

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
AUDIT COMMITTEE
HELD ON 14TH FEBRUARY 2014 AT 9.30 AM.**

- P Councillor Brain (in the Chair)
- A Councillor Emmett
- P Councillor Hanby
- P Councillor Hopkins
- P Councillor Khan (left at 11.55am)
- P Councillor Weston (left at 11.35am)

- P Ken Guy - Independent Member
- P Brenda McLennan - Independent Member

Cllr Gollop, Assistant Mayor for Finance and Corporate Service

RESOURCES SCRUTINY MEMBERS IN ATTENDANCE

- P Councillor Naysmith
- A Councillor Watson
- P Councillor Wright

Cllr Pearce – Bristol City Council representative on the Avon Pension Fund Committee

AC

80.02/14 APOLOGIES FOR ABSENCE, SUBSTITUTIONS AND INTRODUCTIONS

Apologies were received from Cllrs Emmett and Watson.

AC

81.02/14 PUBLIC FORUM

None.

AC

82.02/14 DECLARATIONS OF INTEREST

None

AC
83.02/14 WHIPPING

None

AC
84.02/14 CHAIR'S BUSINESS

None

AC
85.02/14 EMPLOYER COSTS OF BRISTOL CITY COUNCIL EMPLOYEE PENSIONS

The committee considered a report of the Service Manager, Finance (agenda item no. 6) relating to statutory requirements specified under the Superannuation Act 1972.

The Resources Scrutiny Committee Members and the Bristol City Council Representative on the Avon Pension Fund Committee were invited to attend for this item.

The following supplementary information was provided:

- Changes to Investments Strategy
- Actuarial Valuation Outcome
- Recent Consultation Updates.

Prior to the meeting, Bath and North East Somerset Council (BANES), the Avon Pension Fund Administrators were asked to provide answers to Member questions – Appendix A to the minutes.

Tom Wallen (TW), Pensions and Pay Officer was in attendance to present the report and noted the following:

- Bristol City Council (BCC) has a statutory duty to provide employees with access to various public sector pension schemes - Teacher's Pension Scheme (TPS), NHS pensions scheme and Local Government Pension Scheme (LGPS).
- The employer's contributions rates to the NHS (14%) and TPS (14.1%) were nationally set. The LGPS has a fund of assets invested to pay for future pension liabilities.
- The assets and liabilities in the LGPS were formally evaluated at least every three years and the results of the latest assessment (31st March 2013) were provided in November 2013.

- Employer's contribution rates due from BCC to the LGPS were based upon the actuarial evaluation of the scheme.
- Committee Members were asked to refer to the report appendices:
 - o Appendix 2 – APF Finance and Investments
 - o Appendix 3 – APF Responsible Investments Annual Report 2013
 - o Appendix 4 - LGPS member contribution rates
 - o Appendix 5 – LGPS admission agreements guaranteed by BCC.

Cllr Pearce, The Bristol City Council representative on the Avon Pension Fund Committee from May 2012 to present noted the following:

- The Avon Pension Fund was worth over £4billion, with £3billion worth of assets. BCC were responsible for a large deficit of £359.8 million.
- The work of the Avon Pension Fund Officers was excellent. Cost controls were good compared to other local authorities and the expenses incurred were less than most private sector funds. The investment returns were very good and the performances of the fund managers and consultants were excellent. The deficit continued to increase because the liabilities were discounted back.
- Over 200 employers paid into the Avon Pension Fund, including small employers with 4 to 5 employees.
- BANES Council had received a letter of guarantee from the Department for Education in relation to arrangements for academies within LGPS. The letter provided some comfort in terms of risk mitigation but it could be withdrawn at any time.
- The Avon Pension Fund Committee (APFC) had 12 voting Members, including 5 elected Members from BANES council and one elected Member of Bristol City Council. BCC were liable for a large percentage of the deficit and the voting Membership seemed disproportionately unfair to BCC. Cllr Pearce had agreed with all the APFC decisions to date.
- The Avon Pension Fund Investment Committee made recommendations to the APFC based on advice from financial experts.
- The priority of the APFC would be to protect fund Members.

- Market valuations were elevated based on money available. The removal of money from the market and the effect of compound interest implied that riskier markets would suffer first.
- Governance and socially responsible investments has become more popular with stakeholders. Fund managers were monitored and voting records outsourced to an expert. Update reports were presented to the APFC for approval.
- Successful property investment was challenging: penalties applied when withdrawing investments.

Members were invited to ask questions and the following was noted as part of the discussion –

- Cllr Hopkins re-iterated concerns related Bristol City Councils financial responsibilities to academies and suggested that only guaranteed organisations should be permitted to join the fund. The revised asset allocation strategy (in the supplementary document) provided no time scales: asset allocation should not be increased.
- As the previous BCC representative on the APFC, Cllr Wright noted that the fund approach to investment was rightly cautious. The band width for investments in property had previously been capped at 5%: this had recently increased to 10%. Pension Fund Members had become increasingly interested in the ethical governance: shareholder activism had been a growing area. Bristol City Council and partner organisations could consider creating property investment vehicles which would allow risk to be spread over a number of building projects and deliver returns over a large number of years.
- TW confirmed that other regions had created arm's length corporations for investment.

In response to queries raised, TW noted the following:

- The Superannuation Act 1972 requires BCC to provide a relevant pension scheme, and additional provisions under the Pensions Act 2008. It would be a criminal offence for employers to encourage people to withdraw from a qualifying pension scheme.
- Central Government had recently introduced a new law which required every employer to automatically enrol workers into a workplace pension scheme if they are aged between 22 and State Pension age, earn more than £9,440 a year and work in the UK.

- Academies are 'scheme employers' with the Local Government Pension Scheme (LGPS) as a result of the statutory legislation governing the LGPS. Therefore they automatically participate in the LGPS as a result of this national legislation and Bristol City Council cannot prevent academies from participating in the LGPS. [This is specified in the Local Government Pension Scheme (Administration) Regulations, Schedule 2, Part 1, Paragraph 21]
- Bristol City Council reviewed the pay policy statement and priorities annually at the Human Resources Committee and the meeting of Full Council.
- BCC could take pension liability into account as part of the procurement process. Appendix 5 of the report provided the LGPS admission agreements guaranteed by BCC. Pension bonds, which pay up to the value of the bond, could be used to mitigate against the risk. Due to the costs associated, Bonds would only be introduced should the liability be over £50,000.
- BCC currently granted premature retirement for teachers. This discretionary decision had been made at the Human Resources Committee in 2010.

The Chair invited the Members to comment:

- When considering the Monitoring Review of Proxy Voting 2012, BlackRock was defined as a management company. The Total Resolutions referred to the number of votes at a general meeting. The information only affected BCC from an ethical perspective.
- Cllr Weston noted a number of concerns:
 - ethical concerns (i.e. tax / transparency issues) related to some of the countries listed.
 - the independence of the Board (page 63 of the agenda papers – Table 8: Common Concerns Identified On Audit and Reporting Resolutions),
 - the investment performance (page 23 of the agenda papers – How are the Fund's investments performing?) –
 - under representation of BCC on the APFC.
- Mark Taylor, Service Director – Finance noted that the APFC had a statutory duty to protect the fund and made investment decisions based on the advice of the investment manager(s).
- Governance arrangements were being considered nationally. 89 schemes operated in England and Wales, with each one being slightly different.

- Cllr Gollop, Assistant Mayor for Finance and Corporate Services noted the following concerns:
 - o With only one BCC seat on the APFC, BCC would be powerless to influence decisions. The proportionality issue should be considered.
 - o The Monitoring Review of Proxy Voting 2012 (page 69 of the agenda papers) had not provided information on how many issues could affect the UK. Ethical pension funds should be supported.
 - o If APFC Members agreed that investment in property should be explored, Officers should provide Members with options to implement this.
 - o As outsourcing of resources increases, BCC would have a reduced workforce and less people to fund the deficit for the people who were previously employed.
- BCC could consider a requirement for pensions bonds.
- The other Local Authorities contributing to the APFC could be asked to support BCCs request for a more equitable allocation of seats on the Committee.
- Cllr Khan suggested Officers and Members should have highlighted the issue previously.
- TW re-iterated that Local Authorities were required to offer the LGPS. Employees could chose to enrol in a private scheme.

The Committee agreed that a briefing would be arranged with the Bristol Mayor and Cllr Brain, the Chair of Audit Committee, Mark Taylor, Service Director – Finance and Cllr Pearce – Bristol City Councils representative on the Avon Pension Fund Committee.

The Committee agreed the following main issues of concern would be discussed with the Mayor:

a) The Avon Pension Fund Committee.

- The Governance Structure: the representation of Bristol City Council and other Local Authorities paying into the scheme.
- The relationship between the APFC and the Investment Committee.
- The current nimbleness of the investment approach.

b) The Pension Liability Risks when transferring services.

- The management of liability when transferring services, i.e. Commercial contracts and community transfers effecting small groups of employees.
- The use of Bonds should be required when appropriate.

RESOLVED –

- (1) that a briefing with the Mayor be arranged to highlight the following areas of concern -**
 - a) the Avon Pension Fund Committee Governance arrangements and investment activity;**
 - b) the Pension Liability Risks when transferring services.**

- (2) that the report be noted**

Mark Weston left at 11.35 am.

AC

86.02/14 MINUTES – AUDIT COMMITTEE – 17th JANUARY 2014

Media Protocol

The Committee considered the media protocol information received from Tim Borrett, Service Manager -Media, as requested at the meeting on the 17th January 2014 (appendix B to the minutes). The Communications team reported to the City Director.

The Chair noted that the press release regarding the good work of the Benefit Fraud Investigation team would not have been controversial or of a political nature and therefore should have been released.

Members agreed that issues had arisen in communications since the departure of the previous Service Director, Communication and marketing.

Reference was made to the Bristol City Council constitutional guidance regarding Media Relations and Published Material (Part 5c Protocol for Member / Officer Relations) (Part 7.1). The Democratic Services Officer to clarify the guidance with the Service Director, Legal Services. **Action – Karen Blong.**

The Assistant Mayor for Finance and Corporate Services would highlight the issue at the informal Cabinet meeting. **Action – Cllr Gollop.**

RESOLVED -

That the minutes of the meeting of the Audit Committee held on 17th January 2014 be confirmed as a correct record and signed by the Chair.

The committee considered a report of the Chief Internal Auditor (agenda item no. 8) related to the Internal Audit quarterly update report which provided details of the cumulative position of internal Audit work for period 1st April to 31 December 2013.

Melanie Henchy-McCarthy, Chief Internal Auditor introduced the report which noted that the Council had demonstrated a positive direction of travel in its efforts to improve the overall level of risk within the Control, Risk and Governance environment. The current level of risk was considered to be Medium.

The Committee were invited to comment and the following was noted as part of the discussion:

- The Strategic Leadership Team and the City Director were responsible for the internal control framework.
- Grant Thornton, BCC's external auditors had confirmed the direction of travel was good.
- A draft Annual Governance Statement (AGS) would be provided by the Chief Internal Auditors at the end of April. The final AGS would be prepared alongside the draft statement of accounts.
- An informal training session for Audit Committee Members had been arranged for 7th March 2014.
- Cllr Gollop, Assistant Mayor for Finance and Corporate Services highlighted the need to recognise uncontrollable risks. Manager's response time should continue to be monitored.
- Mark Taylor, Service Director – Finance confirmed that the overall report would be based on the cumulative risk. Some reports for quarter 2 had indicating a rating of Good and pro-active work would continue to address issues as they arose.
- Markets remained an area of concern. Work was on going to ensure improvement in the area.

RESOLVED –

That the report be noted.

AC

88.02/14 APPOINTMENT OF HONORARY ALDERMEN

The committee considered a report of the Service Manager, Democratic Services (Interim) (agenda item 9) relating to the appointment of Honorary Aldermen.

RESOLVED -

That, due to their significant contribution to the local community as outlined in the report, the Committee endorses the proposals that the title of Honorary Alderman be conferred upon:

- a. Guy Poultney**
- b. Stephen Williams**

and be recommended to the full Council accordingly.

AC

89.02/14 DATE OF NEXT MEETING

RESOLVED -

- (1) That an informal Statement of Accounts training session take place on Friday 7th March 2014 at 9.30 am; and**
- (2) That the next meeting of the Audit Committee be held on Friday 25th April 2014 at 9.30 am.**

The meeting ended at 12.05 pm.

CHAIR

The Bath and North East Somerset response to questions posed by Members of the Audit Committee and Resources Scrutiny Committee.

To be discussed at the Audit Committee meeting on the 14th February 2014 at 9.30am.

Questions for the pension fund:

1. Of the 12 voting members on the Avon Pension Fund Committee (APFC) 5 are elected members from B&NES council and one is an elected member of Bristol City Council. How was this decided and what options are there for reviewing the governance structure of the APFC?

The constitution of the Avon Pension Fund Committee is legally the responsibility of B&NES Council alone in its capacity as the administering authority. B&NES has legal responsibility for the Fund regardless of who is on the committee and even if there are no B&NES members on the committee. The current committee constitution was reviewed in 2009 at which time the Fund consulted all employers on the proposed changes. As a result of this review, the voting franchise was extended to non-B&NES councillors.

2. What are the arrangements for dealing with the allocation of liabilities if an academy were to close leaving outstanding pension liabilities with the Avon Pension Fund?

In July 2013, the Department for Education (DfE) issued a letter providing a guarantee that in the event of the closure of an Academy Trust, any outstanding pension liabilities would not revert to an LGPS fund. The letter outlined the process of how the outstanding liabilities would be met. If the assets of the Academy Trust are insufficient any remaining outstanding LGPS deficit would then be met by the DfE in full. However, the DfE and the Treasury reserve the right to withdraw the guarantee at any time, including if the contingent liability levels set by the DfE are exceeded or if projected costs are no longer affordable from within the DfE's existing budget or are not approved by the Treasury. The Treasury also reserves the option to re-assess the approval of the guarantee at a later date, as appropriate, due to spending considerations or policy developments. Given this letter of guarantee, the Fund's policy is to treat the academies in line with the unitary authorities in terms of the flexibility afforded under the funding strategy. However, in the event the guarantee is withdrawn or amended or there is a specific incidence of the government leaving an academy deficit with a LGPS fund, the Fund's funding strategy states that

the policy will be amended to reflect any material detriment to the covenant of the academies.

3. What arrangements are in place to deal with insolvency of participating employers in the fund without sufficient monetary guarantees or bonds to make good their outstanding liability?

Since December 2005, following a change in legislation regarding LA powers, the Fund's policy is that all new admitted bodies are required to have a guarantee from a scheme employer or provide a bond to protect the Fund. In the event of insolvency, if the employer's assets are insufficient to repay the deficit the outstanding liabilities will be left with the Fund. The Fund is a collective scheme and in most cases the liability will be shared amongst remaining fund members. This potential risk must be put into context. For the large admitted bodies the liabilities are backed by assets and for the smaller bodies, where this is not the case, the outstanding liabilities are very small in the context of the overall Fund deficit.

4. Has the pension fund considered expanding its investments in property & using the pension fund assets to address the need for housing within the region?

The Fund has a 10% allocation to property. The Fund's investments are made purely on the investment case for each investment opportunity which must be aligned with the Fund's investment objective and policy for managing risk. The investment strategy is structured to both minimise employer contribution rates and keep contributions as stable as possible. Any investment in an asset class is determined by the investment strategy; professional experts are then appointed to manage the investments. The governance and internal resource requirement to appraise, invest, monitor and exit individual investment opportunities is significant and requires a high degree of specialist knowledge. Therefore, it is not feasible for the Fund to invest directly in local housing assets.

*Liz Woodyard
Investments Manager
Avon Pension Fund
Bath & North East Somerset Council*

Media Protocol

Currently there is no formal written media protocol, an issue which the new Service Manager for Media will be addressing in consultation with the new Service Director for Policy, Strategy and Communications.

However the media team is guided by the Member-Officer Relations section of the council's constitution with regards to Member involvement in proactive press releases. It states:

‘Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the council is unavoidable, particularly given the need for councils to consult widely whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although they should not oversimplify facts, issues or arguments.

‘Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

‘Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe an individual councillor’s policies and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.’

On this basis press releases regarding formal committee business and decisions should not be precluded unless it is the professional judgement of appropriate officers that it is not compatible with the constitution. In these cases Members are of course able to send out their own news or liaise with Party Group Offices to distribute news.

The Service Manager for Media was not aware of the recent issue, but would gladly advise any committee Chair should a similar issue occur in future.

Tim Borrett, Service Manager – Media