

Investment, Governance and Engagement Sub Committee

Meeting of the 23rd May 2022

Item 3 Paper A Actions and Agreements meeting of 21st February 2022

PRESENT

Cllr Yvonne Johnson	Chair – L.B. Ealing
Cllr Robert Chapman	LAPFF
Peter Wallach	Practitioner
Rodney Barton	Practitioner
Mark Wynn	Practitioner
Nick Buckland	Practitioner
Pete Smith	Actuaries (Barnett Waddingham)
David Walker	Actuaries (Hymans)
Jonathan Taylor	Actuaries (Aon)
Kieran Harkin	Actuaries (Mercer)
Teresa Clay	DLUHC (previously MHCLG)
Oliver Watson	DLUHC (previously MHCLG)
Fiona Miller	Pool Operating Companies
John Bayliss	Government Actuary's Department
Jonathan Hunt	Adviser, LGA
Jeff Houston	Head of Pensions, LGA
Joanne Donnelly	Senior Pensions Secretary, LGA
Bob Holloway	Pensions Secretary, LGA
Gareth Brown	Pensions Analyst, LGA

APOLOGIES

Apologies for absence were received from George Georgiou, Gary Delderfield and Lisa Colquhoun. It was also noted that no employee representatives were present at the meeting.

Welcome, introductions and declarations

1. The Chair welcomed all in attendance and on behalf of the committee thanked Jeff Houston, Board Secretary, who will be retiring at the end of March, for all the help and support he has given to the committee over many years. The Chair also congratulated Joanne Donnelly in being successful in the competitive recruitment campaign

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to find a replacement for Jeff as Head of Pensions and Board Secretary at the LGA.

2. The Chair advised members of the virtual meeting's protocol.

Actions and agreements from meetings of 22nd November 2021

3. The minutes of the meeting were agreed.

Levelling Up White Paper

4. Jeff Houston (JH) reminded members that the Levelling Up White Paper had been published on the 2nd February. Since then, the Secretariat has met with DLUHC to discuss the sections of the White Paper relevant to the LGPS and to clarify a number of issues arising from the proposal to mandate administering authorities to publish plans to invest at least 5% in local projects.

5. JH confirmed DLUHC's position that "local" meant "UK" and that fund authorities could exceed the 5% target if they wished. These and other issues will be discussed with DLUHC, RIAG and asset pools over the coming months to assist the Department in preparing the consultation planned for this Summer.

6. Mark Wynn (MW) stressed the importance of communicating a consistent message on what local means. Councillor Chapman (RC) advised members that one obstacle will be the lack of suitable schemes and investment vehicles. Fiona Miller (FM) asked DLUHC how they would ensure that any supporting guidance would be effective. In response, Teresa Clay (TC) said that there would be full discussion and consultation with stakeholders on the guidance which will focus on the content of local project plans. David Walker (DW) asked TC if she could offer any details about timescale. In response, TC said that the intention was for the necessary changes in regulations and guidance to be made in the next financial year. Peter Wallach (PW) remarked that the Merseyside Fund already achieved the proposed 5% target and questioned whether the proposals in the White Paper would in these circumstances represent a 10% target. JH suggested that funds who had complied with earlier guidance on infrastructure projects could be further penalised compared to those that hadn't.

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7. Jo Donnelly (JD) reminded members that the proposals only apply to funds in England and Wales.

Agreed – That the committee noted the position as set out above.

New Compliance and Reporting Committee Update

8. JD advised members that the Secretariat had received nominations for the position of the committee's Chair and that she is now liaising with CIPFA to finalise arrangements. A report will then go to SAB when it meets on the 7th March seeking agreement to the proposed membership and other matters.

Agreed – That the committee noted the position as set above.

Sharia Compliant Investments

9. JD informed members that Counsel's advice had been commissioned to establish the risk of a successful discrimination case being brought against an LGPS employer where the employee opts out of the scheme on the basis of their genuinely held religious belief that the scheme is not Sharia compliant / halal. This was in response to concerns raised by a number of administering authorities that significant numbers of scheme members are opting out of the scheme for religious reasons.

10. JD advised members that Counsel's advice was not conclusive on the key question of whether LGPS employers could offer an alternative scheme. There were also a number of supplementary issues raised that will require further investigation and expert advice. If the committee agrees, a paper proposing that further advice is commissioned will be prepared for SAB to consider when it meets on the 7th March.

11. The Chair asked how many complaints have been made. In response, JD pointed to three areas of the country where employers have expressed concern that employees may bring a discrimination claim.

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12. JH reminded members that any formal claims of discrimination would most likely be brought against scheme employers rather than administering authorities.

Agreed – To recommend to the Board that Counsel’s advice is published on the Board’s website and that further expert advice is sought on the questions posed by Counsel

Code of Transparency Compliance Update

13. JD introduced Paper D and informed members that the overall percentage of completed templates for 2019/20 has increased from 93.8% reported to the Committee in November to 94.4%. For 2020/21 the overall completion rate currently stands at 90.6%, up from 87% in the last report.

14. Members were also advised that engagement with asset managers continues to be positive with particular focus on scoping out the potential for introducing more flexibility into the system with quarterly rather than annual uploads made possible. This would have an associated development cost though, which may need to be met by asset managers.

15. JD further informed members that one signatory in particular has a significant number of late templates due to the technical issues outlined in paragraph 6 of Paper D. Said manager is engaging fully with the secretariat to find ways to resolve the technical issues causing the delays. FM said that she was pleased that it was only technical issues that had been brought to light and that steps are being taken to resolve them, as experience of the manager concerned was positive. Jonathan Hunt (JH) confirmed that the Secretariat is working closely with the manager to resolve the issues.

Agreed – that the committee notes the position as set out above.

RIAG Chair’s Report

16. In the absence of RIAG Chair, Sandra Stewart, Bob Holloway (BH) introduced Paper E.

17. Members were advised that the group had discussed the letter from Michael Lynk, the UN Special Rapporteur on the Palestine Occupied Territories, and were made aware that the Secretariat had

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discussed next steps with DLUHC and LAPFF. The group was also informed that when it met on the 13th December SAB had agreed that the Board's Chair and LAPFF Chair should seek a meeting with Michael Lynk to question some of the claims made in his letter.

18. The group also discussed the new 2020 Stewardship Code and was informed that applications for signatory status from a number of fund authorities and asset pools had been submitted during the last window, which closed in October 2021. The FRC expect to publish the name of the successful applicants in spring 2022.

19. The group received an update from DLUHC that included confirmation that Ministers are taking a broad look at the scheme's investments which explained the continuing delay in publishing the consultation on climate risk and reporting requirements (TCFD), pooling guidance, etc.

20. The group was further advised that there will be a consultation later in the year to clarify the position of asset pools within the definition of fiduciary managers under the CMA Order.

21. Other matters considered by the group included work being undertaken to assess the extent of impact, social and place investments by LGPS fund authorities and the implications of including a Paris Alignment metric in the proposed TCFD reporting framework for the LGPS (as per the recent DWP consultation to amend the regulations that apply to private sector pension schemes).

22. Councillor Robert Chapman (RC) informed members that the LAPFF Chair has expressed serious concerns about the amendment tabled by Robert Jenrick MP to the Public Service Pensions and Judicial Offices Bill (PSPJO Bill) that would grant powers to responsible authorities, including DLUHC in respect of the LGPS, to introduce guidance or directions on boycotts, divestments and sanctions which are not in accordance with the UK's foreign and defence policy. In response, JH said that he would cover this under AOB.

Agreed – that the committee noted the position as set out above.

DLUHC Update

23. Teresa Clay (TC) advised members that the intention is for a consultation to be published in the Summer that will cover the

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levelling up proposals outlined in the recent White Paper and other matters including proposals to clarify the scheme's position under the CMA Order. TC informed members that this will be a big undertaking and that she will report back to the committee as soon as Ministers have given a clear steer on how the levelling up proposals are to be taken forward.

24. Members were also informed that two new members of the pensions team have been recruited and two further recruits are in the pipeline. All are new to pensions, and to the civil service, but this will increase the team's capacity and enable it to make progress on a number of outstanding issues including the Good Governance project and pooling guidance.

Agreed – that the committee noted the position as set out above.

AOB and Date of Next Meeting

25. JH informed members that the amendment to the PSPJO Bill tabled by Robert Jenrick would be considered at Report Stage in the House of Commons on the 22nd February, together with two other amendments tabled by the Green Party on climate change targets.

27. If passed, the amendment would enable DLUHC to either make guidance or issue Directions requiring administering authorities to have regard to guidance when making investment decisions relating to boycotts, divestment and sanctions. Although this could be seen to overcome the legal barrier on which the recent summer 2020 Supreme Court judgment in the Palestine case was decided, it would not prevent legal challenge against guidance or directions made in the future – as it is still not a measure in primary legislation, but a power to make specific guidance or directions.

28. JH also advised members that if successful at Report Stage, the LGA may lobby against the amendment during “ping-pong” in the House of Lords.

29. TC reminded members that the government's commitment on boycotts, divestments and sanctions set out in their manifesto is wider in scope than just the LGPS, and will apply to all public bodies.

30. The committee will next meet on the 23rd May 2022.

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