid. Latest letter followed repeated enquiries over many years. Complaint received from member's care home based on the fact that the member unable to respond. This was not known. Outcome: Response to member's care home stating that verification of identity is essential in order to pay benefits. Case closed after 25 days.	17/11/2022	08/03/2023	Not upheld
Dispute: Member unhappy that they couldn't TV out because they were within 1 year on NRA and there was a lack of website information on ill health retirements. Outcome: Email to member stating facts. Resolved.	09/12/2022	09/12/2022	Not upheld
Dispute: Member stated that their lump sum at retirement was paid late and requested compensation Outcome: Email issued explaining the Fund's process and individual timeline, case closed after 25 days. Resolved	14/12/2022	14/12/2022	Not upheld
Dispute: Member concerned that they could not claim back the tax deducted from their refund of contributions Outcome: Email issued explaining the regulations, case closed after 25 days. Resolved	19/01/2023	19/01/2023	Not upheld

Dispute: Reduction to annual pension as a result of applying member's GMP to their record. Member referred his enquiry to his Union Outcome: No reply, case closed after 25 days. Resolved	16/03/2023	05/04/2023	Not upheld
Total Complaints recorded in 2022/23	8		
Complaints progressed to IDPRs	0		
Last Year 13 complaints were recorded.			

Officer comment – The variety of complaints reflects the administrative complexity being dealt with by the Pension Fund, although it is recognised that the actions of employers and member understand of the regulations surrounding pensions and delays in administration processing continue to be the root cause of most complaints. Similar to last year, it is noteworthy that very little in the way of complaints have arisen as a result of the payroll reconciliation exercise which is probably due to the projects suspension for a large portion of the 2022/23 scheme year and the mitigations implemented at the start of the project, leaving effected pensioners with little grounds for complaint. Whilst no evidence exists to verify under reporting, in a similar vein to other performance measures recording of reported complaints is suspected to be less than it should be and consequently complaint activity has remained low for a Fund of this size. Three complaints fell outside of the 25-day resolution target.

F) Internal Dispute Resolution Procedure (IDPRs)

Introduction – The Fund has a two stage formal complaints process for eligible complainants, with IDPR stage 1 complaints involving officers using the services of an independent external consultant & stage 2 complaints involving determinations at Corporate Director level which may include guidance from the Fund’s actuarial advisers. Where a resolution can still not be reached the complainant can take their case to the Pensions Ombudsman.

Sponsoring employers of the Fund are also required to appoint a stage 1 independent adjudicator & publish a discretionary decision-making policy to ensure fair & transparent determinations.

Nature of IDPR	Date received	Dated resolved	Resolution
Stage 1 IDPRs			
Dispute: IDPR made on behalf of a member by Money Redress Ltd that a TV-out request to a member wasn't not managed correctly. Namely that the Regulator's guidance was followed by WPF and wasn't highlighted to the member when in occurred in 2013. Outcome: Adjudicator found there was insufficient evidence to support claim. (Ref 1)	06/03/2023	07/03/2023	Not upheld
Stage 2 IDPRs			

<p>Dispute: A Stage 1 IDR case b/fwd. from 2020/21 - A member exceeded their Annual Allowance in the Scheme Year 2019/20 due to a transfer-in. As a result of administrative delays in addressing their case the member claimed that they had suffered a financial loss. Outcome: Adjudicator upheld Stage 1 IDR on the basis of maladministration and suggested compensation. Stage 2 was not upheld on the basis that the Fund must comply with HMRC rules and that the adjudicator has no power to award financial compensation.</p>	20/05/2021	04/01/2022	Stage 2 Not upheld, Pension Ombudsman determination still outstanding since last year
<p>Dispute: A TV-out request to a member was not managed correctly. Namely that the Regulator's guidance wasn't followed by WPF and wasn't highlighted to the member when it occurred in 2013. Additionally, it was noted that at the time it was not compulsory for the member to obtain financial advice and this does not constitute maladministration by the Fund. Outcome: Stage 1 and Stage 2 IDRs not upheld as insufficient evidence to support claim. Member has taken it to the Pensions Ombudsman, but no decision received (Ref 1)</p>	06/03/2023	n/a	Stage 2 Not upheld, Pension Ombudsman determination outstanding
<p>Dispute: Prior to retirement member received multiple contradictory retirement quotations from WPF, including their eligibility under Rule of 85. Member based his retirement on information provided, however final retirement benefits were lower. Outcome: IDR Stage 1 & Stage 2 complaints partially upheld the member's case awarding them £1,500 distress & inconvenience payments due to maladministration Outcome: Distress payment made as insufficient notice of change was provided to member.</p>	22/03/2023	n/a	Stage 2 Not upheld, Pension Ombudsman determination outstanding
Total Stage 1 & 2 IDRs recorded in 2022/23			4
No IDRs currently upheld in 2022/23			1
Last Year 9 IDRs were recorded.			

Officer comment – There has been little IDR activity during 2022/23, with one case still outstanding from 2021/22. In all IDR cases members have continued their dispute to the Pensions Ombudsman.