

Cost Management, Benefit Design and Administration Committee

MEETING OF 11TH JANUARY 2021 ITEM 3 PAPER A

ACTIONS AND AGREEMENTS VIRTUAL MEETING HELD ON 5th October 2020

PRESENT

George Georgiou	Members (GMB)	Chair
Sean Collins	Practitioners	
Kevin Gerard	Practitioners	
Emma Mayall	Practitioners	
Rachel Brothwood	CIPFA	
John Neal	Members (UNITE)	
Glyn Jenkins	UNISON	
Graeme Muir	Actuaries: Barnett-Waddingham	
John Livesey	Actuaries : Mercer	
Michelle Dorman	Actuaries: Mercer	
Alison Murray	Actuaries: Aon	
Catherine McFadyen	Actuaries : Hymans Robertson	
Jeremy Hughes	MHCLG	
John Bayliss	GAD	
Brian Allen	GAD	
Jeff Houston	LGA - Board Secretariat	
Robert Holloway	LGA - Board Secretariat	
Liam Robson	LGA - Board Secretariat	

1. Welcome, introductions and declarations of interest

The Chair welcomed all in attendance to the meeting. There were no apologies or declarations of interest.

2. The Chair set out handling arrangements for the virtual meeting.

3. Matters arising

The Committee agreed the minutes for the previous meeting held on the 8th June 2020.

4. SAB work on covid-19

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Jeff Houston (JH) provided an update on the work undertaken by SAB's Secretariat to support the scheme during the covid-19 pandemic.

JH advised members that work continues on preparing and publishing covid-19 related follow up surveys to those completed in April. Work is also being undertaken to assess scheme mortality firstly on a regional basis with data collected via pension officer groups and secondly , a more detailed analysis using two fund authorities in conjunction with their fund actuaries with data collected on the basis of age, gender, scheme membership and salary band. The findings will be published in due course.

5. Covid-19 Practitioners Group

Bob Holloway (BH) explained that since early April the group has met fortnightly to assist the SAB and LGA in assessing the extent to which the covid-19 pandemic will impact on the delivery of the pensions function and to assist administering authorities in dealing with emerging issues on pensions administration. The group also passes on feedback from administering authorities to assist the LGA in compiling employer and scheme member FAQs.

Members were advised that although the covid-19 emergency continues to impact on LGPS administration and governance it is apparent that the number of new issues for the group to consider is reducing. Following discussions between the Chair and Secretariat it was agreed that the group, in its present form, had run its natural course and that regular meetings should, subject to the Board's agreement, be suspended.

BH further explained that the group could continue to assist SAB and its committees on an ad hoc basis when advice or guidance from a practitioner's perspective would be helpful. A newly reformed practitioners group would also act as a useful sounding board for the SAB practitioners representative.

Rachel Brothwood, the group's Chair agreed that the change was timely and would make the best use of existing capacity and resources.

Agreed – to recommend to SAB that the group should be re-established as an expert practitioners group.

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6. McCloud Update

JH explained that a draft response to MHCLG's consultation has been published on the SAB website and has been circulated to SAB members for comment.

On cost cap, JH notified members that HM Treasury Directions are now expected in the New Year. John Bayliss (JB) from GAD confirmed that this was the case.

Agreed – that the committee noted the situation as described above.

7. 95K Cap Update

JH explained that proposals for introducing restrictions on exit payments by public sector bodies to £95k goes back to 2015.

Regulations to be made by HM Treasury are being handled under the affirmative procedure and have been approved by both the House of Lords and Commons delegated legislation committees. They will come into force 21 calendar days after they have been made, that is, signed by Treasury Ministers.

JH further explained that at the same time, MHCLG are consulting on proposals to introduce the restrictions into the LGPS and that the likelihood is that the regulations will not be in place until after the New Year. The time gap between HM Treasury regulations coming into force, potentially in early November, and those from MHCLG has significant implications for exit payment decisions made by LGPS scheme employers during this period.

Kevin Gerard (KG) asked whether guidance is to be issued to administering authorities. JH confirmed that this would be the case given that HM Treasury regulations appear to trump the LGPS' provisions which means that exit payments will be subject to the cap whereas regulation 30(7) of the 2013 regulations provides for the payment of unreduced pensions where scheme members are made redundant over the age of 55.

To assist administering authorities and scheme employers during the time-lag period, JH asked the committee to recommend expenditure to commission QC's opinion on the risk of successful challenge under a number of scenarios. KG agreed that a legal opinion in the next few

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weeks was essential to assist administering authorities in the period before MHCLG's regulations come into force.

George Georgiou (GG) advised members that he was aware of at least two local authorities that have asked for advice and suggested that advice was particularly needed in the handling of cases where redundancy offers have been agreed with a termination date after HM Treasury's regulations come into force.

Glyn Jenkins (GJ) advised members that severance payments are discretionary and questioned whether these should be mandatory.

John Livesey (JL) referred to the related consultations on the further reform of discretionary payments and asked whether this should also be covered in the legal opinion. JH suggested that the focus should be on assisting administering authorities and scheme employers on handling exit payments.

Jeremy Hughes (JeH) confirmed that MHCLG is ready to publish their draft regulations for consultation very shortly and, in addition, will be publishing a statement on the handling of exit payments during the period before their regulations come into effect. JH emphasised that the statement must not be construed as either legal advice or statutory guidance.

JH suggested to members that the better option would be to wait for robust regulations after the New Year than rushing through unprepared regulations earlier to get something on the statute book.

Sean Collins (SC) questioned whether any increase in benefits resulting from the McCloud remedy would be lost if the 95K cap applied?

Graeme Muir (GM) asked whether there was any form of redress against HM Treasury's regulations. JH explained that they have been subject to the full scrutiny of Parliament under the affirmative procedure.

Agreed – that the committee recommends that SAB funds the commissioning of legal opinion on the risk of successful challenge.

8. SAB Guide to New Employer Flexibilities

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JH explained that there were three main strands to the new provisions, that is, employer contributions review; exit payment spread and deferred debt agreements.

Draft statutory guidance from MHCLG is expected in the next couple of weeks which will be high level. At the same time, a SAB working group is working up more detailed guidance that will deal with the “how”. The expectation is that SAB’s guidance will be published after MHCLG’s statutory guidance.

Agreed – that the committee notes the position as described above.

9. Good Governance Project Update

BH explained that in August SAB had agreed that despite the obstacles resulting from the covid-19 which had led to the implementation group being stood down, Phase III of the project must continue with the project team at Hymans Robertson would continue to work alone on the various papers to be presented to SAB in November.

BH confirmed that draft papers, if prepared in time, would be shared with committee members before they are considered by SAB when it meets on the 2nd November.

Agreed – that the committee notes the position as described above.

10. Local Pension Board Indemnity Cover

BH explained that the Secretariat has been asked by an administering authority whether it collected data on local pension board indemnity cover. The authority was told that the forthcoming local pension board follow up survey already include a question on whether indemnity cover has been taken out and that the committee would be asked to consider whether an additional question on claims being made under such cover should be included.

Agreed – that the committee recommends to SAB that the survey should be extended to include this additional question.

11. Regulatory Update from MHCLG

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TC referred to the regulations on exit credits and to the related judicial review case against an administering authority. A preparatory hearing is due on the 12th December with the case likely to be heard in the early Spring 2021.

On Fair Deal, MHCLG confirmed that this was still on their radar but that there were still some policy issues to resolve.

Following the earlier partial government's response on employer flexibilities MHCLG are expecting the response to the remaining matters to come forward by the end of the year. This will include the proposals on moving to a four yearly valuation cycle and transferring HE/FE bodies from Schedule 1 to Schedule 2 of the regulations.

Further amending regulations are also planned on various equality issues following the Goodwin and Brewster cases. Members were also asked to submit comments to MHCLG on whether death benefits should be extended to the over 75s.

JeH suggested that scheme regulations should require broader equality data to be collected.

11. AOB

John Livesey informed members that this would be his last meeting before his retirement at the end of October and thanked members for their help and support. In response the committee thanked him for his work on the committee and wished him well on a much deserved retirement.

12. The date of the next meeting is on the 11th January 2021.

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