



CABINET – 15 SEPTEMBER 2023

**COMMUNITY ADMISSION BODIES –
VOLUNTARY ACTION LEICESTERSHIRE AND THE BRADGATE PARK
TRUST**

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

PART A

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's approval for the proposed transfer of Voluntary Action LeicesterShire (VAL) pension fund assets and liabilities to the County Council, and for the proposed transfer of Bradgate Park Trust (BPT) pension fund assets and liabilities equally to Leicestershire County Council and Leicester City Council.

Recommendations

2. It is recommended that
 - a) The transfer of Voluntary Action LeicesterShire pension fund assets and liabilities to the County Council be approved;
 - b) The transfer of Bradgate Park Trust pension fund assets and liabilities equally to the County Council and Leicester City Council be approved;
 - c) That the Director of Corporate Resources, following consultation with the Director of Law and Governance, be authorised to sign the pass-through agreements for the above transfers on behalf of the County Council.

Reasons for Recommendations

3. The proposals would increase the County Council's asset share in the Leicestershire Pension Fund (as a result of the positive funding position for VAL and the BPT) and would reduce overall risk to the Fund, as well as removing pension risk from VAL and the BPT.

Timetable for Decisions (including Scrutiny)

4. The Local Pension Board considered a report at its meeting on 2 August 2023 and supported the proposal.

5. A report will be presented to the Local Pension Committee (for Pension Fund approval) on the 8 September 2023 and the views of the Committee will be reported to the Cabinet.
6. Leicester City Council will need to approve the proposals as they relate to that Authority through its usual governance process.
7. The VAL Board of Trustees considered the matter on 12 July 2023 and supported the proposals.
8. Fund Officers met with the BPT Finance and General Purposes Sub-Committee on 21 August 2023. The Sub-Committee supported the proposal and agreed to refer this to the Bradgate Park and Swithland Woods Committee of Management meeting for a formal decision, on the 11 September 2023.

Policy Framework and Previous Decisions

9. There are no corporate policies or plans relevant to this proposal and it does not impact on the Budget and Policy Framework.

Resource Implications

10. There are no resource implications arising from this report.
11. The values presented in Part B of this report are provided by the Pension Fund Actuary and are subject to change due to market conditions between now and the final date of completion. The final cessation values will be calculated by the Fund actuary using the final cessation date and market conditions at that time.
12. Further detail relating to the proposed transfers including a summary of assets, liabilities and funding positions is given in Part B of this report.

Legal Implications

13. The Director of Law and Governance has been consulted on this report.
14. If the proposals are agreed by all parties, the Fund and VAL will enter into a legal pass-through admission agreement with Leicestershire County Council as the Administrating Authority (the Fund) and Scheme Employer (County Council). The BPT will enter into a legal pass-through admission agreement with Leicestershire County Council and Leicester City Council as joint guarantors. The City Council has agreed to act as equal guarantor. A pass-through admission means that if an employer leaves the scheme any surplus or deficit moves to the guarantor.

Circulation under the Local Issues Alert Procedure

15. None.

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PART B

Background

16. The Leicestershire Pension Fund (the Fund) has a small number of historic scheme employers known as Community Admission Bodies (CABs).
17. CABs tend to be small to medium sized charities that joined the Fund in the 1970s or 1980s, before the full extent of the employer risk associated with a defined benefit scheme was known. Because of this, CABs often do not have an employer guarantor or security sat behind them, so if they were to go bankrupt or to leave the scheme with a deficit that they were unable to pay, their Pension Fund deficit would be spread across all the Fund's employers. VAL and the BPT are the last two historic CABs in the scheme without guarantors.
18. Accounting rules require Local Government Pension Scheme (LGPS) employers to declare their pension deficits on a prudent basis. This has a negative impact on the organisations balance sheet that can impact the cost of financing and their ability to enter into long term agreements.
19. The Fund closely manages employer risk and will act to mitigate risks where possible.
20. Voluntary Action Leicester (VAL) and Bradgate Park Trust (BPT) are both CABs in the Fund that do not have a guarantor. They both have active members as well as preserved and pensioner members (VAL has 9 active, 69 preserved and 17 pensioner members; the BPT has 2 active, 1 preserved and 4 pensioner members).
21. Based on an indicative funding update (on the Fund's 'low risk' basis) as of 31st March 2023 the position of each CAB is -

VAL has an approx. surplus of £730,000.
BPT has an approx. deficit of £30,000.
22. Both employers have a large surplus on the Fund's 'ongoing' basis which is used for long-term participating employers. This is the basis on which Leicestershire County Council and Leicester City Council are funded and is also the basis used for any cessation valuation of an exiting employer with a guarantor. The ongoing basis calculates liabilities by using a future investment return assumption that has a 75% chance of being achieved (as per the approach agreed at the 2022 valuation and detailed in the Fund's Funding Strategy Statement (FSS)).
23. A summary of the assets, liabilities and funding positions on the ongoing basis is set out below. The tables represent the values at the latest fund valuation on the 31 March 2022, and at 31 March 2023.

31 March 2022	VAL	BPT	County	City
Assets (£000)	6,460	1,366	1,655,455	1,706,188
Liabilities (£000)	5,260	1,286	1,594,591	1,595,268
Funding Position Surplus / (deficit) (£000)	1,200	80	60,864	110,920

31 March 2023	VAL	BPT	County	City
Assets (£000)	6,580	1,340	1,640,000	1,700,000
Liabilities (£000)	4,090	1,020	1,300,000	1,290,000
Funding Position Surplus / (deficit) (£000)	2,490	320	340,000	410,000

24. The Fund's 'low risk' basis is a more prudent basis used for any cessation valuation of an exiting employer without a guarantor. The low risk basis calculates liabilities by using a future investment return assumption that has a 90% chance of being achieved, and hence is more prudent than the ongoing basis (as per the approach agreed at the 2022 valuation and detailed in the Fund's FSS).
25. A summary of the assets, liabilities and funding positions on the low risk basis is set out below.

31 March 2023	VAL	BPT
Assets (£000)	6,580	1,340
Liabilities (£000)	5,850	1,370
Funding Position Surplus / (deficit) (£000)	730	(30)

26. The Pension Manager at the County Council has been working closely with VAL and the BPT to help them reduce their pension fund risk.

Proposals - Voluntary Action LeicesterShire

27. The Fund proposes that the County Council acts as guarantor for VAL's pension obligations subject to VAL not having any deficit on the Fund's 'ongoing' basis at the cessation date (the date agreed by all parties to terminate the admission).
28. VAL would cease its current historic admission agreement with the Fund. VAL and the Fund would set up a new pass-through admission agreement from the day following the current admission ends, so members pension benefits remain continuous. VAL would mirror the County Council employer rate and at the end of pass-through admission (when the last active member leaves the scheme), any future surplus or deficit is the County Council's responsibility.
29. VAL would be required by the County Council to set up a bond to protect the County Council during the pass-through admission agreement period. A bond protects the Fund in circumstances where the employer may not be able to fulfil its financial obligations arising from the employer's participation in the scheme (for example in the event of insolvency or early retirements).

30. The new pass-through admission agreement would be signed by all parties, prior to the end of the existing agreement, and only existing contributors will be named in the agreement, making this a closed admission. This reduces the risk to the Fund as new employees recruited by the employer will not be able to become LGPS members.
31. The Fund proposes to calculate a cessation value on the 'ongoing' basis to establish if VAL has a deficit on the ongoing basis which is used for an exiting employer with a guarantor (as the County Council would now be acting as guarantor under this proposal).
32. The date of the cessation will determine when the cessation calculation will be carried out. For example, if under this proposal VAL agree to cease on 30th September 2023, a cessation valuation will be carried out for this date as an actual valuation.
33. If there was a deficit on the 'ongoing' basis, this will be paid by VAL. VAL would have then met its financial responsibilities under the current admission agreement (on the basis that County Council is now acting as guarantor). Due to the uncertainty of market conditions, there is no guarantee what the surplus or deficit will be at the point of the actual cessation.
34. Under the proposal, any surplus would go to the County Council. For the avoidance of doubt, VAL does not qualify for any refund of any surplus as the assets and liabilities are being transferred to the County Council in full at the cessation date, with the associated risk.

Proposals - Bradgate Park Trust

35. The Fund proposes that the County Council and City Council act as equal guarantors as they have joint stewardship. This guarantee is subject to the BPT not having any deficit on the Fund's 'ongoing' basis at the cessation date (the date agreed by all parties to terminate the admission).
36. If all three parties agree, the BPT would cease its current admission agreement with the Fund and a new pass-through admission agreement would be put into place. BPT would mirror the County Council employer rate (which is the higher of the two councils) and at the end of pass-through admission (when the last active member leaves the scheme), any future surplus or deficit would become the County Council's and City Council's responsibility, split equally. When active members turn 55 a bond will be required, to be set up by the BPT.
37. The new pass-through admission agreement would be signed by all parties, prior to the end of the existing agreement and only existing contributors will be named in the agreement, making this a closed admission. This reduces the risk to the Fund as new employees recruited by the employer will not be able to become LGPS members.
38. The Fund proposes to calculate a cessation value on the 'ongoing' basis to establish if the BPT has a deficit on the ongoing basis which is used for an

exiting employer with a guarantor (as the County and City Councils would now be acting as equal guarantors under this proposal).

39. The date of the cessation will determine when the cessation calculation will be carried out. For example, if under this proposal the BPT agreed to cease on 30th September 2023, a cessation valuation will be carried out for this date as an actual valuation.
40. If there was a deficit on the 'ongoing' basis, this will be paid by the BPT. The BPT would have then met its financial responsibilities under the current admission agreement (on the basis that County and City Councils are now acting as equal guarantors). Due to the uncertainty of market conditions, there is no guarantee what the surplus or deficit will be at the point of the actual cessation.
41. Under the proposal, the funding position (asset and liabilities) at the cessation date would be shared equally between the County and City Councils. Therefore, any surplus would be shared equally between both councils.
42. For the avoidance of doubt, under this proposal BPT does not qualify for any refund if there is a surplus, as the assets and liabilities are being transferred to County Council and City Council equally at cessation date.

Implications if Transfers do not proceed

43. Should VAL and the BPT not agree to the proposals, they would eventually exit the Fund (when the last active members leave/retire) on the 'low risk' basis consistent with the Fund's Funding Strategy Statement for exiting employers (with no guarantor).
44. As of 31st March 2023, the Fund Actuary has calculated indicative fund positions as follows:
 - The BPT - an approximate deficit of around £30,000 on the low risk basis.
 - VAL - an approximate surplus of around £730,000 on the low risk basis.

The final cessation calculations can be variable due to the volatility in the financial markets.

45. If a surplus existed on the low risk basis on the cessation date, VAL and the BPT may qualify for a refund of surplus (an exit credit). The size of any exit credit would depend on their circumstances and the Fund's funding policies (including any exit credit policy) in place on the cessation date.
46. VAL and the BPT would continue to pay employer contributions as calculated by the Fund actuary at future triennial valuations. These contributions would be specific to their respective funding positions and circumstances and these may be higher or lower than the County Council rate.
47. VAL and the BPT would continue to bear all pension funding risks until exiting the Fund.

Benefits of the Transfers

48. The proposed transfers are intended to be beneficial to all parties.
49. The Fund is resolving long-standing employer risk as it provides an added layer of protection since both the BPT and VAL has no guarantor at the moment.
50. For VAL and the BPT, the transfer reduces the risk to them as it removes their pension employer risk but retains pension scheme entitlement for their current members.
51. The County Council and City Council (as scheme employers) would also benefit as any surplus would be paid to the County Council in full for VAL and split equally between the County Council and City Council for BPT.

Risk Assessment

52. The proposals are not considered to present a greater risk to the County Council than those which it is already taking on through its own participation in the LGPS. The increase in risk to both the County and City Councils is relatively insignificant compared to their existing positions.
53. With regard to VAL, the County Council would assume responsibility for any assets and liabilities.
54. With regard to the BPT, the County Council and City Council would assume joint responsibility for any assets and liabilities.
55. The most significant pension risks being assumed under this agreement (and in general to any participating Fund employer) are future inflation, member longevity and future investment returns. Of these three risks, future investment returns are the least predictable and can lead to greater volatility.
56. Based on figures calculated on 31 March 2023 VAL's liabilities are less than 0.5% and the BPT less than 0.1% of the County Council and City Council's positions.
57. Other risks include employer changes that either VAL or BPT could make to the existing active members, for example, a large increase in salary, thus increasing their pension liability. The Fund will look to include a clause in the pass-through admission agreements to mitigate this risk. The employers will also have to continue to maintain the ill health insurance to mitigate risk of a large ill health retirement cost. Any redundancy costs would be paid by VAL or the BPT.
58. Under this proposal both VAL and the BPT would be giving up any potential right to an exit credit in the future.
59. The future employer contributions payable by VAL and BPT under the pass-through agreement may be higher (or lower) than the future contributions payable if the proposal is not agreed.

60. A summary of the employer contributions is set out below.

Employer	Contribution Rate as of April 2023 (as shown in the Fund's Valuation Report)
VAL	27.5%
BPT	25.4% plus £31,000
County	29.4%
City	27.8%

61. A summary of risks to VAL, BPT, the Fund, the County and City Councils should the proposals be agreed is set out below.

VAL	<ul style="list-style-type: none"> • Associated risk passes to the County under pass-through terms. • Paying a higher contribution rate (i.e. if County's rate is higher). • No right to any potential exit credit.
BPT	<ul style="list-style-type: none"> • Associated risk passes to the County and City under pass-through terms. • Paying a higher contribution rate (i.e. if County's rate is higher). • No right to any potential exit credit.
Fund	<ul style="list-style-type: none"> • Any deficit will be the responsibility of the County (as a Fund employer) for VAL. This mitigates the risk to the Fund. • Any deficit will be the responsibility of the County and City (as a Fund employer) for BPT. This mitigates the risk to the Fund. • Non-payment of contributions. Low risk as they have always paid monies due on time and in full
County and City Councils	<ul style="list-style-type: none"> • Pension liability for VAL and BPT. Low risk as funding assumptions are prudent and likelihood of surplus based on current figures.

62. There are also risks should the current position remain -

VAL	<ul style="list-style-type: none"> • Unknown cessation value - liable for any deficit payment at the point of cessation which could lead to financial hardship or liquidation.
BPT	<ul style="list-style-type: none"> • Unknown cessation value - liable for any deficit payment at the point of cessation which could lead to financial hardship or liquidation.
Fund	<ul style="list-style-type: none"> • No guarantor for VAL or BPT could put a strain on the Fund if unable to pay the deficit, then this would be passed to the Fund and spread across all employers.

	<ul style="list-style-type: none"> • Non-payment of contributions (low risk as they have always paid monies due on time and in full).
County and City Councils (as a Fund employers)	<ul style="list-style-type: none"> • No risks.

63. For completeness, a summary of general pension funding risks (and mitigations) is set out below:

Risk:	Mitigation:
<ul style="list-style-type: none"> • Investment returns – Fund’s assets are primarily debt and equity investments, which do not have guaranteed return. 	<ul style="list-style-type: none"> • There is prudence in the Fund’s investment return assumptions so its expected that the long term target return will be exceeded.
<ul style="list-style-type: none"> • Longevity/Mortality – Higher life expectancy results in higher liabilities. 	<ul style="list-style-type: none"> • Mortality is monitored regularly which informs funding assumptions.
<ul style="list-style-type: none"> • Pension Increase – Rate of increase (CPI) has an impact on liabilities. 	<ul style="list-style-type: none"> • The Fund Actuary allows for expected levels of future inflation (including higher short term inflation) in the funding assumptions.
<ul style="list-style-type: none"> • Regulation changes – Unforeseen regulations change can have a direct and unexpected effect on pension liabilities. 	<ul style="list-style-type: none"> • Funding assumptions are prudent and can absorb unexpected changes in the short term. • Allowances for changes are made once known.
<ul style="list-style-type: none"> • Salary growth - Salary increases will directly affect the employer’s individual pensions liabilities. 	<ul style="list-style-type: none"> • Fund actuary will account for these changes in the triennial valuations. • The impact is reduced as new service is on the CARE basis. • A salary growth clause can be included in the pass-through admission agreement.
<ul style="list-style-type: none"> • Ill health – Ill health retirements can occur for members of all ages with the Fund enhancing members service in certain cases. The enhancement creates a liability for the employer. 	<ul style="list-style-type: none"> • Small employers take out the ill health insurance to protect against large ill health capital costs.
<ul style="list-style-type: none"> • Payment of contributions – Failure to make payment of employee and employer contributions 	<ul style="list-style-type: none"> • Employer payments are monitored and late payments are chased. • If an employer enters into liquidation the bond will be triggered.

Consideration by Voluntary Action Leicester

64. VAL's Board of Trustees met on the 12 July 2023 to discuss the proposal. The Board noted the large surplus that would pass to the County Council if the proposals were agreed, but still concluded that it was an acceptable option, to remove the balance sheet volatility.
65. The only items VAL considered that would stop it signing the agreement and move to a pass-through arrangement, is if there is a deficit at termination (rather than the expected surplus), or the bond calculation is so high that it will reduce its liquidity to an unacceptable level that would prevent it from trading.

Consideration by the Bradgate Park Trust

66. Fund Officers met with Bradgate Park Trust Finance and General Purposes Sub-Committee on the 21 August 2023. The Sub-Committee was in support of the proposal and will take this to the Trust's Committee for a formal decision at its meeting on the 11 September 2023.

Next Steps

67. If all parties are in agreement, Fund Officers will instruct the Fund Actuary to complete cessation valuations for both VAL and BPT as at the 30 September 2023.
68. Legal pass-through admission agreements will be drafted and shared with all parties. Once signed by all parties the existing admission agreements will terminate and the new pass-through admissions will commence.

Conclusion

69. The proposed transfers are intended to be beneficial to all parties.
70. The County Council and City Council can take a far longer financial planning horizon, so the risk of any deficit developing over the longer term is at a lower level.
71. The County Council and City Council (as scheme employers) would benefit as any surplus would be paid to the County Council in full for VAL and split equally between the County Council and City Council for the BPT.
72. VAL and the BPT have been strong supporters of the Fund for many years and have always made payments of the monies due, on time and in full.
73. A long-standing employer risk would be resolved, by providing an added layer of protection for the BPT and VAL. The pension employer risk to VAL and the BPT would be reduced whilst retaining pension scheme entitlement for existing members. Moreover, the proposal would remove liability from VAL and the BPT's balance sheets, which would support them when applying for funding.

74. If the situation was left unresolved (i.e. no guarantee was provided) a risk to the Fund would remain. Should VAL or the BPT become insolvent in the future and unable to meet their liabilities, this would leave all other Fund employers at risk as any deficit cost would be spread across them. This could create a future financial - and reputational - issue for VAL, the BPT and the Fund.
75. The Director of Corporate Resources has, inter alia, a duty to act in the best interests of the County Council and a fiduciary duty to act in the best interests of the Leicestershire Pension Fund. Having considered the terms of Leicestershire Pension Fund Conflict of Interest Policy and the County Council Officer Code of Conduct, it is recognised that there should be openness in relation to any potential conflict of interest and that consideration must be given in each case as to how to manage any potential conflict. The Director of Corporate Resources has considered these issues and is satisfied that the proposals are in the best interests of both the County Council and the Fund and no conflict of interest arises in this case but that it is appropriate that this is noted to show that proper consideration has been given to the issue.

Equality Implications

76. There are no equality implications arising from the recommendations in this report. The existing scheme members pension benefits are protected in full under this proposal.

Human Rights Implications

77. There are no human rights implications arising from the recommendations in this report.

Background Papers

Report to the Local Pension Board report on 2 August 2023 and minutes of that meeting - <https://politics.leics.gov.uk/ieListDocuments.aspx?CId=1122&MId=7236&Ver=4>