

# Scheme Advisory Board

## MEETING 10<sup>TH</sup> MAY 2021 ITEM 3 PAPER A

### ACTIONS AND AGREEMENTS

VIRTUAL MEETING HELD ON 8<sup>th</sup> February 2021 – 1.00pm

### PRESENT

|                      |                                       |
|----------------------|---------------------------------------|
| Cllr Roger Phillips  | Chair                                 |
| Jon Richards         | (UNISON)                              |
| Cllr John Beesley    | Scheme Employer Representative (LGA)  |
| Cllr Clive Lloyd     | Scheme Employer Representative (LGA)  |
| Cllr John Fuller     | Scheme Employer Representative (LGA)  |
| Cllr Andrew Thornton | Scheme Employer Representative (LGA)  |
| Chris Tansley        | Scheme Member Representative (UNISON) |
| John Neal            | Scheme Member Representative (UNITE)  |
| George Georgiou      | Scheme Member Representative (GMB)    |
| Garry Warwick        | Scheme Member Representative (GMB)    |
| Rachel Brothwood     | Practitioner Representative (WMPF)    |
| Nick Kirby           | TUC                                   |
| Emelda Nicholroy     | UCEA                                  |
| Gary Delderfield     | Legal advisor (Eversheds)             |
| Colin Wilson         | Actuarial Advisor (GAD)               |
| Duncan Whitfield     | ALATS                                 |
| Joe Dabrowski        | PLSA                                  |
| Teresa Clay          | MHCLG                                 |
| Jeff Houston         | LGA - Board Secretary                 |
| Bob Holloway         | LGA - Pensions Secretary              |
| Liam Robson          | LGA - Board Secretariat               |

### 1. Welcome, apologies and introduction

Cllr Roger Phillips (RP), Chair, opened the meeting by welcoming Joanne Donnelly who joined the Secretariat's team from HM Treasury in January.

The Chair reminded members that the Minister has still to agree to meet and that this will continue to be pursued.

Apologies for absence were received from Councillor Yvonne Johnson and Dick Banks.

### 2. No conflicts of interest were raised.

### 3. Actions and Agreements from meeting of the 2<sup>nd</sup> November 2020 (Paper A)

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**McCloud** - Jeff Houston (JH) updated members on the McCloud remedy since the Board last met in November.

The government's response to the consultation has now been published for the unfunded schemes which decided that deferred rather than immediate choice for scheme members will apply. However, the position for the LGPS is different because of the scheme's statutory underpin. A Written Ministerial Statement (WMS) from MHCLG is expected shortly to set out the general framework and timings for how the McCloud remedy will apply to the LGPS.

Teresa Clay (TC) explained that the WMS has been delayed and is now expected to be published by mid-March.

Rachel Brothwood (RB) expressed concern about implementation of the remedy and the impact this will have on limited resources. To better manage scheme members' expectations the national technical group could be asked to do some thinking around implications and risk.

The Chair asked if guidance will be available on the Board's website.

JH confirmed that guidance will continue to be available recognising the need to support all stakeholders, in particular admin staff whose welfare in difficult times is paramount.

George Georgiou (GG) asked whether any consideration has been given to how the remedy will be rolled out.

JH responded by explaining that government has been asked for answers but that there is a piece of work to do on identifying who will benefit from the remedy of those members who have left the scheme.

Emelda Nicholroy (EN) also expressed concern about resourcing the remedy process and highlighted the significant costs it will involve. Communication will be a big issue for scheme members so the message to them must be clear. JH explained that the message will need to make it clear that not many scheme members will benefit from the remedy. Details can be given in the scheme members' FAQ section on the website.

**Cost Cap** – JH advised members that publication of Directions from HM Treasury which will allow costings to be made are still awaited. Once published, GAD will be commissioned to prepare costings for the CMBDA committee and the Board to consider. Members were reminded that the SAB arrangement does not have to follow HM Directions and will be able to consider and agree its own methodology and assumptions.

**Agreed – that the actions and agreements paper is approved.**

## 4. 95k Cap (Paper B)

Scheme Advisory Board Secretariat

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JH advised members that the legal uncertainty around 95K cap will continue as the various judicial review cases remain ongoing. There are sixteen grounds to be considered with perhaps the key question for the LGPS being the impact HM Treasury regulations have on the LGPS. Neither can we discount the possibility of further appeals that could lengthen the litigation process. The stance taken by the Pensions Ombudsman during the judicial review hearings will also be key. Discussions with their legal team to assess the scope for complaints to be made have taken place the outcome being that applications will be considered on a case by case basis.

John Neal (JN) thanked Lorraine Bennet and her team at the LGA for the quality of guidance being provided to scheme members.

JH further explained that consideration will need to be given as to how cash paid under Regulation 8 of HM Treasury's regulations can be converted into scheme benefits.

RB agreed that it will be important to consider all options but reminded members that administering authorities cannot give advice. JH responded by agreeing that there is a need to consider where responsibilities lie between administering authorities and scheme employers.

**Agreed – that the position set out above is noted.**

## **5. SAB 2021/22 Workplan and Budget (Paper C)**

JH introduced Paper C and explained that the draft workplan and budget for 2021/22 once agreed will be sent to MHCLG for approval.

Members were advised that the £80k contingency for McCloud costs last year did not materialise but the recommendation is that it should be carried forward from 2020-21 to cover anticipated GAD costs including work to revisit the 2016 cost cap and additional costs relating to continuing work on the covid emergency.

JH confirmed that reserves at the beginning of 2020/21 amounted to £225k and that the additional costs associated with the covid emergency has reduced this to just less than £200k at the beginning of 2021/22.

**Agreed – that the 2021/22 workplan and budget set out in Paper C is approved.**

**Action – that the Secretariat submits the agreed 2021/22 workplan and budget to MHCLG for approval.**

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## 6. Responsible Investment Update (Paper D)

BH updated members on the progress being made with the web design team on introducing the new A to Z Responsible Investment Guide and confirmed that the aim of publishing the new website in late March/early April remains on target.

Members were also asked to approve the recommendation that agreement is given to the list of members of the newly established Responsible Investment Advisory Group set out in Paper D and that steps should be taken to arrange the first meeting in March 2021.

**Agreed – that the list of members of RIAG proposed in Paper D is approved.**

**Action – that the Secretariat arranges the first RIAG meeting in March 2021**

## 7. Good Governance Project Update (Paper E).

Joanne Donnelly (JD) introduced Paper E which set out proposals for a draft action plan based on the recommendations made in the final report from Hymans Robertson. Members were advised that the action plan differentiates between those recommendations that are dependant on MHCLG accepting them and those that SAB could proceed with under its own steam.

JH explained that there is much support for the recommendations made in the proposed action plan but that some will be less welcome.

The Chair advised members that a meeting with the Minister to discuss the action plan and related matters will continue to be pursued so that Ministers are fully aware of what needs to be done to further improve the level of governance within the scheme.

TC welcomed the project but said that it will be important to manage expectations as there are many other important issues that MHCLG will need to address in the foreseeable future.

**Agreed – that the proposed action plan set out in Paper E is approved.**

**Action – that the Secretariat submits the agreed action plan to MHCLG for approval**

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## 8. Cost Management Committee Report – Paper F

(GG) took members through the committee’s report on the 11<sup>th</sup> January at Paper F.

GG explained that most of the meeting was taken up by an update from JH on the McCloud remedy and 95K cap.

Other matters included updates from BH on :-

- the good governance project
- the SAB guidance on new employer flexibilities
- the consultation on external audit (The Redmond Report)

As part of MHCLG’s regulatory update Con Hargrave (CH) advised members that Oliver Watson has joined the pension’s team from MoJ to major on the team’s work on investments and responsible investment.

GJ asked if MHCLG would be prepared to meet him to discuss obstacles to introducing New Fair Deal into the scheme. CH undertook to take this forward.

Under AOB BH advised members that there is growing evidence that certain MATS are seeking to merge and to then move wholesale into a single fund. If adopted on a large scale this could have significant funding and cash flow issues for certain funds. The committee agreed that the Secretariat should continue to monitor developments and report back when appropriate.

## 9. Investment, Governance and Engagement committee report – Paper G

In the absence of Councillor Johnson Councillor Robert Chapman (RC) took members through the committee’s report on the 18<sup>th</sup> January 2021 at Paper G. There were no matters arising requiring SAB agreement.

Members were given a presentation by Dr Anna Tilba, Associate Professor in Strategy and Governance Durham University Business School, setting out the findings of a survey of a selection of LGPS asset managers on 30<sup>th</sup> October 2020 requesting details of how they deal with corporate actions. Dr Tilba’ explained that the survey found that the great majority of managers have in place processes for dealing with corporate actions and that there is no evidence of ‘wrong doing’ by managers. However, it is clear that in most cases the client

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is neither consulted about the process nor provided with reports of the outcome.

Other matters included updates from BH on responsible investment and good governance project and from Liam Robson (LR) on the cost transparency and compliance initiative. Full details are given in Paper G.

As part of MHCLG's regulatory update Teresa Clay (TC) advised members that a Written Ministerial Statement on the LGPS and McCloud is expected in February but that no decision has yet been taken on when MHCLG will be introducing their remedy regulations.

On 95K Cap TC explained that work on amending regulations has been halted in view of the various judicial review cases.

Members were also advised that a new member of the pensions team at MHCLG, Oliver Watson, would be joining shortly from Ministry of Justice. He will be working on the investment side of the team's responsibilities and will be leading on TCFD reporting and pooling guidance.

## **10. AOB**

There were no AOB items.

## **11. Date of next meeting**

The next scheduled date of the Board is the 10<sup>th</sup> May 2021

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