Cost Management, Benefit Design and Administration Committee

Meeting of the 14th February 2022

Item 3 Paper A

ACTIONS AND AGREEMENTS

VIRTUAL MEETING HELD ON 15th NOVEMBER 2021 – 11.00am

PRESENT

George Georgiou	Members (GMB)	Chair
Sean Collins	Practitioners	
Emma Mayall	Practitioners	
Rachel Brothwood	CIPFA	
Graeme Muir	Actuaries: Barnett Waddingham	
Michelle Doman	Actuaries: Mercer	
Alison Murray	Actuaries: Aon	
Catherine McFadyen	Actuaries: Hymans Robertson	
Jeremy Hughes	DLUHC	
Michael Scanlon	GAD	
Oscar Castro Lado	GAD	
Jeff Houston	LGA - Board Secretary	
Joanne Donnelly	LGA – Deputy Board Secretary	
Bob Holloway	LGA – Pensions Secretary	
Gareth Brown	LGA – Pensions Analyst	

Welcome, introductions and declarations of interest

1. The Chair welcomed all in attendance to the meeting. There were apologies from John Neal, Kevin Gerard, Glyn Jenkins and Louise Lau and no declarations of interest.

2. The Chair set out handling arrangements for the virtual meeting.

Matters arising

3. At Item 5, Part A of Paper A Bob Holloway (BH) advised members that the letter to Ministers setting out the Board's recommendations on the 2016 Cost Management arrangement was posted on the Board's website on the 15th October.

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4. The committee agreed that the following sentence requested by Rachel Brothwood (RB) should be substituted in paragraph 4 of Part B of

5. Paper A "Rachel Brothwood also stressed the need for the new committee to address concerns around the LGPS Pension Fund external audit process and the increasing queries and information requests incoming to support the auditor work of participating employers."

6. The Committee agreed the minutes for the previous meetings held on the 27th September and the 29th October 2021.

95K Cap and McCloud Update

95K Cap

7. Jeff Houston (JH) advised members that DLUHC's proposals on new 95K cap provisions are still awaited. Jeremy Hughes (JHU) informed members that advice has gone to Ministers but could not say when this would be published other than "this side of Christmas".

8. Michelle Doman (MD) asked what form the communication might take. In response, JHU said that the likelihood would be that there would be nothing substantive.

McCloud

9. On timing JH advised members that the amendments to the Bill to provide the LGPS with the necessary remedy powers will be brought forward when the Bill reaches the House of Commons, possibly in mid-January. LGPS regulations can be expected during the first half 2022. The sooner the regulations can be introduced before the remedy deadline of October 2023 the more time fund authorities and software providers will have for preparation.

10. JH also pointed to the possibility of legal action similar to that currently being experienced in the Firefighters' scheme (on the subject of "immediate detriment") once final details of the LGPS' regulations are out.

11. George Georgiou (GG) informed members that the judicial review against the government's decision to classify McCloud costs as member costs in the cost control mechanism commenced last week

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when the pre-action protocol was submitted. A hearing is expected in February or March 2022.

12. JH advised members that the LGA and FBU have reached an agreement on immediate detriment to avoid potential legal cases.

13. Rachel Brothwood (RB) asked what the Courts would do with a different approach on immediate detriment cases. In response JH described the different approaches on protection between the LGPS and the unfunded schemes where those discriminated against are being put back into their former schemes. There is also the risk that judges may rule that there should be no further delay in these payments being made. JHU added that finding a slot for primary legislation will always be difficult. RB highlighted that proper time will be needed for planning and preparation and that a backstop should be in place in case judges rule that payments must be made.

14. GG suggested that despite the software not being ready preparations should be made for immediate detriment in the LGPS.

15. JH invited comment from the four actuarial firms on whether timing of remedy legislation, particularly relating to eligibility, would be an issue for the forthcoming 2022 actuarial valuation. Graeme Muir (GM) concluded that timing should not be an issue. Alison Murray (AM) advised that consistency will be key.

16. On scope JH pointed to potential legal action on the grounds of unequal treatment with remedy in the unfunded schemes applying to those in membership on or before the 31st March 2012 and in the LGPS on the 31st March 2012.

17. AM asked if they can say that the way the McCloud data is being requested is to mitigate against the impact of the scope being changed. JH confirmed that this would be fine.

18. On tax JH advised members without a change in policy the payment of amended lump sums in immediate detriment cases would be regarded as unauthorised payments by HMRC. A response from HMRC is awaited.

Agreed – that the committee noted the situation as described above.

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Cost Control 2016 and 2020

19. JH reminded members of what had been agreed under the Board's 2016 cost management arrangement but which may not be finalised if the McCloud judicial review is successful.

20. On HMT's cost control consultation JH advised members that their published response was largely silent on representations made by the Board. However, in subsequent bilateral discussions HMT officials confirmed that they would welcome further discussion on the points raised.

21. JH further advised members that a more transparent arrangement is needed to better influence outcomes and suggested that the Board's own cost management arrangement should address the same question, in particular, on the subject of the SCAPE discount rate.

22. JH undertook to bring a paper on proposals for consideration at the next committee meeting.

Agreed – that the committee noted the situation as described above.

Compliance and Reporting Committee Update

23. Jo Donnelly (JD) referred members to Paper C that included details of and the agreements reached at the special committee meeting held on the 29th October. JD confirmed that the amendment to the minutes of that minute requested by RB has been made.

24. Members were reminded that the consensus at the meeting on the 29th October was that there was no overlap between the work of the committee and that of the new C&R committee.

25. A paper will now be prepared for the Board to consider when it next meets on the 13th December.

Agreed – that the committee noted the situation as described above.

2022 Triennial Valuations

26. Each of the four actuarial firms were invited to comment on different aspects of the forthcoming 2022 triennial valuation.

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27. **Mercer -** Michelle Doman (MD) explained to members how actuarial valuations in the LGPS are undertaken. The main points included:

    - LGPS valuations are different to the unfunded schemes as benefits are paid from a real pool of assets
    - A primary contribution rate is set to pay future benefits
    - A secondary rate is set to adjust deficits and surpluses
    - Rates are set on a variety of assumptions, e.g, inflation, longevity, return on investments, etc
    - The better the quality of the data, the less the need for the Actuary to make prudent estimates of missing data, which could lead to a lower funding cost
    - Conversations now with funds and scheme employers about outcomes
    - Valuation data collected from April 2022 over 3 months
    - Aim to finalise valuations in the New Year 2023
    - Final valuation report published in April 2023

28. **Aon –** AM informed members that investments have done well with most funds reporting returns above the discount rate but that there were variations. Membership of the scheme is only being marginally affected by the covid emergency so significant reductions in employer contribution rates are not expected. The emergency has not seen any significant increase in the number of employers leaving the scheme but there is evidence of more employers merging. Fund actuaries will need to consider employer covenant as part of the valuation process and how best to deal with cases where covenant has deteriorated.

29. The scheme continues to mature as the proportion of deferred and pensioner members increases over active members with the result that some funds will be cash negative with a need to better manage their cash flows.

30. AM suggested that some work may need to be undertaken on the impact of climate change on scheme liabilities, in particular, on longevity.

31. **Hymans Robertson –** Catherine McFadyen (CM) set out a number of issues that have changed since the last valuation in 2019 including:-

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- A much stronger funding position needing consideration of how to deal with surpluses. Reductions in employer contributions or setting up buffer funds may be solutions
- New employer flexibilities with deferred debt agreements potentially impacting on the valuation
- Consideration of assumptions around future rates of return which will be challenging
- Higher rate of inflation
- The impact of the covid emergency on longevity where the evidence is that it has not made a massive difference
- More reporting on climate change with funds required to report against various scenarios.

32. **Barnett Waddingham –** GM set out what fund actuaries and funds should be doing in preparation of the valuation including:-

    - Make the process as smooth as possible with no surprises
    - Help funds and employers to better understand the process
    - Review previous valuations
    - Pre-empt difficult discussions
    - Determine when results are needed and work backwards from that
    - Data cleansing will always help
    - The better the data the better the employer contribution rate
    - Assumptions around improvements in longevity will be difficult. Actuaries may wait to see what emerges from the CMI data.
    - Funds should review their FSS and ISS
    - Changes in pension committee membership highlights the need for training.

Agreed – that the committee noted the situation as described above.

DLUHC Regulatory Update

33. JHU advised members that all relevant issues had already been covered in the meeting.

34. BH invited comment on the proposal to move to a four year valuation cycle. In response GM and MD agreed that the current three year cycle is about right.

35. BH asked Mike Scanlon (MS) if GAD still supported the move to a four year cycle. In response MS explained that their initial support stemmed

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from the poor quality of data at the 2016 scheme valuation but that matters improved in the 2020 collection. On that basis GAD were less concerned about the need for any change in the current valuation cycle.

36. Sean Collins (SC) asked if any response on the consultation proposal on the HE/FE sector is imminent? In response JHU explained that there has been a change in personnel at DfE which has resulted in a change of emphasis. There is no timescale yet regarding any announcement.

AOB

37. RB asked whether the paper to SAB on the new C&R Committee would include a recommendation for a wider review of committee membership, remit and terms of reference. In response BH confirmed that the Secretariat would consider the matter.

38. The dates of all committee meetings in 2022 will be confirmed shortly.

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