

Investment, Governance and Engagement Committee

Meeting – 23 May 2022

Item 7 – Paper C

Letters from Michael Lynk and UKLFI

Recommendation:

- That the Committee notes this summary and tasks the Secretariat with keeping it informed of developments**

Background

1. In a letter dated 22 November 2021 Professor Michael Lynk, the UN Special Rapporteur on the situation of human rights in the Occupied Palestine Territory, wrote to all Chairs of LGPS pension committees in England and Wales.
2. The letter set out a number of requests for actions regarding investments in companies listed in the United Nations database of business enterprises involved in certain specified activities related to the Israeli settlements in the Occupied Palestine Territory.
3. The following statement was published by SAB :-

“On 22nd November a letter was sent to all LGPS pension committee chairs, copied to LAPFF and the Board. The letter is from Mr. Michael Lynk, United Nations Special Rapporteur on the Palestinian Territories and asks a number of questions of LGPS funds regarding their investments. The Board will discuss the letter at its meeting of the 13th December but in the meantime the Chair and secretariat will liaise with LAPFF to seek clarification with Mr Lynk on a number of points in the letter and LGPS funds may wish to await that clarification before responding.”

4. In January 2022 the SAB Secretariat together with Councillor McMurdo, Chair of LAPFF met with Professor Lynk to correct the misrepresentations in his letter and to establish more about the UN database. Professor Lynk undertook to report back on how companies are included on the database and how and over what timescale they can be removed.
5. To date the agreed information has not been received from Professor Lynk's office.

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6. Members will be aware that the UK Lawyers for Israel (UKLFI) sent a letter to the Chairs of SAB and LAPFF in February 2022 questioning Professor Lynk's status and the need for the January meeting and that Councillor Phillips, SAB Chair, replied in April 2022 to confirm that the meeting cannot be taken to indicate agreement with the representations set out in his letter.
7. In response to Councillor Phillips' letter UKLFI wrote on the 17th April 2022 requesting that SAB amend their earlier statement as set out in the letter copied at Annex A.
8. After consultation with the LAPFF Chair it was agreed that no reply to UKLFI should be sent until it is known for certain whether the further information that Professor Lynk undertook to provide will be sent.
9. Professor Lynk's office was chased in early May 2022 for a reply but to date nothing has been received.
10. SAB will consider next steps when it meets on the 6th June 2022.

Annex A

"Cllr Roger Phillips Chair,
The Local Government Pensions Scheme Advisory Board
18 Smith Square,
London SW1P 3HZ

By email: Robert.holloway@local.gov.uk
Cc Cllr McMurdo, Chair, Local Authority Pension Fund Forum By email:
info@lapfforum.org; doug.mcmurdo@bedford.gov.uk

17 April 2022

Dear Roger

Meeting with Mr Michael Lynk

Thank you for your letter of 11 April 2022. In the light of the helpful explanation in your letter, we consider that the statements on the Advisory Board's website <https://lgpsboard.org/> regarding the discussion with Mr Lynk should be clarified and updated. The current text gives a somewhat misleading impression of the tenor of the discussion and it does not mention that Mr Lynk has failed to provide the information that he undertook to provide.

Scheme Advisory Board Secretariat

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The current text reads: “The Chair of and representatives from LAPFF, together with the SAB Secretary held a call with Michael Lynk on 11th January to discuss his letter to funds. The discussion was productive and it was agreed to it follow up with another call in a month or so. It was made clear that LGPS funds’ primary objective in investment is to ensure pensions are paid but they do take human rights issues seriously in their decisions and through LAPFF are actively engaging with many of the companies listed on the database. In that respect Mr Lynk will provide further information on the database in particular the process for removing companies from it. LGPS Funds who are considering responding to Mr Lynk may wish to reference this ongoing discussion.”

We would suggest changing this to read: “The Chair of and representatives from LAPFF, together with the SAB Secretary held a call with Michael Lynk on 11th January to discuss his letter to funds. The discussion was productive and it was agreed to it follow up with another call in a month or so. The purpose of the meeting was to clarify and correct some of the assertions and misrepresentations made in his letter to enable the Board, if it wishes, to make a considered and measured response. It was made clear that LGPS funds’ primary objective in investment is to ensure pensions are paid but they do take human rights issues seriously in their decisions and through LAPFF are actively engaging with many of the companies listed on the database.

In that respect Mr Lynk will undertake to provide further information on the database in particular the process for removing companies from it. LGPS Funds who are considering responding to Mr Lynk may wish to reference this ongoing discussion. Mr Lynk has not provided the further information that he undertook to provide and no further meeting has taken place.”

We take the opportunity of mentioning that we have now written to the Chairs of LGPS Committees in England and Wales making similar points to those made in our letter to you of 28 February. We do, of course, expect pension funds and those advising them or acting for them to apply the Law Commission’s two-part test in relation to non-financial factors. We are also aware of the amendment made in the Public Service Pensions and Judicial Offices Act enabling guidance and directions be given on investment decisions which it is not proper for a scheme manager to make in light of UK foreign and defence policy.

Yours sincerely

Jonathan Turner
Chief Executive”

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