



Lothian Buses Pension Fund Report by Legal Services Manager

1. Purpose of the Report

The purpose of this report is to advise Members of the Audit Committee of the effect of the assimilation of the Lothian Buses Pension Fund into the general Lothian Pension Fund.

2. Background

Lothian Buses Pension Fund was established in 1986 by agreement between the then Lothian Regional Council and Lothian Regional Transport as a stand-alone sub-fund of Lothian Pension Fund with its own investments, actuarial valuation and accounts.

At local re-organisation in 1996, Lothian Regional Council's shareholding in the Lothian Regional Transport (now Lothian buses Ltd) was shared between the four Lothian Councils. Midlothian Council now therefore has a 5.5% shareholding in Lothian Buses Ltd and a consequent responsibility for 5.5% of the company's liabilities.

In 2018, the Lothian Pension Fund sought to assimilate the stand-alone Lothian Buses Pension Fund into the general Lothian Pension Fund and as part of this exercise required all four Council shareholders to act as guarantors for Lothian Buses Ltd's contributions to the general fund.

Concerns have been raised on the effect of entering into the Deed of Guarantor on the Council.

As part of the process of agreeing the deed of guarantee, a number of concerns were raised with the Lothian Pension Fund. A note of the concerns raised and the responses received from the Fund are annexed as Appendix 1 to this report. Members are referred to the appendix for its terms but may also wish to note the following points in particular:

- The Pension Fund has confirmed that if it were to enforce the guarantee then it would pursue all 4 Council stakeholders simultaneously;
- Midlothian Council is guaranteeing 5.5% of any pensions deficit and not the whole fund
- Lothian Pension Fund operates on an arms length basis from the City of Edinburgh Council and the fund must be operated in the best interests of the stakeholders of the pension funds and not of any single Council
- The Lothian Pension Fund's Statement of Investment Principles and Funding Strategy Statement are publicly available documents and Lothian Buses Ltd is consulted on the effect of these strategies on the company

- As a shareholder, Midlothian Council can exercise its rights to influence the board of Lothian Buses Ltd to use the company's resources to make good any pension deficit.

In addition to the commentary in Appendix 1, the Lothian Pension Fund Funding Strategy Statement 2018 is also attached as Appendix 2 to this report. Section 7 of the Funding Strategy Statement specifically relates to the funding strategy for Lothian Buses Fund and this continues to apply to Lothian Buses within the Main Fund post-merger (as Lothian Buses has been unitised within the Main Fund). There is therefore no change to the investment position following the assimilation of the fund.

In terms of any increased risks to Midlothian Council following entry into the deed of guarantee, it should be noted that previously, whilst there was no formal guarantee in place for the stand alone Lothian Buses Fund, in the event of a default then the City of Edinburgh Council (as administering authority) would have looked to the four Council shareholders to make good any liability.

This is in terms of the Lothian Pension Fund's Funding Strategy Statement (appendix 2, attached) which states that, in the absence of a formal guarantee and where this is specific alignment to one or more other employers, then the pension liability of a defaulting employer will be assigned or apportioned accordingly to those other employers. The Pension Fund's position is that Midlothian Council's shareholding in Lothian Buses would offer alignment, and accordingly Midlothian Council (as an aligned LPF scheme employer) would already have exposure to this liability, even without entering into the guarantee.

On that basis, the Council's risk profile has not changed as a result of entering into the deed of guarantee.

3. Report Implications

3.1 Resource

No additional resources are required as a result of this report.

3.2 Risk

There has been no change to the Council's risk profile.

3.3 Single Midlothian Plan

Themes addressed in this report:

- Community safety
- Adult health, care and housing
- Getting it right for every Midlothian child
- Improving opportunities in Midlothian
- Sustainable growth
- Business transformation and Best Value
- None of the above

3.4 Key Priorities within the Single Midlothian Plan

Not applicable.

3.5 Impact on Performance and Outcomes

Not applicable

3.6 Adopting a Preventative Approach

Not applicable

3.7 Involving Communities and Other Stakeholders

Not applicable

3.8 Ensuring Equalities

There are no equalities issues with regard to this report.

3.9 Supporting Sustainable Development

There are no sustainability issues with regard to this report.

3.10 IT Issues

There are no IT issues with regard to this report.

4. Recommendations

The Audit Committee is asked to note the report.

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