

# Scheme Advisory Board

## MEETING HELD ON 6<sup>th</sup> JUNE 2022

### ITEM 3 PAPER A

## ACTIONS AND AGREEMENTS - MEETING HELD ON 7<sup>th</sup> MARCH 2022

### PRESENT

Jon Richards	Chair (UNISON)
Cllr Yvonne Johnson	Scheme Employer Representative (LGA)
Cllr John Beesley	Scheme Employer Representative (LGA)
Cllr John Fuller	Scheme Employer Representative (LGA)
Emelda Nicholroy	Scheme Employer Representative (UCEA)
John Neal	Scheme Member Representative (UNITE)
Garry Warwick	Scheme Member Representative (GMB)
George Graham	Practitioner Representative (SYPA)
Nick Kirby	TUC
Joe Dabrowski	PLSA
Matt Gurden	GAD
Gary Delderfield	Eversheds Sutherland
Teresa Clay	DLUHC
David Murphy	NILGOSC
Kimberley Linge	SPPA
Jeff Houston	LGA - Board Secretary
Joanne Donnelly	LGA – Deputy Board Secretary
Bob Holloway	LGA - Pensions Secretary

### Item 1. Welcome, apologies and introduction

1. In the absence of Cllr Roger Phillips, the meeting was chaired by Jon Richards.

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2. Apologies for absence were received from Cllr Roger Phillips, Councillor Andrew Thornton, Councillor Clive Lloyd, Chris Tansley, George Georgiou, Colin Wilson and Duncan Whitfield.
3. The Chair welcomed George Graham (SYPA), Matt Gurden (GAD) and Mark Wynn (Cheshire Pension Fund) to the meeting.

## **Item 2 No declarations of interest were raised.**

## **Item 3. Actions and Agreements from meeting of 13<sup>th</sup> December 2021**

4. At Item 3 (Delegation from the Prudential) Bob Holloway (BH) informed the Board that the Secretariat had met with the Prudential on the 4<sup>th</sup> February who agreed to prepare the draft communication agreed by the Board in December. Despite being chased on several occasions the draft has yet to be submitted.
5. At Item 9 (SAB Annual Report) Jo Donnelly (JD) advised the Board that since December the number of accounts submitted has increased to 86 out of 87 and that publication of the Board's annual report in time for this year's PLSA Local Authority conference in June is on track.
6. At Item 11 (Investment Committee Report) BH informed the Board that at its Joint Committee on the 7<sup>th</sup> March ACCESS had agreed a proposal to extend the committee to include scheme member representatives of client funds' local pension boards to future meetings.
7. In response to recent events in Ukraine Jeff Houston (JH) informed the Board that a statement advising fund authorities to review their investments in Russia has been posted on the SAB website. Fund authorities have also been asked to submit details of any direct holdings in Russian assets over 1%. A second statement has also been posted setting out the legislation on sanctions that came into effect on the 1<sup>st</sup> March 2022 and reminding authorities of the Law Commission's dual test when making investment or divestment decisions based on non-financial considerations.

## **Agreed – that the minutes of the 13<sup>th</sup> December meeting are agreed.**

## **Item 4. Levelling Up White Paper (Paper B)**

8. JH informed the Board that following publication of the White Paper on the 2<sup>nd</sup> February the Secretariat has met with the pensions team at DLUHC to clarify a number of issues. It has now been made clear that the 5% target for local projects is an ambition and not mandatory but

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that having a plan to achieve the 5% will be mandatory. Fund authorities may also exceed the 5% target if they wish. DLUHC has also confirmed that in the context of the White Paper's proposals local means the UK rather than just the area local to each individual fund authority.

9. The Board was further advised that discussions with DLUHC will continue leading up to the publication of a public consultation in the Summer which is likely to include other proposals on Climate Risk and Reporting, pooling guidance and the Competition and Markets Authority Order on setting objectives for consultants
10. JH invited the Board to consider whether it should task the Secretariat to explore the scope for providing board and committee members with training to better understand the challenges presented by the levelling up proposal and whether it should submit a response to government on the proposal. After discussion the Board agreed to proceed as recommended.
11. Councillor Fuller (CF) advised the Board that the Norfolk fund is already investing in infrastructure (one potential element of Levelling Up) in excess of the 5% target but also pointed out that investment in UK infrastructure was the most expensive globally and didn't always represent the best value for money. Joe Dabrowski (JDa) suggested that there is likely to be a big push for infrastructure projects over the next few years and that pension schemes should be set reasonable rather than hard targets. Gary Warwick (GW) reminded the Board that return on investments is paramount.
12. JH invited members to submit any contributions to the response to government by the 15<sup>th</sup> March.

**Agreed – that the Secretariat is tasked to draft a response which includes the matters listed in Paper B and that the response may be cleared for submission to DLUHC by the Chair. Agreement was also given for the Secretariat, in conjunction with RIAG, to explore educational and training opportunities.**

## **Item 5. Sharia Compliant Investments (Paper C)**

13. Joanne Donnelly (JD) advised members that the Investment Committee had recommended that the Board considers the advice from Counsel on issues for scheme employers around the Sharia compliance of LGPS investments. The advice covered whether scheme employers have the power to offer an alternative scheme. The commission was in response to representations from some authorities

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that a number of scheme members are opting out of the scheme because they feel that the nature of scheme investments does not comply with their religious beliefs.

14. JD advised members that Counsel's advice on the key issues was helpful but recommended that the Board approve further specific expert advice being commissioned. The Board was also invited to agree that the advice from Counsel should be published on the SAB website.
15. Emelda Nicholroy (EN) informed members that many employers in the education sector already offer alternative schemes. In response, JH explained that the case for non-local authority employers offering alternative schemes appeared to be clearer than for local authority employers, in respect of which further clarification on the interaction between Best Value and Automatic Enrolment legislation was needed. JH further explained that creating an alternative scheme with a different level of benefits could result in an equal pay claim due to the different structure of the LGPS and any alternative Defined Contribution Scheme regardless of the employer contribution made.
16. JDa asked if any other public service schemes are experiencing similar opt out issues. In response, EN said that to her knowledge this was the case with the Teachers Pension Scheme even though it does not have the same investment issues as the LGPS.
17. CF questioned the possibility of such schemes having to be provided to other members with objections to LGPS investments and highlighted the governance and administrative complexities that offering alternative schemes would entail. Matt Gurden (MG) suggested that many beliefs such as climate change may not be protected elements under equality legislation but in response JD made reference to the advice from Counsel that that may not be the case. In making the case for commissioning further expert advice JH explained that working through these issues would assist employers by strengthening their position against any challenge.

**Agreed – that Counsel's advice is published on the Board's website and that further expert advice is sought on the questions posed by Counsel**

## **Item 6. New Clause 1 – PSPJO Bill (Paper D)**

18. JH introduced Paper D and reminded members that the Queen's Speech had included reference to a new Boycotts, Divestment and Sanctions Bill relating to the expenditure, procurement and

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investments of all public bodies including the authorities administering the LGPS.

19. Separately and in advance of that Bill, an amendment to the Public Service Pensions and Judicial Offices Bill was tabled by Robert Jenrick MP to create a new clause granting responsible authorities the power to issue guidance or directions on investment decisions which it is 'not proper for a scheme manager to make in light of UK foreign and defence policy' The amendment was successfully passed as contrary to earlier expectations, the government had changed its position and supported the amendment.
20. The Bill will now proceed to the House of Lords where amendments made by the House of Commons will be reviewed. JH advised that there were concerns around the amendment, primarily because it had not been subject to proper scrutiny by Parliament as will be the case with the BDS Bill. There is also a concern that guidance made under this new clause could clash with the proper consideration of Environmental, Social and Governance (ESG) matters in the investment decisions of fund authorities. JH informed the Board that, in concert with LGA, confirmation would be sought in the Lords that this new clause would not be used to restrict the proper consideration of ESG matters in line with the tests set out in the 2014 Law Commission report
21. JDa highlighted the difference between the funded LGPS and other unfunded public service schemes and opined that the new clause would be breaking new ground. EN asked if any challenge to the amendment would cause a delay to the Bill's enactment. In response, JH advised that although it would not be the intention to delay enactment of the Bill given that it is necessary to implement the McCloud remedy, it will be important to register our concerns around the amendment.

**Agreed – that the Board notes the position as set out above.**

## **Item 7. SAB/Committee Membership (Paper E).**

22. BH invited the Board to approve a number of appointments to the Board and both committees set out in Paper E that do not require formal approval from the Secretary of State. The Board was also invited to agree that the Chair should send letters to former members thanking them for their service to SAB and its committees.

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**Agreed – that the Board approves the appointments set out in Paper E and agrees that letters should be sent by the Chair to the former members thanking them for their service.**

## **Item 8 – SAB Budget, Workplan and Forward Look (Paper F)**

23. JD introduced confidential Paper F and invited members to consider the draft budget for 2022/23.

24. JD also explained that six years on from the inception of the Board the time was perhaps right for the Board's future strategic priorities and operation to be reviewed and for the workplan for 2022-23 agreed. The Board was invited to consider a proposal for the review to be undertaken in April via a series of meetings with Board members and observers.

**Agreed – that the proposed draft budget is sent to DLUHC for consideration and that special meetings are held in April to discuss the Board's strategic priorities and annual workplan with the new Board Secretary**

## **Item 9. Cost Management Benefit Design and Administration (CMBDA) Committee Report (Paper G)**

25. In the absence of the Committee Chair Paper G was introduced by BH.

26. Regarding the SAB cost management process BH explained that the committee had agreed to recommend to the Board that the process be amended in response to forthcoming changes to HMT's Cost Control Mechanism (CCM) and that such amendments be based on the following objectives:

- Better integration to formalise the connection between the SAB process and the CCM and to set out how decisions are made and by whom;
- A closer match between the SAB process and CCM, in particular by restricting scope to just the reformed scheme but allowing the SAB process to take into account fluctuations in underpin costs;
- The formal integration of the SAB's ability to take account of discount rate changes in order to better match the CCM's economic check but allowing the SAB process the ability to use a more appropriate scheme discount rate rather than SCAPE;

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- A change from the existing 2% corridor to 3% whilst retaining the existing “may, should, must” criteria, and
- Flexibility to vary the employer/employee contributions ratio depending on circumstances.

**Agreed – that the CMBDA develop proposals to amend the SAB process in line with the above objectives.**

27. Regarding publication of the 2019 Section 13 Report BH explained that the committee had considered the three recommendations included in the report for SAB to take forward and agreed to recommend that the Board should task the Secretariat to arrange a series of roundtable meetings with DLUHC, GAD and the actuarial firms to discuss how the three recommendations should be taken forward.

**Agreed – that the Secretariat should arrange a series of roundtable meetings with DLUHC, GAD and the actuarial firms.**

## **Item 10 – Investment Governance and Engagement Committee Report (Paper H)**

28. Councillor Johnson (CJ) took members through Paper H which covered a range of issues including the Levelling Up White Paper, the 2020 Stewardship Code, an update on the new Compliance and Reporting Committee, Sharia compliant investments, an update on compliance with the Code of Transparency and a report from the Chair of RIAG.

**Agreed – that the Board notes the position as set out above**

## **Item 11 – AOB and date of next meeting**

29. In the light of his retirement at the end of March Jon Richards and Councillor Fuller took the opportunity on behalf of the Board to thank Jeff Houston for all the help and support he has given to the Board, its committees and the scheme as a whole over very many years. The Board wished Jeff every success in any new venture and looked forward to meeting with him in the future albeit under a different guise.

30. The next Board meeting will be held on the 6<sup>th</sup> June 2022.

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