

WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD
21 May 2020

PENSION FUND – LOW VOLUME FUND PERFORMANCE MONITORING

Purpose of the Report

1. The purpose of this report is to update the Board on the Fund's performance measures for 2019/20 in connection with the following areas;
 - Internal Dispute Resolution Procedures (IDRPs);
 - ICO Data Protection breach log; &
 - tPR breach 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 are identified below;
 - The Pension Regulator's Code of Practice 14 in respect of tPR breaches, complaints & IDRPs
 - The Data Protection Act 2018 in respect of Data Protection breaches & Subject Access Requests
 - The Freedom of Information Act in respect of FOI requests
4. Being the first year of production of this report only the three measures specified are being presented, however in future submissions it is intended that Complaints, Freedom of Information Requests (FOIs) & Subject Access Requests (SARs) will also be communicated.

Considerations for the Board

5. The tables below present a summary of each of the performance measures, which are supported by an officer comment highlighting any themes which can be observed from the measures recorded;

a) IDRPs

The Fund has a two stage formal complaints process for eligible complainants, with IDRPs 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.

See Appendix I

Officer comment – During 2019/20 only three IDPRs were recorded by the Fund, one of which was raised against one of the Fund’s sponsoring employers. Typically, IDPRs are generated because of a perceived or actual failing of historic administration practice & a crucial part of current Fund officer governance & oversight is to foster a continuous regime of process improvements with the intended aim of preventing disputes before they occur.

b) Data Protection breaches

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 & “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	5	4
Telephone message with personal data forwarded inadvertently to an unauthorised Council staff member	Green	1	1
Printed personal data left in office due to printer malfunction	Amber	est. 50	1
Personal data within email chain inadvertently forwarded to an unauthorised Council staff member	Green	2	1
IG's Data Loss Prevention (DLP) tool identifying personal data being sent externally by email	Green	1	1
Total Data Protection breaches recorded in 2019/20		59	8

Officer comment – Fund officers complete an initial risk assessment employing a formula approach, before referring all incidents to the Council’s Information Governance (IG) team. Fund officers viewed all incidents as immaterial except for the printed personal data breach due to the potential number of individuals affected. On referral to IG it was determined that no incidents, including the printed personal data breach required reporting to the ICO as this incident was contained within Wiltshire Council.

Four of the incidents identified above occurred within the Fund’s Benefits team, three within the Systems team & one was not identified. In all relevant incidents the Fund’s procedure to notify affected individuals without delay was carried out.

c) tPR breaches

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 as significant.

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. Determining whether a breach is material & should be reported can be subjective & to ensure appropriate assessment Fund officers operate a range of self-challenges in line with Fund policy including formula assessment, assessment against Regulator examples & individual review based on escalated discussions & agreed mitigations to address the breach with the party concerned.

tPR breach by category	Severity rating	No. of breaches
Late Payment of Future Service Contributions	Green	49
	Amber	9
Late Payment of Future Service Contributions & Deficit Reduction Contributions	Green	0
	Amber	8
Late Payment of Deficit Reduction Contributions	Green	0
	Amber	2
Board Member Breach	Green	0
	Amber	2
ABS Disclosure	Green	0
	Amber	1
Total tPR breaches recorded in 2019/20		71

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, these are IDPRs & casework disclosures both of which 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 the Investment sub-Committee (ISC).

During 2019/20 no breaches were reported to the Regulator. Most Amber breaches in the table above are associated with the late payment of future service & deficit reduction contributions caused by a small number of smaller employers whose material impact on the Fund is minimal. These employers are reported to the ISC each quarter. Only three Amber breaches were considered significant in the last Scheme year, namely the two late payments of deficit reduction contributions by large educational employers, both of which agreed individual arrangements with the Fund & the ABS disclosure in which Fund officers implemented an improvement plan. Because of the implementation of these arrangements the threshold requirement to report any of these breaches to the Regulator was not considered to have been reached.

Conclusions

- IDPRs** – Due to the low volume & diverse nature of the cases recorded during 2019/20 the data can only really suggest that there is insufficient information on which to draw any meaningful conclusions. It should be noted however that Fund officers will continue

with their end-to-end process reviews & procedural updates to ensure that all officer working practices are as effective as possible.

7. **Data Protection breaches** – A review of the breaches highlighted that a pattern of human error was inherent in the incidents reported. Whilst this is unfortunate the level of human error & the immaterial nature of those errors should be seen in context to the total volume of personal data being processed by the Fund. For example, the volume of completed casework highlighted in the administration KPI statistics. Whilst not complacent, officers do not feel that the number of breaches which occurred during the 2019/20 scheme year is a cause for significant concern.
8. **tPR breaches** – Officers consider the Fund's breach reporting arrangements to be adequate & note the Board's confirmation of this at their meeting on 22nd August 2019 whereby they requested that breaches only need to be brought to their attention on an exception's basis (minute 53). A robust strategy is in place to address material breaches & in relation to non-material breaches, after investigation of that breach & where no intent to avoid compliance was established, a strategy of education & support was provided to that party.

Environmental Impact

9. There is no environmental impact from this report.

Financial Considerations

10. There are no immediate financial considerations.

Risk Assessment

11. There are no risks identified at this time.

Legal Implications

12. There are no immediate legal implications arising from this report.

Safeguarding Considerations/Public Health Implications/Equalities Impact

13. There are no implications at this time.

Proposals

14. The Board is asked to note the findings of the low volume performance measures being monitored & managed by officers on behalf of the Fund.

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