

Responsible Investment Advisory Group

Meeting of the 18th May 2022

Item 2 Paper A

Actions and Agreements - Meeting of the 16th March 2022

Those attending –

Sandra Stewart – Greater Manchester Pension Fund – Chair
Graham Cook – Environment Agency
George Graham – South Yorkshire Pensions Authority
Tim Mpofu – Haringey Pension Fund
Kevin McDonald – ACCESS
Valborg Lie – Central
Frances Deakin – LPP
Ashley Hamilton-Claxton - RLMA
Sarah Wilson – Minerva
Sam Gervaise-Jones – bfinance
Ned Whitehead – Redington
John Neal – UNITE
Nareser Osei - PLSA

Observers –

Oliver Watson – DLUHC
Nathan Rainsford - DLUHC
Tom Harrington – Greater Manchester Pension Fund
Steve Smellie – Scotland SAB (UNISON)

Secretariat –

Jeff Houston – Board Secretary
Joanne Donnelly – Deputy Board Secretary
Bob Holloway – Pensions Secretary
Gareth Brown - Analyst

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Item 1 – Welcome, introductions and apologies

The Chair opened the meeting by welcoming Nathan Rainsford from DLUHC to his first RIAG meeting. Marking his last RIAG meeting the Chair thanked Jeff Houston, Board Secretary and Head of Pensions for all the help and support he has given to the scheme over very many years and wished him the best in his retirement. The Chair also congratulated Jo Donnelly who will be taking over Jeff's dual role from the 1st April.

Apologies were received from Caroline Escott (RPMI Railpen), Jonathan Sharma (COSLA), Joe Dabrowski (substituted by Naserer Osei) (PLSA), Debbie Fielder (Clwyd pension fund) and Piers Lawson (Baillie Gifford).

Item 2 – Actions and Agreement from 5th January 2022 Meeting (Paper A)

Agreed that the actions and agreements paper represents a true and fair account of the meeting of the 5th January 2022.

Item 3 – Levelling Up White Paper

The group was informed that the LGPS had received four mentions in the Levelling Up White Paper published on the 2nd February including a proposal for fund authorities to invest at least 5% of their portfolio in local projects. Although the 5% target would be aspirational, publication of a plan to achieve the target would be mandated by legislation. The group was advised that in the context of the proposal “local” meant investments anywhere in the UK and covered various sectors including health, housing, education and jobs. The devolved administrations in Scotland and Northern Ireland are outside the scope of the White Paper.

SAB will submit a short response to the White Paper seeking clarification on a number of issues including whether those funds already investing 5% locally will be required to seek a further 5% and whether it is the same 5% of infrastructure investment that was announced in 2016.

The group was informed that DLUHC will be publishing a statutory consultation in the Summer covering levelling up and a number of other policy areas with the undertaking that there will be significant engagement with the sector beforehand. In particular, DLUHC will be interested to hear views from the sector on aggregation and who would be best placed to undertake due diligence tests on local projects.

The group raised a number of other issues including clarification of the government's aims; the impact of the proposal on the scheme; the impact on the fiduciary duty to earn returns; the read across to the private sector 5% restriction on employer related investments; the impact on the just transition initiative; whether government should offer some form of guarantee or other form of support; whether a clearing house for

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local projects or a GLIL type body should be considered and whether government should consider issuing levelling up bonds.

The group also highlighted the importance of timing so that whatever emerges from the Summer consultation on levelling up can be reflected in the funding and investment strategies associated with the 2022 triennial valuation.

Agreed – that the group notes the position as set out above

Action – that the Secretariat will publish its response to the White Paper

Item 4 – PSPJO Amendment on BDS

The group was advised that a BDS Bill was included in the Queen's Speech which will cover procurement, expenditure and investments of public bodies and make unlawful boycott, divestment and sanction decisions that are not consistent with UK foreign and defence policy.

The group was further advised that the Public Service Pensions and Judicial Offices Act 2022 includes a similar BDS power after a backbench amendment to the Bill was successful. The amendment was not expected to be supported by the government but this turned out not to be the case. Although the power is now on the statute book it will have no effect unless the Communities Secretary in the case of the LGPS decides to exercise it and issue guidance or directions on the matter. However, it is possible that the government will wait for the BDS Bill which will be wider in scope beyond the LGPS and just England and Wales.

In discussions with the Secretariat an assurance was given by the Bill team that BDS powers are not intended to clash with ESG policies and decisions.

The group raised a number of concerns including the inconsistency of policy across the UK; the challenge of changes in government policy over time and the need to consider the views of scheme members.

Agreed - that the position as set out above is noted

Item 5 – Letters from Michael Lynk and Lawyers from Israel

The group was informed that nothing has been heard from Michael Lynk following the virtual meeting with SAB and LAPFF on the 11th January in response to a number of questions raised during the meeting. The main difference between the two parties at the meeting was that Michael Lynk claimed that funds should simply walk away from difficult investments whereas SAB and LAPFF argued that engagement is often the better way forward. Questions remained on how companies can be removed from the UN database and how long would removal take.

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The group was advised that SAB has received a letter from the Lawyers from Israel group criticising the meeting with Michael Lynk and questioning his status and impartiality. A reply will be drafted making it clear that the meeting with Michael Lynk cannot be taken as either affirmation or agreement to the points raised in his letter.

The group raised the importance of human rights diligence assessments and questioned who is best placed to undertake them. Members also alluded to the possibility of mandatory due diligence tests arising from the climate change agenda. The group asked whether information on human rights diligence assessments could be shared.

Agreed - that the position as set out above is noted

Item 6 – Investments in Russia

The group was informed that in addition to the statements published on the SAB website the Communities Secretary has written to all LGPS administering authorities reminding them of their duty to consider the risks associated with investments in Russia. SAB will continue to update the website as new information on sanctions, etc, comes to light.

The feedback from fund authorities is that Russian assets either can't be sold or can be but at a very low price. When making any divestment decision fund authorities need to reflect the Law Commission's dual test on non-financial considerations and, in particular, whether it is likely that any such decision would have the support of scheme members. In the case of Russian investments, it is reasonable to assume that such support would be given.

The Chair raised the issue of evidence that external auditors are questioning the impact of Ukraine and Russian investments on local authority accounts and asked whether SAB could draft a communication for funds to send to their external auditors. The Secretariat agreed to follow this up under the auspices of the new Compliance and Reporting Committee. The group also highlighted the risk of Russian assets being confiscated and whether there is any merit in asking asset managers how they are assessing geo-political risks.

Agreed - that the Group notes the position as set out above

Item 7 – AOB and date of next meeting

No AOB items were raised. The date of the next meeting is the 18th May 2022.

Bob Holloway

Scheme Advisory Board Secretariat

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Pensions Secretary
Scheme Advisory Board.

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