

	<p><b>Local Pension Board</b></p> <p><b>11 September 2017</b></p>
<b>Title</b>	<p><b>Issue of Regulatory Intervention Report to the Barnet Pension Fund</b></p>
<b>Report of</b>	<p>Director of Resources</p>
<b>Wards</b>	<p>All</p>
<b>Status</b>	<p>Public</p>
<b>Urgent</b>	<p>No</p>
<b>Key</b>	<p>No</p>
<b>Enclosures</b>	<p><b>Appendix A - Detailed timeline of activity listed in the Intervention Report and follow up events</b></p>
<b>Officer Contact Details</b>	<p>Gillian Clelland  <a href="mailto:Gillian.clelland@barnet.gov.uk">Gillian.clelland@barnet.gov.uk</a>                      0208 359 5310</p>

<p><b>Summary</b></p>
<p>This purpose of this report is to inform the Local Pension Board of the issue of a regulatory intervention report by the Pensions Regulator to the London Borough of Barnet Pension Fund. The intervention report related to a fine that was levied due to non-completion of the 2016 Scheme Annual Return. This report advises the Board of the failures that led to the fine being issued and the actions that have been and are being taken in response.</p>

<p><b>Recommendations</b></p>
<p><b>That the Local Pension Board note the issue of a regulatory intervention report by the Pensions Regulator in relation to the London Borough of Barnet Superannuation Fund and the actions being taken in response.</b></p>

## 1. WHY THIS REPORT IS NEEDED

- 1.1 A regulatory intervention report was issued by the Pensions Regulator under section 89 of the Pensions Act 2004 in relation to the London Borough of Barnet Superannuation Fund. The report can be found at the following link.

<http://www.thepensionsregulator.gov.uk/docs/regulatory-intervention-section-89-london-borough-of-barnet.pdf>

The report related to a fine of £1,000 being issued due to non-completion of the 2016 scheme return. The Board has requested a full report on the issues leading to this intervention and the actions being taken to address weaknesses identified.

- 1.2 Depending on the nature and size of the scheme, trustees and managers of pension schemes are sent a scheme return notice at least once every three years. From the information available, it appears that the last return for the Barnet Pension Fund was submitted in 2013 before the transfer of the pension administration service to Capita. It is believed that the return was completed by a former employee who did not transfer. The 2016 scheme return, due on 12 August 2016, was not submitted.

- 1.3 A detailed timeline of events is included at Appendix A. As shown in that timeline, the Pensions Regulator has demonstrated that they made several attempts to contact the individual who submitted the 2013 return and possibly two other employees of CSG/ Capita Employee Benefits, although the extent of the contact cannot be verified as both of these individuals have now left. Having been unsuccessful in making contact, the Regulator referred the matter of non-completion of the scheme return to its Determination Panel which decided to impose a fine of £1,000 against the scheme manager.

The fine was issued on 13 April, however it was not until 30 May when payment of the fine was being chased that the council became aware of the fine. The fine was paid and the council was subsequently reimbursed by Capita. The scheme return was also partially completed.

- 1.4 The Director of Resources was informed of the fine and non-completion of the return at the end of May and as there was no financial impact to the council or the pension fund (as Capita paid the fine) and no perceived underlying systematic failure that led to the non-completion, this was treated as a business as usual occurrence and not escalated to elected members or members of the Local Pension Board immediately. The incident of non-compliance was included in the Annual Governance Statement presented to the Audit Committee on 27 July 2017 and will be included in the quarter one monitoring report to the Performance and Contract Management Committee.

On 31 July, the CSG Assistant Director of Finance wrote to all members of the Pension Fund Committee and Local Pension Board advising them of the publication of the regulatory intervention report and members of both the Committee and the Board requested a report to their next meeting on the issue.

- 1.5 As a result of the non-completion of the scheme return and other matters which had come to its attention, the Pensions Regulator requested a meeting with the scheme manager to discuss some concerns about the administration and governance of the scheme. The meeting took place on 14 August and was attended by the Director of Resources and the CSG Assistant Director of Finance. The outcome of the meeting is awaited.

#### Actions taken

- 1.6 A number of improvements to the scheme administration have been put in place and further actions are planned or in progress.
- Additional users have now been added to the Pensions Regulator's website so that notifications go to a number of people and cannot therefore be missed.
  - The 2017 scheme return notice is due to be received in September and will need to be completed within six weeks of the date of issue of the notice. The CSG Assistant Director of Finance will take responsibility for ensuring that the return is fully completed and submitted on time.
  - The post room have been instructed that in future any correspondence from the Pensions Regulator or addressed to the scheme manager should be delivered to the CSG Assistant Director of Finance or Head of Treasury.
  - A full review of the Scheme's governance documentation has been undertaken and is reported elsewhere on this agenda. Where documents are missing or require improvement, this will be rectified during this year.
  - A pension service improvement plan and a risk register covering administration matters are now in place and are also included elsewhere on the agenda. The Local Pension Board is requested to monitor these documents on an ongoing basis.

## **2 REASONS FOR RECOMMENDATIONS**

- 2.1 The Local Pension Board's responsibilities include:
- reviewing the Pension Fund's performance in complying with the requirements of the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS; and
  - reviewing the Pension Fund's performance in complying with the requirements of the Pension Regulator

It is therefore essential that the Board is made aware of this matter and its implications for the council in order that it, in conjunction with the Pension Fund Committee, can monitor future improvements and have assurance that the pension fund is being effectively administered.

### **3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 Not applicable.

### **4 POST DECISION IMPLEMENTATION**

4.1 A full review of the Scheme's governance documentation has been undertaken and is reported elsewhere on this agenda. Where documents are missing or require improvement, this will be rectified during this year and updated documents brought back to the Board for review.

4.2 A pension service improvement plan and a risk register covering administration matters are now in place and are presented elsewhere on the agenda.

### **5 IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

5.1.1 Not applicable

#### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 This issue will be reported to the Performance and Contract Management Committee as part of the quarter one monitoring report.

5.2.2 The fine has been reimbursed by Capita and, as such, has no financial implication for the council.

5.2.3 There are no procurement, staffing, IT, property or sustainability implications.

#### **5.3 Social Value**

5.3.1 Contributing to the Pension Fund ensures that contributing members have a secured income on retirement.

#### **5.4 Legal and Constitutional References**

5.4.1. Section 64 of the Pensions Act 2004 requires the managers of public service pension schemes, like trustees and managers of other registrable schemes, to provide the Pensions Regulator with a document called a 'scheme return'. If a scheme return in respect of a scheme is not provided in compliance with subsection (1), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee or manager of the scheme who has failed to take all reasonable steps to secure compliance. Fines of up to £5,000 per individual or £50,000 in all other cases may be levied.

5.4.2 Section 89 of the Pensions Act 2004 allows the Pensions Regulator, if it considers it appropriate to do so in any particular case, to publish a regulatory intervention report.

5.4.3 The Council's Constitution – Part 15, Annex A, Responsibility for Functions details the responsibilities of the Local Pension Board, which include the following:

“The Board is responsible for assisting with:

- securing compliance with Local Government Pension Scheme (LGPS) Government regulations and any other legislation relating to the governance and administration of the LGPS;
- securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator;
- such other matters that the LGPS regulations may specify.

Ensure the effective and efficient governance and administration of the LGPS for the LBB Pension Fund.

Review the Pension Fund's performance in complying with the requirements of the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS.

Review the Pension Fund's performance in complying with the requirements of the Pensions Regulator.”

## **5.5 Risk Management**

5.5.1 A risk register covering pension administration matters is now in place and will be monitored by the Local Pension Board.

5.5.2 The governance improvements that have made in response to the issue of the regulatory intervention report will mitigate the risk of a similar incident reoccurring in the future.

## **5.6 Equalities and Diversity**

5.6.1 Pursuant to the Equalities Act 2010, the Council is under an obligation to have due regard to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between persons who share a relevant 'protected characteristic' and those who do not share it; and fostering good relations between persons who share a relevant 'protected characteristic' and persons who do not share it. The 'protected characteristics' are: age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief, sex and sexual orientation.

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services.

## **5.7 Consultation and Engagement**

5.7.1 The Local Pension Board will also receive this report.

## **6 BACKGROUND PAPERS**

6.1 None

## Appendix A

### Detailed timeline of activity listed in the Intervention Report and follow up events:

<b>Date</b>	<b>Pensions Regulator Action</b>	<b>CSG Finance Comment</b>
9 July 2016	The Pension Regulator (TPR) issued a scheme return notice to the Scheme Manager, requiring the scheme return to be completed by 12 August 2016.	It is thought that the notice was sent to two offers from Capita Employee Benefits (CEB) but as both have left, this is not known for definite. A former CSG staff member was also a user on the Pensions Regulator's website but did not recall receiving the notice.
20 September 2016	Scheme Manager called TPR to confirm they had access to the scheme return online and would submit it within a week.	The former CSG staff member recalls speaking to the Pensions Regulator but did not action this.
29 September 2016	TPR issued a notification of failure to the Scheme Manager, advising that if the scheme return was not completed by 14 October 2016, or if they did not tell TPR what reasonable steps they had taken to comply, the Scheme Manager could be fined.	It is not known if and by whom this was received. Correspondence addressed to the Scheme Manager has not always been delivered to the right person as it is not clear who should receive it.
18 January 2017	TPR issued a warning notice to the Scheme Manager, explaining their intention to ask the Determinations Panel to issue a penalty notice to the scheme manager for failing to submit the scheme return.	There is no trace of this being received.
24 February 2017	The Scheme Manager had not provided the scheme return and TPR's case team referred the matter to the Determinations Panel.	
8 March 2017	The Determinations Panel decided that a fine of £1,000 against the Scheme Manager was appropriate in accordance with TPR objectives as the scheme has nearly 23,000 members and had appeared to have done nothing to secure compliance.	

Date	Pensions Regulator Action	CSG Finance Comment
13 April 2017	Penalty notice issued after the 28 day window for the scheme manager to refer the determination to the Upper Tribunal had expired.	There is no trace of this being received.
30 May 2017		<p>The CSG Assistant Director of Finance took a call from the Pensions Regulator chasing payment of the fine. This was the first time the matter had come to her attention. The Regulator made reference to a 'signed for' letter which it was established had been delivered to HR and sent onto CEB. The CSG Assistant Director of Finance contacted CEB to try to establish what the issue was and the reason for the fine. The fine was paid by the Council on 9 June and has subsequently been reimbursed by Capita.</p>
12 June 2017		<p>The Pensions Regulator wrote to the Council requesting a meeting. The letter was addressed to The Scheme Manager but there is no record of the letter being received. A further letter was sent on 28 June by registered post. As the Regulator also telephoned to alert the Council to this, the CSG Assistant Director of Finance was able to track down this letter and inform the Director of Resources. The letter requested a meeting to discuss a number of concerns about the administration and governance of the scheme, namely:</p> <ul style="list-style-type: none"> <li>- Failure to complete a Scheme Return</li> <li>- Delays in the production of the Annual Benefit Statements for 2015/16</li> <li>- The omission of administration and governance matters from the Scheme's risk register</li> <li>- Uncertainty as to the presence and quality of the Scheme's internal controls.</li> </ul> <p>This meeting took place on 14 August and was attended by the Director of Resources and the CSG Assistant Director of Finance.</p>

<b>Date</b>	<b>Pensions Regulator Action</b>	<b>CSG Finance Comment</b>
30 June 2017		At around 11am, the CSG Assistant Director of Finance received a phone call from the Regulator advising that the online scheme return would close at lunchtime. In the time available the return was partially completed.
18 July 2017		An email was received advising that the Pensions Regulator would be publishing the regulatory intervention report. The report was published and a press release issued on 27 July.
31 July 2017		At the request of the Director of Resources, the CSG Assistant Director of Finance wrote to members of the Pension Fund Committee and Local Pension Board advising them of this report.

