Paper A: Minutes of meeting held on 27 September 2021

PRESENT

Cllr John Fuller	Chair, LGA (Virtual)
Cllr Alan Waters	LGA (Virtual)
Cllr Richard Wenham	LGA (Virtual)
Cllr Phil Murphy	LGA (Virtual)
Cllr Goronwy Edwards	LGA (Virtual)
Cllr Bev Craig	LGA (Virtual)
Cllr Keith House	LGA (Virtual)
Mr Jeremy Hughes	MHCLG
Mr David Murphy	NILGOSC (Virtual)
Mr Alan Wilkinson	SPPA (Virtual, substitute)
Mr Kevin Gerard	Technical Group representative (Virtual)
Ms Rachel Brothwood	SAB representative

Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Ms Elaine English	LGPC
Mr Jeff Houston	LGPC

Non-attendees

Cllr Eddie Reeves	LGA
Cllr Oliver Ryan	LGA

1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF] welcomed members to the first hybrid meeting and noted that a quorum had been achieved.

2. APOLOGIES

Apologies were received from Cllr Eddie Reeves, Ms Kimberly Linge and Ms Linda Welsh. The committee noted that Mr Alan Wilkinson [AW] from SPPA attended the meeting as a substitute for Ms Linge.

No declarations of interest were declared. JF welcomed three new members to the LGPC: Cllr Eddie Reeves, Cllr Bev Craig and Cllr Keith House.

Post meeting note: Lorraine Bennett [LB] wrote to the exiting members on behalf of the Committee thanking them for their valid contributions. Exiting members: Cllr Adam Paynter and Cllr Joanne Laban.

3. MINUTES

The minutes of the previous meeting held on 10 May 2021 were agreed.

4. MATTERS ARISING

Matters arising from the minutes of the previous meeting will be covered in later agenda items.

5. LGPS BUDGET

LB presented the main points from the confidential Paper B.

Subscriptions 2021/22

LB asked the committee to agree to a 2% increase in subscriptions paid by administering authorities in England and Wales, Scotland, and Northern Ireland. The LGA team is funded by training income and voluntary subscriptions paid by all administering authorities. The cost is based on fund size. In England and Wales there are 6 small, 57 medium and 23 large funds. There is a single administering authority in Northern Ireland that pays half the rate of a large fund.

Following a period of static subscription costs in the years up to 2018/19, the Committee had previously decided on incremental increases.

Based on the increased subscriptions, LB estimates a small in-year surplus. Planned expenditure in the near future will include updates to the member and administrator websites to ensure that they are up to date, fit for purpose and fully accessible. We also expect administering authorities to face significant challenges in the near future, including McCloud remedy implementation, GMP equalisation and retrospective changes to survivor benefits. The LGA team needs resources to provide training and support for these major projects.

Reserves are in place that are sufficient to cover the pension liabilities and wind-up costs that would arise if the committee was disbanded. Those costs have been estimated assuming that the £95,000 exit payment cap is in force.

The number of administering authorities in Scotland is small. As the LGPS in Scotland has diverged from the LGPS in England and Wales in recent years, more resources are now needed to offer a full support service to Scotland. Administering authorities in Scotland pay higher subscriptions to contribute to the cost of a dedicated member of staff.

Cllr Phil Murphy [PM] asked whether any costs were passed on to local authorities. LB confirmed that subscriptions were paid by administering authorities only.

Cllr Richard Wenham [RW] requested more information about the definition of small, medium and large administering authorities.

Action: LB to share with the Committee information about the categorisation of administering authorities by size.

The Committee agreed to the 2% increase in subscriptions.

Additional post

LB asked the Committee to agree to appoint another member of staff to the LGA's pension team.

Currently, one member of staff delivers our practitioner and employer training. Demand for our training is increasing year on year. Administering authorities may be finding it harder to deliver training in-house with staff working from home. Our practitioner training is often fully booked on the day that it is announced, which leads to complaints. It is not possible for the one trainer to increase the number of training events we offer.

There are more than 16,000 LGPS employers in England and Wales, some of whom will experience high staff turnover. This means that demand for employer training is consistently high. There are currently 150 people on the waiting list for employer role training.

The new team member would focus on LGPS employers. They would deliver employer training events, develop online bitesize training and update and create employer guides. They would also deliver practitioner training to increase the resilience of the team.

The additional post would be funded by the income generated by the additional training courses that we could offer.

Cllr Keith House [KH] agreed that the case for an additional member of staff had been made. JF supported the proposals to increase the budget and create an additional post as they were justifiable and evidence-based, particular in light of the changes and challenges ahead.

The Committee agreed to the recruitment of an additional member of staff to increase employer training and support.

6. REGULATIONS UPDATE ENGLAND AND WALES

LB presented the key points from Paper C.

2020 LGPS Scheme Annual Report

The 2020 LGPS Scheme Annual Report may be of particular interest to the new members of the Committee. The report is the aggregate of information contained in fund annual reports produced administering authorities in England and Wales and shows the position at 31 March 2020.

The report shows that membership is still increasing and a drop in investment returns. The overall funding level was 98%, but assets are likely to have recovered in value since March 2020.

Exit credits

The LGPS regulations require an administering authority to arrange a valuation of liabilities in the fund when an employer exits the Scheme. The employer must pay the exit payment if they are in deficit. The rules were changed in 2018 to allow an exit credit to be paid to the exiting employer if they are in surplus.

Problems have arisen where pass-through arrangements are in place. When an authority outsources a service, they sometimes enter into a legal agreement meaning that the contractor does not take on any pension risk. The LGPS rules were changed in 2020 so that an administering authority could take into account the pension risk borne by the exiting employer when deciding the level of an exit credit.

EMS & Amey launched a legal challenge concerning the non-payment of a large exit credit. The High Court found in favour of MHCLG and upheld the retrospective effect of the regulations change.

Response to TPR single code of practice consultation

The Chair approved the LGPC response to the Pension Regulator (TPR) single code of practice consultation. Our response covered administration, communication and disclosure, and reporting to TPR.

TPR received over 10,000 individual answers to the consultation questions. TPR has issued an interim response and will issue a full response when it has had time to consider the many responses. TPR expects the single code to be in force in summer 2022 at the earliest.

LB pointed out that there were multiple consultations in recent months. It was not always possible to refer our responses to the Committee due to short deadlines.

DWP consultation on pension scams

LB informed the Committee that the Secretariat on behalf of the LGPC and LGA submitted a technical response to the DWP consultation on pension scams. The response highlighted those areas where the draft regulations do not deliver the stated policy intent.

Response to dashboard staging Call for Input

The Secretariat, on behalf of the LGPC and LGA, responded to the Call for Input on pensions dashboards staging dates. The Committee was able to comment on the technical response before it was submitted.

We raised the significant challenges faced by administering authorities such as implementing the McCloud remedy and GMP equalisation in our response. An early staging date would add to these pressures. We also highlighted the need to ensure that information provided on a dashboard was the same as that provided in an annual benefit statement. Any perceived difference may lead to loss of member confidence.

RW asked for a general update on pensions dashboards. LB informed the Committee that public service pension schemes were expected to onboard in the first phase – a two-year period starting from April 2023. The Pensions Dashboards Programme has appointed Capgemini to supply the digital architecture for the dashboards. We do not yet know exactly what information must be provided to the dashboards, in particularly for those members protected by the McCloud remedy. Jeff Houston [JH] made the point that making data available to the dashboards will be a regulatory requirement.

7. SAB UPDATE [E&W]

JH presented the key points from paper D, concentrating on three significant issues.

Dissolution of CIPFA pensions panel

JH informed the Committee that CIPFA's Pensions Panel has been dissolved. The Pensions Panel focused on audit, accounting and reporting requirements for public service pensions. It was also responsible for producing statutory guidance that administering authorities were required by Scheme regulations to follow.

The Scheme Advisory Board (SAB) is proposing to set up a Compliance and Reporting Committee to take on these responsibilities. The committee would have a dual role – reporting to the SAB and to the top level forum within CIPFA. Any guidance it produced would be 'double-badged' as produced by both organisations.

CIPFA has agreed in principle and the proposal will be considered by the SAB at the afternoon meeting. If the SAB agrees, the next stage will be to consider the terms of reference of the committee.

The SAB would need additional resources to support the new committee which may mean an increased levy. JH proposed a different model to that adopted by CIPFA. Administering authorities have to pay for CIPFA guidance, even though they are required to use and follow it. JH intends for the committee to be suitably resourced to produce the guidance and for the guidance to be free.

JF highlighted the importance of governance and the need for someone to fill the void left by the dissolution of the CIPFA pensions panel.

Cost management

HM Treasury introduced a cost management mechanism through the Public Service Pensions Act 2013. The mechanism operates every four years and looks at employer and employee costs and how they have changed since the last time they were measured.

The 2016 valuations revealed that every public service pension scheme was cheaper than expected, even though employer costs were increasing. The outcome of this unexpected result could have been an improvement to member benefits, leading in turn to further employer contribution increases.

The SAB operates its own cost management mechanism. This would have led to a small increase in benefits following the 2016 valuation, preventing the significant benefit improvements that would have been the result of the HMT process.

The cost management process was on hold due to the McCloud legal challenge, but has now resumed. The costs of delivering the McCloud remedy will be taken into account when the 2016 valuations are completed. The cost of remedy in the LGPS is estimated to be £4 billion.

A special meeting was held on 1 July for the SAB to consider the inclusion of McCloud costs in the 2016 cost management process. The SAB agreed to spread the cost of McCloud over 10 years. However, backdating benefit improvements to 2019 would pace a significant burden on administering authorities. SAB proposes no benefit changes as a result of the 2016 valuation.

JF noted that this was a good outcome as it was not necessary to re-coup costs that will arise over the next twenty plus years in a four-year period.

The SAB has responded to the HMT consultation on the cost control mechanism. The response recommends greater integration of the SAB and HMT cost control processes.

Climate risk and reporting regulations for the LGPS

JH informed the Committee that MHCLG plans to consult on introducing risk measurement and setting targets in relation to climate risk to the LGPS. The 12-week consultation is expected in October 2021. This follows the recent DWP consultation on introducing similar requirements to other pension schemes.

The SAB via the Investment subcommittee intends to work closely with MHCLG to make sure the consultation yields results are achievable and avoid the introduction of administering authority ‘league tables’. Thought should also be given to ‘future-proofing’. The LGPS requirements should be aligned with the TCFD regulations so that administering authorities only have to report once.

JF noted the difficulty in balancing fiduciary duties with the wider responsibilities of the administering authority. RW asked whether there will be mandates to force administering authorities to invest in a certain way. JH confirmed that the new rules will relate to setting measures and targets, they will not set out how administering authorities should invest their funds.

PM asked whether there were any sources of information on the climate change agenda other than the responsible investment A to Z delivered by the SAB. JH confirmed that the SAB will be asking funds and pools about their progress in this area and using their responses to add to and develop the A to Z website.

PM asked whether there were any plans to allow salary sacrifice schemes for the provision of electric vehicles. JH was not aware of any such plans. The LGPS regulations prevent ‘any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision’ from being pensionable.

Kevin Gerard [KG] asked for an update on the exit payment cap. JH expects each department with responsibility for a public service pension scheme to consult on regulations that introduce the exit payment cap, instead of HM Treasury making regulations covering all schemes. Jeremy Hughes [JHu] pointed out that MHCLG has recently consulted on best value guidance on special severance payments. A new Minister will be responsible for the LGPS following the recent re-shuffle. We do not yet know whether the new minister will want to pursue statutory guidance. But the pressure to introduce an exit payment cap has not gone away.

8. REGULATION UPDATE SCOTLAND

The Committee noted the key points from paper E, which was presented by Alan Wilkinson [AW].

Regulations – Draft Amendments to LGPS (Scotland) Regulations 2018 (SSI 2018/141)

SPPA plans to follow the England and Wales lead in introducing changes to the underpin to remove age discrimination from the scheme. It expects to make draft regulations in January 2022. In response to an appeal, SPPA plans to amend the regulations to make it clear that actuarial adjustments must be taken into account when operating the current underpin.

The next set of amending regulations will also provide further flexibilities for funds dealing with exiting employers. The amendments are currently with the legal team and it is anticipated that consultation will start later in October.

Cost cap valuation

The 2014 valuation of the new scheme set an employer cost cap of 15.5% of pensionable payroll for the LGPS in Scotland. After publishing the report, GAD identified an error relating to the allowance for mortality improvements within their calculations. Correcting this error will set the cost cap at 15.2%.

The LGPS regulations will be changed to include the correct percentage.

9. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper F, which was presented by David Murphy [DM].

LGPS regulations

The Department's consultation on the McCloud remedy closed on 31 January 2021. There are currently no further developments to report.

The Department will shortly issue a consultation on amendments to:

- remove the discrimination identified in the Goodwin and Walker v Innospec cases
- remove the age 75 cap on the 10-year death grant
- change the time limit for making decisions on internal disputes from two months to four months.

. NI SAB meet last met in September and received a presentation from GAD on the provisional results of the 2016 cost cap valuation, the SAB also discussed the Government's intention to increase the minimum pension age.

NILGOSC responded to HM Treasury's consultation on proposals to Reform the Cost Control Mechanism and reminded them of the funded nature of the LGPS and the need to use alternative economic checks

10. UPDATE FROM TECHNICAL GROUP

The Committee noted the key points from paper G, which was presented by KG. Most of the issues discussed by the Technical Group have already been covered in other agenda items.

The Technical Group recognises the enormous amount of work that the McCloud remedy will generate. Many thousands of members' benefits will need to be re-calculated and much of this will be done manually, it will not be automated.

Technical Group plans to identify common issues faced by administering authorities implementing the McCloud remedy and encourage them all to adopt the same solution. It is grateful for the work the LGA has done so far to support administering authorities and employers.

KG stated that the requirement to pay a refund within five years was placing an additional and unnecessary burden on administering authorities. He reiterated the importance of MHCLG changing the LGPS regulations to remove this requirement.

KG asked for help from the LGA concerning continued poor customer service from Prudential. Reports of errors, extended delays in being able to pay pensions and payments being made to the wrong place continue to emerge. There may also be issues for the fund annual report if Prudential is not able to supply the necessary information on time.

JH confirmed that the LGA had been in contact with both TPR and the FCA concerning Prudential's performance and errors. Their failures could also impact the pensions dashboards as they will be responsible for supplying AVC information to the dashboards.

The Committee discussed what action they could take to help.

Action: The Chair on behalf of the Committee will contact Prudential to invite a senior representative to attend the next meeting of LGPC and SAB.

11. TRAINING AND CONFERENCE UPDATE

The Committee noted the key points from paper H, which was presented by Elaine English [EE].

Bookings are going well for the Fundamentals programme. EE confirmed that members of the LGPC could attend these events for free. Any member of the Committee that would like to attend should email elaine.english@local.gov.uk with their preferred date(s).

The bookings for our 2022 governance conference taking place in Bournemouth on 20 -21 January are also going well. Delegates can attend in person or online. LGPC members receive a complimentary place and should email elaine.english@local.gov.uk if they would like to attend. The conference flyer provides more information and programme details.

We have now resumed face-to-face practitioner and employer training. We delivered a successful Insight residential course in Bournemouth in September. We will publish next year's programme of courses in January 2022.

12. ANY OTHER BUSINESS

None reported.

13. DATE OF NEXT MEETING

The next meeting will be held on 13 December 2021. Next year's meetings will be held on the same day as SAB meetings. 2022 meeting dates will be confirmed at the afternoon SAB meeting. We plan to run these as hybrid meetings in future.

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