

# Investment, Governance and Engagement Committee

## Agenda

1.00pm – 3pm on 28 August 2019

### Item

1. Introductions, apologies and declaration of interests
2. Actions and Agreement from meeting of 25<sup>th</sup> March 2019 (**Paper A**)
3. Update from SAB meeting on 8<sup>th</sup> July 2019 (**Paper B**)
4. Cost transparency - Update
5. Responsible investment – Update and (**Paper C**)
6. MHCLG changes - Update
7. Local Pension Board survey II – Update
8. Good Governance project - Update
9. Scheme member representation in asset pools - Update
10. AOB and date of next meeting

The venue will be Rooms 1 and 2, ground floor at 18 Smith Square, Westminster, London SW1P 3HZ (see

<https://www.google.co.uk/maps/place/Westminster,+London+SW1P+3HZ/@51.4955666,-0.1289997,17z/data=!3m1!4b1!4m5!3m4!1s0x487604c2f22fcf31:0x4d27e283349ac875!8m2!3d51.4955757!4d-0.1267826>

Please report to reception who will direct you to the meeting room.

# Investment, Governance and Engagement Sub Committee

## Item 2 – Paper A

### ACTIONS AND AGREEMENTS

**MEETING HELD ON 25<sup>th</sup> March 2019 – 11.00am to 1.00pm  
At 18 Smith Square, Westminster, London SW1P 3HZ**

### PRESENT

Cllr Denise Le Gal	Chair
Peter Moore	CIPFA
Peter Wallach	Practitioner
Mark Wynn	Practitioner
Colin Meech	Members (Unison)
George Georgiou	Members (GMB)
Annemarie Allen	Actuaries (Barnett Waddingham)
Nigel Thomas	Actuaries (Mercer)
David Walker	Actuaries (Hymans)
Karen McWilliam	Actuaries (Aon)
Bob Holloway	Pensions Secretary, LGA
Jeff Houston	SAB Secretary, LGA
Liam Robson	Analyst, LGA

### APOLOGIES

There were apologies from Rodney Barton, Dave Harrison was also absent. All other members (or substitutes) were present.

#### 1. Welcome, introductions and declarations

The Chair welcomed all in attendance to the meeting and introductions were made.

Karen McWilliam declared that Aon were involved in Cost Transparency work and Local Boards.

#### 2. Actions and agreements from meeting of 15<sup>th</sup> December 2018

The minutes of the previous meeting were agreed. It was also noted that the issued version of actions and agreements (draft/final etc) could be clearer.

The Chair apologised for the delay in reply to Unison's letter regarding member representation on Local Pension Boards.

Carried forward items included member representation on pools, and the SAB technical response to pooling guidance to be covered by item 6.

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## 3. Update from SAB meeting on the 16<sup>th</sup> January 2019

Bob Holloway (BH) provided an update on the previous SAB meeting. In addition to those items noted in the paper, Colin Meech (CM) confirmed that Unison had written to the Commission on IORPII. Jeff Houston (JH) stated that a submission to Treasury would be made from all publics service Scheme Advisory Boards regarding the Annual Allowance and managing accrual.

## 4. Cost Transparency - Update

Jeff Houston (JH) provided an update on the Cost Transparency Initiative, which had held two meetings. The (previously IDWG) templates were being tested and were expected to be launched in spring. These templates would be adopted by the SAB Code of Transparency and likely to be in place for the Scheme reporting year 2019/2020.

The process that had been run to procure a compliance system for the Code had to be stopped due to a technicality. This would be re-started as an open procedure on standard terms and conditions, and also include scope for LGPS pools report options.

**AGREED and ACTION – Secretariat should continue with the procurement process and report back to the committee when appropriate.**

## 5. Responsible Investment Guidance – Update

Bob Holloway (BH) outlined the latest view on publishing guidance and the plan for keeping guidance live and website-based, rather than keeping a static document up to date. This approach would also allow for linking with other work and reports.

Unison had commissioned Shareaction to report on the content of pension fund investment strategy statements ISS, ranking them in descending order of best practice, and provided this report to the committee.

The committee discussed how guidance could explain responsibilities that were moving to LGPS pool companies, but fiduciary duty on LGPS administering authorities remained.

**AGREED and ACTION – that the Unison report could be published on the Board website, drawing out the suitably positive examples of good investment governance.**

## 6. MHCLG Guidance on Pooling

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MHCLG had opened an informal consultation with the stakeholder group for LGPS Investment pooling guidance. General comments revolved around the consultation status and general definition of must, should and may; the meaning of specific investment terms, e.g. internal management/in-house investment; and the greater good clause.

**AGREED and ACTION –the Secretariat to circulate the Scheme Advisory Board response to the committee (and Board) for comment by 28<sup>th</sup> March 2019.**

## 7. Survey for Local Boards

The 2017 Local Pension Board Survey had been updated with new questions aiming to seek further insight into how Local Boards are working. Discussion points included: clarification of the constitution of Local Boards; highlighting areas of good practice from the previous survey; how the circulation could be maximised; validation of individual and group responses; and how the results could be published, suitably anonymised and summarised, to encourage wider engagement.

**AGREED – SAB to be provided with a progress report and asked for delegated authority to publish survey and circulate once finalised.**

## 8. Section 13 Report - Update

Meetings held with the actuaries covered data collation and how greater standardisation across the scheme could be achieved (annex to valuation reports), and assumptions made more consistent. The Cost cap calculations were also being considered as part of the process.

## 9. Good Governance Project - Update

The project team had begun a program of seeking view and planned a plenary session at the PLSA LA conference in May. A progress report was expected at the 8<sup>th</sup> April Board meeting and final report later in the summer.

## 10. AOB and date of next meeting

The sub-committee considered again whether any action could be taken regarding member representation.

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BH confirmed that a meeting had been arranged between the Pensions Regulator and secretariat to discuss a template for the LGPS on conditional data. Representatives from the Regulator were due to attend the Board meeting on 8<sup>th</sup> April.

**ACTION – Secretariat to draft a governance letter (from the Chair of the Board) for Local authorities.**

The date of the next meeting was to be confirmed.

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## **Item 3 Paper B**

### **Summary note of SAB meeting on the 8<sup>th</sup> July 2019**

This note summarises the meeting of the Scheme Advisory Board on the 8th July 2019. Full details of the meeting and agenda papers can be found at [www.lgpsboard.org](http://www.lgpsboard.org).

The Chair opened the meeting by thanking former Councillor, Denise Le Gal, for all the help and support she has given during her membership of the Board.

Under “Actions and Agreements” the Board was asked to seek further clarification from the Pensions Regulator about the scope of Codes of Practice and other guidance, apart from Code of Practice 14, that LGPS administering authorities need to have regard to. This follows a case involving one English shire county fund who has been fined for failing to alert all their scheme members to a late payment of contributions. The Secretariat will be meeting the Pension Regulator’s public service pension team on the 13th August and will raise this matter with them.

### **Good Governance Project**

The project team at Hymans Robertson presented the final draft report to the Board. The Board agreed that the report should be published before the end of July to allow Board members a short period to submit any comments they may have. The Board also agreed that following publication of the report, the Secretariat should commence work, in conjunction with scheme stakeholders, to outline the practical steps necessary to implement the main options set out in the report for consideration by the Board in November. Once approved, scheme stakeholders will be given the opportunity to comment on the Board’s recommendations before any formal approach is made to MHCLG Ministers for changes to the scheme’s regulations or guidance.

### **SAB Levy Invoices**

The Board was advised that there were still four administering authorities who have yet to pay SAB levy invoices dating back to 2017/18. The Secretariat will continue to discuss payment with these authorities but for the future, the Board agreed that failure to pay the SAB levy within a reasonable timeframe could result in non-payees being identified in summary reports and with certain services and access to LGA/SAB events being withdrawn.

### **MHCLG Consultations**

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## **A : 95k Cap**

Following consultation with Board members and those of the Cost Management, Benefit Design and Administration committee, a response to HM Treasury's consultation was submitted. The response included individual examples where the proposed 95K cap was impacting on the local government workforce unfairly and disproportionately with long serving members as well as the high paid being subjected to the proposed cap. A response from the LGA has also been submitted.

## **B : Fair Deal**

The Board was advised that discussions are continuing with MHCLG, in particular, on what the default position should be if negotiations between employer and contractor fail to reach agreement. The Board agreed that the "deemed employer" option should be the default position given that it would give employers, contractors and scheme members complete clarity about the position should no agreement be reached on whether the "deemed employer" or "admitted body" should apply. The Board agreed the draft response.

## **C : Four Year Valuation period; exit payments/credits and HE/FE**

On the proposal to move local fund valuations in the scheme to a four yearly valuation cycle in line with valuations undertaken by unfunded public service pension schemes and all scheme valuations. The next round of scheme valuations will be undertaken in 2020 and 2024 which means that there would be a potential 5 years between the current 2019 LGPS local valuations and the first of the four year period valuations. The Board agreed that five years without local valuations would not be the best way forward and that despite the administrative complexities of the alternative of an interim full set of valuations after 3 years, that is, in 2022 followed by another set in 2024, this was marginally the better of the two options. The Board also agreed that the response should record some concern about allowing administering authorities too much flexibility in exercising the proposed facility to hold an interim valuation. The Board took the view that the regulations and guidance must be clear that the circumstances in which the interim valuation power is to be used must be fully set out in an authority's Funding Strategy Statement.

On exit payments, the Board was advised that the proposals included a new concept of "deferred employer" that would allow employers to continue to be recognised as such despite having no active members and having exited the scheme. The Board agreed the draft response on exit payments and noted that supplementary guidance would help to provide a robust framework to govern the exercise of the proposed power.

On exit credits, the Board was advised that the draft response included representations to close an unintended loophole whereby administering

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authorities were liable to pay exit credits at the end of a contract even though steps had been taken by the employer to remove any risk from the contractor. The draft response agreed by the Board proposes that the amending regulations should include a provision requiring fund actuaries to take any side agreement into consideration when assessing exit credit payments.

On the proposal in the consultation to change the status of HE/FE bodies from scheduled to designated bodies, although a view was expressed that the proposed response was too negative regarding the potential impact on the scheme; the substantive view taken was that that this part of the consultation should be deferred until the outcome of the Third Tier Employer's project is concluded and that such a delay was necessary to properly assess the impact of the proposed changes on scheme membership and cash flow positions. The Board agreed that the Board Secretary should re-draft the relevant section of the consultation response to reflect the different views expressed by Board members.

Copies of all the draft responses referred to above can be found at <http://lgpsboard.org/index.php/about-the-board/prev-meetings>

## **Pensions Tax**

The Board was advised that HM Treasury is willing to hear representations from public service pension schemes concerned about the impact annual and lifetime allowances are having on the effectiveness of their workforces and service delivery. Particular reference was made to the situation in the health sector where it is claimed that waiting list targets are not being met because NHS staff are refusing to work overtime and additional shifts for fear of taking earnings and pension benefits over tax thresholds. It was suggested that some of these claims were being exaggerated. There was also a concern whether any remedy forthcoming from government may apply retrospectively to put right decisions taken in the past to avoid tax thresholds. The Board noted that the Secretariat will continue to attend the working group established by a number of public service pension schemes to lobby HM Treasury.

## **McCloud**

The Board was advised that a meeting between MHCLG, external auditors and GAD would take place shortly to discuss the implications of the Supreme Court's decision to refuse the government's application to appeal the McCloud judgement and, in particular, the impact this is having for signing off local authority accounts. Although there is now certainty that the McCloud judgement stands and that the case will now go back to the Employment Tribunal for remedy, there was clear support for the Board to issue a message to scheme stakeholders clarifying the uncertainties that remain. The Board

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agreed that the Secretariat should prepare a draft statement for consideration and approval of the Chair.

## **Local Pension Board Survey**

The Board agreed that members should be given until the end of July to comment on the draft survey prepared by the Investment, Governance and Engagement committee. The Secretariat will then prepare the survey for publication in August with a deadline of completion by the end of November. This will allow provisional findings to be reported to the Board when it next meets on the 4th November. The Secretariat was also tasked to open discussions with stakeholders on the best way of distributing the survey to ensure a good response.

## **Dates of next meetings**

These are scheduled for the 4th November and the 3rd February, 11th May, 3rd August and the 2nd November 2020/

**Bob Holloway**  
**Pensions Secretary**  
9<sup>th</sup> July 2019

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## Item 5 – Paper C

### Responsible Investment – Update

1.1. To supplement the work already being undertaken to publish SAB guidance on Responsible Investment, the committee is invited to consider extending this work to include –

- A Code of Responsible Investment to establish a consistent standard against which administering authorities and asset managers can be assessed in terms of their responsible investment policies and actions.
- A one day Responsible Investment workshop in early December, covering legal duties, the political dimension, measuring responsible investment and what the market can offer.
- Establishing a National LGPS Responsible Investment Forum to advise SAB and the IGE committee on responsible investment issues, and
- Opening discussions with MHCLG with the view of updating the statutory guidance under Regulation 7(1) of the 2016 Investment Regulations to better reflect current thinking and good practice on ESG matters, including climate change risk.

### Responsible Investment Guidance

1.2. The guidance on Responsible Investment has reached a stage where it needs to be shared with key stakeholders for informal consultation before a final draft is submitted to SAB in November for approval. A copy of the draft guidance is available as an attachment to this email.

1.3. The guidance will assist those responsible for investment decision making in the LGPS to recognise their responsibilities for developing and maintaining responsible investment policies according to scheme regulations and statutory guidance. It also reflects, where appropriate, the government's response to recent Law Commission reports on Fiduciary Duty and Social Investment and the regulations introduced recently for schemes based on trust law.

1.4. The guidance also makes reference to the responsible investment journey along the spectrum of capital which can be used to chart where an administering authority's responsible investment policy sits between two extremes, that is, at one end of the spectrum, the sole aim to achieve long term financial returns, to the other, the sole aim of investing for social or ethical impact with no aspiration to achieve financial returns. Details of the information and resources available to assist administering authorities in making this journey are included in the guidance.

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1.5. The guidance will also assist those responsible for investment decision making and local pension boards in their compliance role to ensure that they are acting in accordance with scheme regulations and statutory guidance relevant to responsible investment.

1.6. If agreed by the committee, the intention would be to undertake the informal consultation throughout September to enable a final draft to be finalised in time for the Committee's approval and recommendation to SAB in October. .

1.7. As well as SAB and committee members, the consultation would be extended to include the Chairs of pension committees and local pension boards, CIPFA, LAPFF, PIRC, ALATS, PLSA, MHCLG, the Pensions Regulator, DWP, trade unions and the CPCG Responsible Investment Group.

**Recommendation – that the committee agrees that the Secretariat should undertake an informal consultation of the draft responsible investment guidance during September and prepare a paper for consideration by the committee when it meets in October.**