

Scheme Advisory Board

Hybrid meeting held on 22 July 2024 – 1.00pm

Item 3 – Paper A – Actions and Agreements

Actions and agreements – 11 March 2024 – 1.00pm

Present

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| Councillor Roger Phillips | Chair |
| Jon Richards | Vice-Chair (UNISON) |
| Councillor Peter Mason | Scheme Employer Representative |
| Councillor John Beesley | Scheme Employer Representative |
| Cllr John Fuller | Scheme Employer Representative |
| Councillor Christopher Weaver | Scheme Employer Representative |
| Councillor Andrew Thornton | Scheme Employer Representative |
| Emelda Nicholroy | Scheme Employer Representative (Universities and Colleges Employers Association) |
| George Georgiou | Scheme Member Representative (GMB) |
| John Neal | Scheme Member Representative (UNITE) |
| Tommy Bowler | Scheme Member Representative (UNITE) |
| George Graham | Practitioner Representative (South Yorkshire Pensions Authority) |
| Kelvin Menon | Association of Local Authority Treasurers representative – ALATS |
| Nick Kirby | Trades Union Congress (TUC) |
| Mark Wynn | Compliance and Reporting Committee Chair |
| Joe Dabrowski | Pensions and Lifetime Savings Association (PLSA) |
| Teresa Clay | Department for Levelling Up, Housing and Communities (DLUHC) |
| Matt Gurden | Government Actuary's Department (GAD) |
| Gary Delderfield | Eversheds Sutherland |
| Alan Wilkinson | Scottish Public Pensions Agency (SPPA) |
| David Murphy | Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) |
| Jo Donnelly | Local Government Association (LGA) – Board Secretary |
| Jeremy Hughes | LGA – Deputy Board Secretary |
| Lorraine Bennett | LGA – Senior Pensions Adviser |
| Becky Clough | LGA – Board Support and Policy Officer |

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Ona Ehimuan
Jonathan Hunt

LGA – Pensions Secretary
Consultant to the LGA

Item 1. Welcome, apologies and introductions

1. Apologies for absence were received from Chris Tansley (UNISON). The Chair welcomed Cllr Peter Mason to his first Board meeting and informed the Board that Cllr Yvonne Johnson was in attendance as Chair of the Investment, Governance and Engagement Committee.

Item 2. Meeting protocol and declarations of conflicts of interest

2. The Chair reminded attendees of the hybrid meeting protocol. There were no declarations of interest.

Item 3. Actions and agreements from 4 December 2023 meeting (Paper A)

3. The minutes of the meeting of 4 December 2023 were confirmed as an accurate record of the meeting.
4. The Chair informed the Board that a meeting had taken place with the new Minister, Simon Hoare MP in January 2024. The meeting was productive and resulted in the approval of the revised SAB budget of £717,500 for 2024/25.
5. George Georgiou (GGe) reminded the Board about the McCloud Judicial Review which was heard from 20 to 22 February 2024. The judgment is expected at the end of April 2024.

Item 4. McCloud Update

6. Lorraine Bennett (LB) gave a verbal update to the Board. The LGA would be issuing further technical guidance for administrators once the ongoing consultation on statutory guidance in the remaining areas was completed. Two free webinars on McCloud had been arranged for administrators in December 2023 which were well received and attended by over 270 practitioners. Further webinars would be delivered as the final details were resolved.
7. McCloud remained a significant administrative project that is substantially impacting the workloads of funds, compounded by the ongoing recruitment and retention issues in the sector. Another significant issue was that administration software suppliers had not yet been able to provide all the updates needed to perform the required calculations for all casework, such as transfers.
8. The issue of teachers with excess service was also discussed. Remedy in the Teachers' Pension Scheme (TPS) could mean that teachers will

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retrospectively become eligible for membership of the LGPS for the remedy period in respect of any excess service. This part of the remedy will involve exchanging a significant amount of information between TPS, employers and LGPS administering authorities. The team had held meetings with Capita to discuss the ongoing and emerging issues for the LGPS on teachers with excess service.

9. LB said that when the public service pension schemes make extra payments to members because of the McCloud remedy, HM Treasury rules mean they must pay interest at 8%. However, HMRC has also said that they would treat any interest paid above the 'commercial rate' as an unauthorised payment. That means that following HMT rules could trigger an unauthorised payment charge of 40% with a further 15% scheme sanction charge. LB was hopeful that the government would pass legislation to disapply unauthorised payment charges in these circumstances. The Board expressed its hope that common sense would prevail and that the issue would be resolved.

Item 5. Economic Activity of Public Bodies (Overseas Matters) Bill

10. Jo Donnelly (JD) introduced Paper B to the Board and the Board noted its contents. The Board was informed that the Bill was now in the House of Lords and would be entering committee stage on 20 March 2024. The amendments that had been proposed by the LGA to date have not yet been incorporated.

Item 6. Investment policy update (including Spring Budget) – Department for Levelling Up, Housing and Communities (DLUHC)

11. Teresa Clay (TC) gave a presentation to the Board on the Spring 2024 Budget and DLUHC's plans for investment policy reforms following on from the Next Steps on Investments consultation response.
12. The Spring Budget took place on 6 March 2024 and proposed that the LGPS consider investing in new children's homes. The Budget also confirmed the requirements for funds in England & Wales to publicly disclose the breakdown of their asset allocations, including UK equities, from April 2024. This should be reported in fund Annual Reports under the new Annual Report Guidance which was being finalised for publication. DLUHC are setting up roundtables with the Minister and various stakeholders to discuss these proposals.
13. There were a number of concerns raised about the proposals and how they aligned with the primary purpose of the pension fund which is to generate returns to pay pensions. Cllr Peter Mason suggested that there was an irony that the Government both wanted LGPS to invest more in private equity but also wanted funds to invest in social care since the involvement of private equity in that sector had pushed prices up.

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14. The Board expressed its concern that the Scheme seemed to be looked at as a source of funding for local government services by the Government. It was noted that this seemed to be the view of both main parties and Jon Richards (JR) said that similar concerns had already been expressed to the Labour front bench. Cllr John Fuller (JF) repeated his request for a definition of infrastructure to be produced by DLUHC, so everyone could understand what would be counted in that category.
15. The Chair said that it is current practice and important to properly investigate all investment opportunities and ensure they were financially viable and suitable for the pension fund. These proposals also emphasised the importance of getting the relationship right between funds and pools. GGe expressed his doubt that pools were meeting the objectives set for them. TC acknowledged the points raised by the Board, including the importance of the work that DLUHC was undertaking with the Board in implementing the Good Governance recommendations.
16. The proposed new guidance on pooling and the updated investment strategy statement guidance was a priority on DLUHC's workplan. Jon Richards (JR) asked whether DLUHC could draw up a prioritised work programme so that it was clearer which pieces of work were likely to be completed before the general election. This was noted.

ACTION – that TC explore the possibility of a prioritised programme of work.

Item 7. Cost Management Results

17. Jeremy Hughes introduced Paper C to the Board. The SAB's Cost Management results had been received from GAD following the agreement on the assumptions to be used at the last Board meeting. The Board also received confidential information about the outcome of HM Treasury's Cost Control Mechanism (CCM), as part of the 2020 Scheme valuation.
18. Noting these reports, the Board agreed that no recommendation was to be made at this time for any changes to the Scheme. Although HM Treasury had not asked for views on how well the reformed CCM was operating, JH asked the Board members to submit feedback regarding either the CCM or the SAB's own Cost Management Process to the Secretariat.
19. JR said that the inclusion of the economic check in the CCM was not appropriate for the LGPS as it was a funded scheme, unlike the other public sector schemes.
20. It was confirmed, to round off the 2020 process, the Secretariat would send a formal letter to the Minister on the outcome once the final report was received.

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ACTION – that Board members send any feedback from SAB Cost Management Process for the 2020 valuation to the SAB Secretariat.

Item 8. Review of 2022 Fund Valuations (section 13) – verbal update

21. JD gave a verbal update to the Board. The GAD report on the last round of local triennial fund valuations was underway. The Secretariat had held meetings with GAD to get initial feedback on its findings and to advise on possible conclusions and actions. The initial analysis had been done and the final report was expected to be published in Summer 2024.

Item 9. The Pensions Regulator (TPR) General Code

22. Becky Clough (BC) introduced Paper D to the Board. TPR's General Code of Practice was laid in Parliament on 10 January 2024 and was expected to come into force on 27 March 2024. The Board was reminded that the main challenge was to identify what best support is needed to help funds in implementing the requirements of the Code. To support this, a focus group had been held in early February with fund officers to discuss the Code. The March 2024 LGPS Live webinar was also dedicated to the Code, with the session focused on how the Code will impact the LGPS. Panellists included fund officers and representatives from Governance consultants at Mercer and AON. The Secretariat have been working with DLUHC to identify areas of overlap with the current work programme or existing guidance.
23. David Murphy (DM) highlighted that it seemed that TPR's public sector e-learning toolkit had not been updated and asked whether the Secretariat could find out when the toolkit will be updated or have first sight of the toolkit before it is published. BC explained that the Secretariat and TPR had regular meetings with each other, and this would be raised with them at the next meeting in April 2024.

ACTION – that the Secretariat raise the updating of TPR's public sector toolkit with TPR in April 2024.

Item 10. Code of Transparency Project Update

24. Ona Ehimuan (OE) introduced Paper E (Confidential) to the Board. Following on from the approval of the project plan at the last meeting on 4 December 2023, and helpful input from the working group, an update on the project was delivered to the Board. An updated project plan was submitted to the Board for approval along with a risk register and two additional recommendations for approval.
25. The Board noted the contents of the paper and approved all recommendations.

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ACTION – that the Secretariat continue the work contained in the Code of Transparency Project Plan.

Item 11. Gender Pensions Gap (GPG)

- 26. BC introduced Paper F to the Board, including the action log. BC said that progress was being made with the actions, especially on employer communications.
- 27. The Secretariat have contacted the NHS pension scheme's policy team to gather information to inform the GPG work on their pension buyback policy following unpaid leave and were awaiting a response. The NHS pension scheme currently had a policy which allowed members to buy back pension after a qualifying break within 'a reasonable amount of time'.
- 28. The Secretariat also highlighted the work with the Pensions Policy Institute (PPI) to discuss possible intersectionality research into the gender pensions gap. GGe commented that this was an important piece of work and agreed to pass on his contacts in the private sector to the Secretariat which may be of use in exploring private sector work on this topic.

Item 12. Board budget and workplan 2024/25

- 29. JD gave a verbal update to the Board. Sarah Tingey would be joining the SAB Secretariat as a full-time Research and Data Analyst from 18 March 2024.
- 30. The revised budget for 2024-25 had been approved by the Minister. The revised budget would allow for an additional team member and renewing the SAB website, and represented a 1 per cent increase to the budget from 2023/24.
- 31. It was suggested to the Board that the additional team member resource could explore many new areas of work, including developing a LGPS peer support offer, consistent with the Board's Good Governance recommendation on external governance reviews.
- 32. The Board expressed support for the Secretariat exploring the idea of establishing a pensions peer support service.

Item 13. Board and Committee Membership

- 33. OE informed the Board that Councillor Peter Mason's nomination as a scheme employer representative by the LGA Labour Group and Tommy Bowler's nomination as a scheme member representative had now been approved by the Minister and the formal confirmation letter was expected soon.

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34. the Board also discussed and approved the recommendations on Committee membership in Paper G.

Item 14. Terms of Reference and Committee scope (Paper G)

35. The Board agreed the recommendations made in Paper G.

Item 15. Compliance and Reporting Committee Report (Paper H)

36. Mark Wynn (MW) introduced Paper H to the Board. The revised fund Annual Report guidance had now been signed off by the Compliance and Reporting Committee and CIPFA's Public Finance Management Board. The final draft of the guidance was to be circulated to the Board for final comment and approval by Wednesday 13 March 2024. It was expected that DLUHC will be obtaining Ministerial approval for the guidance shortly.

POST MEETING NOTE – the guidance was approved by the Board without comment and [has now been published](#).

37. MW also confirmed that an information note for practitioners, actuaries and auditors would be available in the coming weeks. This should help inform the various parties about each other's information needs and sort out some differences of opinion that occurred around year-end. This note would be discussed at the next Audit Roundtable, which the Secretariat was arranging for 17 April. It was also noted that the Board has [responded to a DLUHC consultation on measures to address the audit backlog](#), setting out how pension funds were affected by the measures proposed and again making the case for a separation of pension fund accounts from host authority accounts.

Item 16. Cost Management Committee Report (Paper I)

38. GGe introduced Paper I, which gave an overview of the key items discussed when the Committee met on 19 February 2024. JH added that the Committee's long-standing desire for obtaining data on opt outs would be a priority for the new Research and Data Analyst, Sarah Tingey.

Item 17. Investment Committee Report (Paper J)

39. Cllr Yvonne Johnson (YJ) introduced Paper J (Confidential) which gave an overview of the key items of discussion at the most recent committee meeting on 26 February 2024. OE gave an update on the Sharia Law project mentioned in the report. Since the last meeting, the report by the Islamic legal and financial scholar on this topic had been published on the SAB website with a supporting statement from the Board.

40. Lydia Seymour (Counsel) had also been asked to update her initial legal advice on the outstanding questions from her 2022 advice, following the

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publication of the scholar's report. Her updated advice states that the legal risk of a case being successfully brought against a scheme employer to an Employment Tribunal on the basis of indirect discrimination, or a judicial review being brought against an administering authority or DLUHC for breach of the public sector equality duty, remain extremely low. The Board approved the summary of her advice for publication to the Legal Opinions page on the SAB website.

41. Joe Dabrowski (JDa) asked TC whether Ministers had been following this issue and whether they had views on the options for scheme changes. TC responded that the Minister would consider any recommendations made by the Board but had not been separately briefed by officials on the issue.

ACTION – that the Secretariat publish a summary of Lydia Seymour's (Counsel) legal advice to the Legal Opinion page on the SAB website.

POST MEETING NOTE – [Counsel's legal advice has now been published.](#)

Item 18. AOB and date of next meeting

42. JD raised an item on the administrative issues currently being faced by WMPF. It was agreed that this situation presented an opportunity to identify lessons to be learnt from the situation and on the wider scheme. It was noted that there was an identified risk of '*problems with administration software development, limited competition in market*' on the SAB's risk register. The Secretariat and DLUHC are in regular contact with WMPF and will continue to monitor the situation.
43. JD also informed the Board that Richard Law-Deeks had been appointed as the new Chief Executive Officer of the LGPS Central pool.
44. The date of the next meeting is set for 22 July 2024 at 1pm.
