Paper A: Minutes of meeting held on 13 December 2021

PRESENT

Cllr John Fuller	Chair, LGA
Cllr Richard Wenham	LGA
Cllr Goronwy Edwards	LGA
Cllr Bev Craig	LGA
Cllr Eddie Reeves	LGA
Cllr Oliver Ryan	LGA
Mr Jeremy Hughes	DLUHC
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA
Ms Linda Welsh	SPPA
Mr Alan Wilkinson	SPPA
Mr Kevin Gerard	Technical Group representative

Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Mr Jeff Houston	LGPC
Mr Karl White	LGPC

1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF] welcomed members to the online meeting. He asked participants to remain on mute and to raise their virtual hands when they wish to speak.

2. APOLOGIES

Apologies were received from Cllr Alan Waters, Cllr Keith House, Cllr Phil Murphy, Rachel Brothwood and Elaine English.

No declarations of interest were declared.

3. MINUTES

The minutes of the previous meeting held on 27 September 2021 were agreed.

4. MATTERS ARISING

JF referred to the budget agreed at the previous meeting. He noted that the considerable surplus would be required to meet the pension and redundancy costs that would arise if the LGPS pensions team was wound up.

6. REGULATIONS UPDATE ENGLAND AND WALES

Lorraine Bennett [LB] presented the key points from Paper B.

New Minister

Kemi Badenoch was appointed as the Minister of State for the Department for Levelling Up, Housing and Communities (DLUHC) in September. She replaces Luke Hall and also retains her position as Minister for Equalities.

Pensions tax relief

As part of the Autumn 2021 Budget, the Government responded to the call for evidence on pension tax relief administration. The response addresses the anomaly of the tax position for those who do not pay tax based on what type of pension scheme they belong to.

Individuals get tax relief on pension contributions as an incentive to encourage savings. Most defined contribution schemes operate relief at source. In a scheme that operates relief at source, contributions are deducted after tax. The scheme then claims back tax relief from HMRC. Members benefit from that tax relief even if they do not earn enough to pay tax.

In a net pay arrangement, such as the LGPS, pension contributions are deducted before a member's income is assessed for tax. This means that those who do not pay tax do not benefit from any tax relief.

The Government will introduce a system from the 2024/25 year to allow low earners who are members of a scheme that operates a net pay arrangement to claim back a top-up payment. HMRC will identify and notify scheme members who are able to claim a payment. Payment will be made directly to the individual, but only if the person makes a claim.

Cllr Richard Wenham [RW] asked how many LGPS members may be affected and how they could be supported. LB believes that up to 500,000 members of the LGPS may be entitled to this type of payment. We need more information on how the system will operate before we can say how councils and other employers can support part time employees and make sure people who are entitled to this payment claim it.

Jeff Houston [JH] noted that communications will present a significant challenge. Unsolicited messages pretending to be from HMRC are a common form of scam. Carefully badged communications should be used to help low earning individuals recognise this legitimate contact from HMRC.

Government response to pension scam consultation

The Government responded to its consultation on pension scams on 8 November 2021 and made regulations which had effect from 30 November 2021. The regulations give new powers to pension schemes to stop a pension transfer if they believe the member is at risk of a pension scam. We welcome changes that protect members but recognise that the short timescales will present problems for administrators.

The LGA pensions team is working on guidance and template documents which we aim to publish by the end of the week. The Pensions Regulator has also published guidance on the new powers that will assist administering authorities.

7. SAB UPDATE [E&W]

JH presented the key points from paper C.

Prudential

Tracy Harris (Customer Service Director) and Alastair Hogg (Head of Corporate Pensions) at Prudential will attend the Scheme Advisory Board (SAB) meeting later today. They will be asked about the significant drop in Prudential's service level in the past 18 months. SAB is particularly keen to see a recovery plan that includes timescales.

Prudential's performance has caused delays in the retirement process for members with AVCs. Annual benefit statements and annual allowance calculations have also been delayed. Prudential has reported itself to the Pensions Regulator because it has missed statutory deadlines.

Letter from Michael Lynk

Michael Lynk, United Nations Special Rapporteur on the Palestinian Territories, has written to chairs of LGPC pension committees in England and Wales, the SAB and the Local Authority Pension Fund Forum (LAPFF). The letter concerns fund investments in companies that are involved in the occupied territories of the West Bank.

The SAB and LAPFF chairs intend to arrange a call with Mr Lynk to ask about the contents of the letter. Of particular interest is whether the letter was sent in a personal capacity or on behalf of the United Nations. They will also ask how a business identified as one 'involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory' can be removed from the database when it is no longer involved in the 'specified activity'.

JF has received emails about this issue in recent days, and notes that other groups hold similar views about investments in companies associated with arms, smoking and climate change. LGPS pension funds have a duty to scheme members and a responsibility to provide value for money to taxpayers. They should be able to fulfil those responsibilities without being hampered by such pressures.

JH reminded the Committee that Law Commission's opinion was that administering authorities could consider non-financial factors when making investment decisions, as long as there was no material impact on returns.

Jeremy Hughes [JHu] gave an update on the Government position. The Government remains committed to its manifesto commitment to introduce a ban on disinvestments that are not in line with Government policies. This will require primary legislation and they do not currently have a Parliamentary slot to introduce this legislation.

Annual Report Survey

Some administering authorities were not able to publish their annual report by the 1 December 2020 deadline because the council's accounts had not been audited by that date. The SAB has surveyed for administering authorities about the current position. The survey results suggest that there has been no improvement this year.

The SAB will monitor the annual reports that are submitted to check whether they include audited accounts or draft accounts that have not been audited. The Welsh approach of separating pension fund accounts from council accounts may be the solution. This is an issue that the SAB's new Compliance and reporting committee will consider.

Board membership

The Department for Education has requested that a representative for academies serves on the SAB. They were not previously represented because there was no national body representing the interests of academies. Now there is such a body, the SAB will hear a proposal to create additional seats on subcommittees that can be taken by an academy representative. When the current representative from the HE/FE sector leaves the Board, that vacancy will be taken by an academy representative.

Cost management committee report

JHu updated the Committee on the exit payment cap. A consultation had been expected before Christmas. The Levelling Up white paper has been postponed until January 2022 and so the exit payment and TCFD consultations are now expected in the new year.

JH reported that the Public Service Pensions and Judicial Offices Bill will shortly enter the Report stage in the House of Commons. We do not expect to see the amended Bill until January or February 2022. There are still significant legislative changes to make to implement the McCloud remedy, particularly around pensions tax.

RW asked about the expected costs of implementing the McCloud remedy. JH confirmed that the short-term costs associated with paying increased benefits will be small because only very few pensioners will see an increase to their benefits. Potentially less than 1% of pensioners will see an increase. Longer term, the costs may be more significant. The cost of the underpin will be higher for members with large pay rises after 1 April 2014. The cost will be determined by the profile of members who remain in the LGPS and how much their pay increases by.

JH believes that the immediate challenge will be for administrators and the requirement to gather data and re-visit past calculations. Actuaries do not anticipate that the cost of the McCloud remedy will impact materially on employer contribution rates. Kevin Gerard [KG] reiterated the burden that administrators face and noted that many administering authorities had already factored in McCloud costs as part of the valuation in 2019.

The 2022 valuation position looks good. Actuaries expect a better funding position in 2022 than there was in 2019. The actual results will vary across administering authorities and employers.

JF noted that SAB's decision to spread the cost of the McCloud remedy over ten years and that this will have an impact on the 2022 valuation results. He asked whether the LGPS could still be affected by the results of the HM Treasury (HMT) cost control process as that is based on different assumptions. JH expects to have conversations with HMT on the best way forwards. The aim is for the SAB cost control process to be based on a discount rate that reflects the rates used in the LGPS. We could reach a position where the SAB cost control process would override the result of the HMT process if it is based on a more representative discount rate.

JH warned the Committee to expect a Judicial Review concerning the inclusion of McCloud remedy costs in the 2016 scheme valuations.

TCFD regulations already require other schemes to report on exposure to climate risk. We expect a consultation to introduce similar rules to the LGPS. JH emphasised the importance of having certainty on the policy before 1 April 2022 if 2022/23 will be the first reporting year. Having regulations would be the ideal way to provide that certainty but administering authorities will need something concrete before 1 April 2022 telling them what to collect. JH noted that the DWP regulations were already being amended. He is concerned that the regulations that apply to the LGPS may not be in line with the DWP regulations because of these changes and future evolution of the rules.

JHu confirmed that the consultation is still with the Minister for approval. He expects the consultation to cover the policy but not to include draft regulations. The usual 12-week consultation period could be reviewed and shortened in order to meet the 1 April 2022 deadline.

8. REGULATION UPDATE SCOTLAND

The Committee noted the key points from paper D, which was presented by Kimberly Linge [KL].

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

The consultation on draft amendments to the LGPS (Scotland) was launched on 1 November 2021. It is due to close on 7 January 2022, but SPPA has received requests for an extension from stakeholders. They want all parties to be able to submit full responses to the consultation but changing the timing may not be possible. They are waiting for a decision.

Government Actuary's Department (GAD) – cost cap

The amended regulations will include the correct valuation figure – the current figure of 15.5 percent will be replaced by 15.2 percent. This will allow GAD to finalise the cost control element of the 2017 scheme valuation.

Governance and reporting of climate change risk

SPPA will work with DLUHC to make sure they have a consistent approach in the important area of climate change risk.

The Scottish SAB will set up a working group to look at governance, strategy and risk management associated with climate risk. The group will meet this month and feed back to the Board in February 2022.

9. REGULATIONS UPDATE NORTHERN IRELAND

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

LGPS regulations

DM confirmed that the consultation on regulation amendments he described at the last meeting in September has now closed. The proposed changes will affect survivor benefits and implement the decisions in the Walker v Innospec and Goodwin court cases. They have identified another cohort of survivors of scheme members for whom survivor benefits have not been equalised and are considering whether further amendments are needed.

The consultation also covered regulation changes that will give the Department the power to issue statutory guidance and change the timescales associated with the Internal disputes resolution procedure.

10. UPDATE FROM TECHNICAL GROUP

The Committee noted the key points from paper F, which was presented by KG.

Administering authorities are reporting their progress on the McCloud remedy quarterly. One theme from the second round of responses is that a large amount of manual intervention will be needed to update member records with post 2014 service data from employers.

Administering authorities have received a large number of requests from claims management companies in recent months. Technical Group has requested a timeline showing what information should have been sent at different times to members seeking to transfer out of the LGPS.

Action: LGA pensions team to progress the production of a scam communications timeline.

The Technical group welcomes the SAB's efforts to engage with Prudential and looks forward to an update following the meeting later today. Technical group thanked the LGA for the work they have done in preparation for the introduction of pensions dashboards.

JF noted the large number of scheme changes and other developments on the way and raised concerns about capacity, specifically:

- whether software suppliers are able to keep up with the changes
- does the Minister appreciate the level of strain that these changes will place on the limited (and diminishing) number of technical staff working in the LGPS?

JHu confirmed that the McCloud changes result from a legal judgment and so there is no option but to implement the remedy. He recognises the amount of work that will be involved to identify members who are affected. As the numbers are low, the next stage of rectifying benefits for those members will be less of burden in the LGPS than it is expected to be in the other public service pension schemes. DLUHC will continue to have discussions about what they can do to help administering authorities. The Good governance review covers making sure that the administration function is sufficiently resourced. Mergers and shared services provide a route that would allow funds to pool resources and maintain and develop expertise.

JH stated that what DLUHC could provide that would help them the most is clarification on what administering authorities have to do and when to implement the McCloud remedy. Trade unions are currently asking members to be patient as we wait for final regulations. If there are any further delays in implementing the remedy, that patience may run out. The result could be the expensive and time-consuming legal challenges that have been brought against other public sector pension schemes.

11. TRAINING AND CONFERENCE UPDATE

The Committee noted the key points from paper G, which was presented by Karl White [KW].

The Fundamentals training programme has been delivered in person, with the option of virtual attendance at the London events. The final event planned to take place in Cardiff in December has been moved to an online only event. Current rules would allow the event to take place in person, but this would go against LGA guidance on working from home.

The hybrid events have presented learning opportunities about room set-up and sound quality that will help us deliver events in the future.

KW delivered the Insight residential course for new LGPS administrators in Bournemouth as well as providing bespoke training to administering authorities. Insight was due to run again in Blackpool in February and May 2022. We will wait to see if these events can go ahead based on how the pandemic and Government guidance develop.

Employer role training is on hold until the new post agreed at the last meeting has been filled. LB informed the Committee that the post has been advertised and closes for applications on 3 January 2022.

KW will set up a focus group of representatives from administering authorities to discuss training priorities and set the training plan for the next two years. He has contacted the chairs of the regional pensions officer groups to ask for volunteers. The group will meet virtually twice a year.

There is uncertainty about the Governance conference planned to take place in Bournemouth on 20 and 21 January 2022. Delegates have booked to attend either in person or online. Under current Government guidance the event can go ahead. However, if that guidance changes or if delegates change their minds and wish to attend virtually, then the conference could be changed to an online only event.

RW and Cllr Goronwy Edwards expressed their hope that the conference could go ahead in person.

12. ANY OTHER BUSINESS

JH announced that this would be his penultimate LGPC meeting. He will be leaving the LGA at the end of March 2022 but intends to continue his involvement within the sector.

13. DATE OF NEXT MEETING

Next year's meetings will be held on:

- 7 March 2022
- 6 June 2022
- 3 October 2022
- 5 December 2022

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