

# Governance and Standards Sub-Committee

Actions and Agreements 20<sup>th</sup> August 2014, Local Government House

## Item

### 1. Present

#### **Members**

Colin Meech, UNISON (Member representative)  
Keir Greenway, GMB (Member representative) (*substituting for Phil McEvoy*)  
Robert Lynch, Unite (Member representative)  
David Anthony, (Practitioner representative)  
Susan Martin, (Practitioner representative) (*substituting for Geoff Reader*)  
Paul Finbow, ALATS (Treasurer representative)  
Bob Summers, CIPFA (Chair)  
Geoff Dobson, CIPFA  
Robert Plumb, The Pensions Regulator

#### **Observers**

Neil Bhan, APL  
Mark Kowalik, APL (*substituting for Kirsty Bartlett*)  
Karen McWilliam, Aon Hewitt  
Pete Riedel, Hymans Robertson (*substituting for Barry Mack*)  
Annemarie Allen, Barnett Waddingham  
Nigel Thomas, Mercer

#### **Contractor for governance guidance**

Gary Delderfield, Eversheds

#### **Secretariat**

Mary Lambe, LGA

#### **Apologies**

Phil McEvoy, GMB (Member representative)  
Cllr Doug McMurdo, LGA (Employer representative)  
Emelda Conroy, UCEA (Employer representative)  
Geoff Reader, (Practitioner representative)  
Paul Tysoe, (Practitioner representative) (*substitute*)  
Nick Buckland, ALATS (Treasurer representative)  
Barry Mack, Hymans Robertson  
Bob Holloway, DCLG  
Nicola Rochester, DCLG (*substitute*)  
Kirsty Bartlett, APL

Robert Plumb (RP) was welcomed as the new permanent tPR representative on the Governance and Standards sub-committee. RP

# Governance and Standards Sub-Committee

updated the group confirming Bob Scruton had now left tPR and that he, as Head of Scheme Liaison would be the link for the LGPS (at present there is no head of public service pensions at tPR)

## 2. **Actions and Agreements from 25th June 2014**

- Update on Annual Report guidance from the Chair. Due for release shortly from CIPFA (expected August 2014) following a recent period of consultation. Requirements will be mandatory for 2013/14 Annual Report onwards.
- Update from RP (tPR) confirming that the code of practice no. 14 is now expected to be laid in late-November/ mid-December 2014 and then made in December 2014.
- Actions and Agreements from 25<sup>th</sup> June agreed by sub-committee.

## 3. **Timeline of work for the sub-committee**

- Chair outlined a suggested timeline of work (governance guidance) for the sub-committee over the coming months for agreement by the sub-committee.
- **Agreed:**
  - o By 1<sup>st</sup> **September** first complete draft of 'Guidance on the creation and operation of a Local Pension Board' delivered by Eversheds based on specification provided.
  - o 3<sup>rd</sup> **September** Governance Working Group meets to discuss and review first complete draft of guidance.
  - o By 8<sup>th</sup> **September** guidance issued to sub-committee members in advance of next meeting to review.
  - o 15<sup>th</sup> **September** Governance and Standards sub-committee meet to review guidance.
  - o Following this meeting (and appropriate amendments/updates being made) the guidance will be issued to practitioners for a consultation. This will be a short two week period (given the restricted timescales we are working to and is expected to be **end of September/early October**). Agreed that email should be issued to practitioners now to inform them of work being undertaken to develop guidance and that a consultation is expected next month.

**Action:** Secretariat to prepare email and issue to pension practitioner community confirming forthcoming consultation. Caveats will need to be included to confirm the guidance has been prepared using draft regulations and draft code of practice no.14 information. DCLG to be involved as early as possible particularly to seek confirmation that guidance agrees with anticipated laid regulations. LGA will be meeting Bob

# Governance and Standards Sub-Committee

Holloway in the first week of September.

- **October** review comments received from consultation, share via email with sub-committee and prepare updated version for approval by the Shadow Board.
- Anticipated release of guidance in line with laid regulations - date to be confirmed.

The sub-committee noted the concerns regarding the time needed to set up local pension boards and the importance of not allowing the timetable to slip.

## 4. **Review SSAB draft governance regulations response**

- Chair asked for any additional comments or points to note regarding the draft regulations which sub-committee members wished to share and discussion was had regarding a number of areas noted in the consultation response.
- CM raised concern regarding the legality of first option 106(5) in the draft regulations mentioning the UNISON response. This will only be an issue if DCLG were not to choose option 2 106(5). CM also raised concerns about the inclusion of wording in the SSAB response regarding the inclusion of councillors as both employer *and* member representatives. **Agreed/Action:** CM agreed to share the UNISON reply with the sub-committee.
- KmcW noted the need for a clear definition of what 'assisting the scheme manager' actually incorporates - different interpretations being mentioned by practitioners in various pension funds and clarity is needed.
- Need for reference to the section 151 officer model of delegation in guidance.
- Discussion around the role of 'other' representatives in addition to member and employer representatives. Agreed that examples of who possible 'other' representatives could be should be included in guidance.
- Discussion around elected members from pension committees being disallowed from being members of local pension boards (if laid regulations differ from draft regulations), however expectation that member representatives on pension committees should not be precluded from having a role on the local pension board.

## 5. **Work plan 2014/15 - Separation of scheme manager function from lead authority**

- Discussion around the request from the SSAB for the sub-committee to consider the level of separation between the scheme manager function from that of the lead authority, the desirability of increasing the separation and making recommendations to the SSAB on ways

# Governance and Standards Sub-Committee

to achieve greater separation.

- CM raised the point that other sub-committee/working groups of the SSAB were also reviewing the issues of separation and asked how this piece of work fitted in with these existing strands of work being undertaken (investment sub-ctte/ fiduciary duty work) as well as the application of the European Directive (article 8).
- Chair confirmed that we must work on the here and now but that these other points should be included in recommendations made to the SSAB.
- NB (APL) confirmed that the APL public sector sub-committee would be willing to do some legal work around reviewing the issues raised by CM on the European Directive, the recent Law Commission report as well as local government legislation (from 1972 Act onwards) and the legal issues (if regulations were to include option one of 106(5)) for local pension board regulations. **Action** - APL representatives over coming week/10 days to get back to sub-committee members on this work.
- Practical issues also discussed including:
  - o KMcW noted that a period of change was being entered into and given this it may be that a shift is already taking place in some funds - discussed the example of increased discussion around Conflict of Interest. We should be mindful of this in any work we commence. In addition looking at selection of pension funds who are considered to have a good degree of separation and identifying areas this has improved as well as any inefficiencies it's created would be helpful when pulling together recommendations. **Action** - LPFA agreed to share their conflict policy with the sub-committee for information.
  - o Issue of accounts noted too and need for increased separation in England and Wales (to mirror provisions in Scotland where separate accounts are required).
  - o Reference also made to discussions around 'nominated officer' for each fund
- It was felt worthwhile to task a working group with undertaking work to identify existing cases of good separation.
- Timeline for this work would mean that a paper covering recommendations would be considered by the sub-committee in November and issued to the SSAB for review at their meeting due for the 8<sup>th</sup> December 2014.
- Chair asked that this work was highlighted to practitioners so they are aware - **Action**: Secretariat to include information on this topic in email being issued to practitioners regarding local pension board guidance.

## 6. Update on the development of local pension board guidance

- Gary Delderfield from Eversheds provided an update to the sub-

# Governance and Standards Sub-Committee

committee on the work they have been commissioned to carry out, the team working on this as well as the progress made to date. They will be developing the specification provided by the sub-committee/governance working group and creating a first comprehensive draft of the guidance by 1<sup>st</sup> September.

- Some points were raised by members of the sub-committee including:
  - o Highlight in guidance that local government legislation doesn't apply to local pension boards (particularly for monitoring officers)
  - o Are specific references going to be made to non-local government pension funds (Environment Agency/LPFA/SYPF). GD confirmed that their specific constitutions would not be covered but much of the information in the guidance will be relevant for these funds too. Guidance to reflect that it would be advisable for such funds to seek their own legal advice.
  - o What would the appeals procedure be if a person is dissatisfied with the selection process for a local pension board - to be considered for inclusion in guidance.
  - o Knowledge and Understanding - is it a collective or individual requirement? Instructions for guidance are that it's an individual requirement in line with tPR. **Action:** Secretariat to raise with DCLG for confirmation.

## Dates of next meeting

- Next meeting to take place at 2pm on **Monday 15<sup>th</sup> September 2014**.
- Location: The Westminster Suite (Room 8.1), Local Government House, SW1P 3HZ.
- Following meeting to take place at 11am on **Wednesday 26<sup>th</sup> November 2014**.
- Location: Rooms A & B, Layden House, London, EC1M 5LG.