

Paper A: Minutes of meeting held on 10 October 2022 - Hybrid

PRESENT

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| Cllr John Fuller | Chair, LGA |
| Cllr Oliver Ryan | LGA |
| Cllr Richard Wenham | LGA |
| Cllr Phil Murphy | LGA |
| Cllr Bev Craig | LGA |
| Cllr Keith House | LGA |
| Cllr Doug McMurdo | LGA |
| Mr David Murphy | NILGOSC |
| Ms Kimberly Linge | SPPA |
| Mr George Graham | SAB representative |

Secretariat

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| Ms Lorraine Bennett | LGPC |
| Ms Rachel Abbey | LGPC |
| Ms Joanne Donnelly | LGPC |
| Ms Elaine English | LGPC |

1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF], welcomed new members to the hybrid meeting.

2. APOLOGIES

Apologies were received from Cllr Eddie Reeves, Cllr Alan Waters, Mr Alan Wareham and Mr Kevin Gerard.

No declarations of interest were declared.

3. MINUTES

The minutes of the previous meeting held on 6 June 2022 were agreed.

4. MATTERS ARISING

JF reminded the Committee that Cllr Alan Waters [AW] agreed to share the report from Hymans Robertson prepared for Norfolk on 'carbon footprint' with the Committee.

JF also reminded the Committee that the 3 percent increase in LGPC subscriptions was agreed at the last meeting. There have been no negative reactions to the increase from administering authorities.

5. REGULATIONS UPDATE ENGLAND AND WALES

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

Pensions Dashboards

DWP responded to the consultation on the draft Pension Dashboards Regulations on 14 July 2022. The original connection deadline for public service pension schemes has been pushed back from 30 April 2024 to 30 September 2024. This is due to the pressures administration teams will be under to implement the McCloud remedy in 2024.

Public service pension schemes will initially have to supply scheme data only to pensions dashboards. They will need to provide value data from 1 April 2025, although they could choose to do so earlier.

A member who leaves the LGPS with less than two years' membership is entitled to a refund. If the member does not take that refund, it becomes a deferred refund. Those with deferred refunds will not be in scope of the dashboards because they are not considered members. The LGA is disappointed with this outcome. Including deferred refunds on pensions dashboards would help to achieve the stated aim of

reconnecting people with their 'lost' pension pots. DWP has confirmed that deferred refunds may be included on pensions dashboards at a later date. LGA will keep the DWP informed of any issues that arise for the LGPS.

Cllr Richard Wenham [RW] state that 10,000's people will be using the dashboard and asked if it will be made clear that deferred refunds are not included. LB stated that the LGA's requested this in their response to the data standards and guidance consultation.

The DWP launched a further consultation on pensions dashboards on 28 June 2022. The LGA response to that consultation included our concerns about the proposed 90-day notice period for the dashboard available point. We recommended market research about the level of demand that would result from the national publicity we expect in advance of the launch. We also suggested a phased introduction to prevent capacity issues for administrators.

Over the summer, the Pensions Dashboard Programme (PDP) ran a consultation and call for evidence on data standards and guidance. In its response to the PDP consultation, the LGA expressed the view that national insurance number should be a compulsory data element for dashboard users. The Committee agreed that verifying individuals correctly was key to the success of dashboards. Using address as part of the matching will increase the certainty of 'matches'.

George Graham [GG] noted that the verification process to use the Government gateway service is rigorous. There may be real problems with user engagement if registration for dashboards is not simple.

FAQs on the cost-of-living crisis

Frequently asked questions on the cost-of-living crisis have been added to the member website. The new section covers the risk of scams, the 50/50 section and State Pension Credit. Statistics show that two thirds of State Pension Credit goes unclaimed. Pension Credit is a 'gateway benefit' – even if the amount payable is low, it entitles to the claimant to other benefits such as free dentistry.

Government – academy guarantee

On 21 July 2022, the Government confirmed in a written ministerial statement that the academy guarantee will continue. The annual ceiling will increase to £20 million. The guarantee provides comfort to other Scheme employers because there is no risk that any costs will fall on them if an academy fails. Cllr Richard Wenham [RW] asked how many academies had claimed. LB is aware of three examples. In all cases a full

pay out was made. GG has experience in this area and said the application process to call on the guarantee was easy.

LB noted that the Office for National Statistics is currently considering the classification of Further Education establishments. If they are deemed to be in the public sector as opposed to the private sector, a guarantee similar to that already in place for academies may be introduced.

McCloud update from DLUHC

We expect the Government's response to the 2020 McCloud consultation to be published in November 2022. This will be followed by a further consultation and draft regulations early in 2023. The final regulations will come into force from October 2023. The LGA pensions team is working with DLUHC on a member factsheet to be published with the consultation response.

LGA and SAB have set up a working group including representatives from administering authorities, actuarial firms, DLUHC, SPPA and the Department for Communities to produce guidance on the data needed to implement the McCloud remedy.

David Murphy [DM] expressed his concern about the McCloud timescales. Ideally, a year's notice will be needed to make and test the system changes for the McCloud remedy and to produce member and employer communications. It is now looking like there will only be six months between the publication of the final regulations and the date they come into force. He is concerned about the progress that software suppliers will be able to make before they see the final regulations.

HMT consultation on public sector exit payments

On 8 August 2022, HM Treasury launched a consultation to introduce an expanded approval process for employee exits and special severance payments. The strain costs related to paying LGPS benefits without reduction when a member leaves due to redundancy or efficiency over age 55 will be covered by this guidance. This could mean that an academy that closes would need to seek approval from HM Treasury before making a statutory payment.

All bodies classified as 'Central Government' will need to follow the guidance. This does not include local authorities, but we expect that it will apply to academies. The SAB is currently working on a response to the consultation which closes on 17 October. That response will make the point that further clarity is needed on who the guidance applies to.

6. SAB UPDATE [E&W]

Joanne Donnelly [JD] presented the key points from paper C.

Good Governance Action Plan

The Board submitted their Good Governance action plan to DLUHC in February 2021. It has now been considered by the Local Government minister. Almost all of the recommendations were accepted. DLUHC is not going to provide further guidance on the definition of fiduciary duty. The Government is proposing to include a requirement for administering authorities to have a workforce strategy alongside their administration strategy.

A consultation on regulation changes to incorporate the Good Governance action plan is expected early in 2023. That consultation may also include proposed changes to forfeiture rules.

SAB forward look review

The Board has now established a Steering Group made up of Board members and advisers which will meet before each SAB meeting. The group is not decision-making. Its purpose is to perform horizon scanning and discuss priorities with the aim of getting the best value out of full board meetings.

Section 13 Report

The Government Actuary made recommendations as part of his report into the 2019 fund valuations. These include aiming for more consistency across pension funds when dealing with academy conversions. Representatives from the academy sector now sit on the SAB cost management and investment subcommittees. The SAB will re-establish an academies working group to address current issues in that sector.

SAB annual report

The 2021 annual report was launched by the SAB Chair Cllr Roger Phillips at the PLSA's Local Government Conference on 14 June 2022. The report sets out the good performance of fund assets as at 31 March 2021. Total membership compared to 2020 remained static. There was a slight decrease in the number of active members with a corresponding increase in the number of deferred and pensioner members.

There is a risk that the cost-of-living crisis will lead to more employees choosing to opt out of the LGPS. The SAB will scrutinise opt out rates and consider how to get more accurate and regular data on opt outs.

Consultation on pooling, Levelling Up and CMA Order

DLUHC will be consulting on a range of investment related issues before the end of the calendar year. Following a tumultuous period for the Government, levelling up remains a priority. The SAB needs better understanding of where funds stand on the Competition and Markets Authority (CMA) Order and advisers.

The SAB expects a Boycotts, divestment and sanctions Bill before the end of this parliamentary session and further clarity on the addition to the Public Service Pensions and Judicial Offices Act 2022 covering boycotts. No further information on timing is yet available.

Cost Management committee report

HM Treasury proposed three changes to the cost management mechanism:

- include only costs of service in the reformed schemes
- widen the 'corridor' from 2 percent to 3 percent
- add an economic check if there is a breach of the 3 percent corridor.

Results from the 2020 cost control process are expected from early 2023.

Three unions have launched legal challenges concerning including McCloud remedy costs as a member cost in the HM Treasury cost control mechanism. There will be a Judicial Review hearing to consider this in January 2023. GG asked whether the Judicial Review is likely to delay the 2020 cost control process results. JD does not expect a delay.

JF noted the vagueness of the 'economic check' and asked if any further information was available. JD confirmed that the initial results of the 2016 cost control process were perverse. In future, if there is a breach, there will be a mechanism to check whether the breach would still have occurred if economic conditions were taken into account. This economic check is designed to prevent such perverse results occurring in future.

Survivor Benefits and Death Grant Entitlement

DLUHC has confirmed that it intends to legislate to amend survivor benefits in the LGPS in response to the Goodwin case. GG asked if survivor benefits would be equalised across the board. JD's view is that the changes will only reflect the survivors covered by the case – male survivors of female Scheme members. There is an issue of intergenerational fairness – the additional cost of improving survivor

benefits will be paid by current members, those that benefit will not contribute to the cost.

DLUHC also plans to remove the age 75 upper age limit for death grants. The LGPS (England and Wales) is the only public service pension scheme that has retained this upper age limit.

Gender Pensions Gap

The SAB recognises that pay inequality is a major cause of the gender pensions gap, but wants to consider the impact of other factors. The Board's approval to commission research from GAD on this topic will be sought at the next meeting.

Investment Committee

The committee proposes changes to the Code of Transparency system to improve functionality and increase usage. They propose to introduce automated reminders for asset managers who are due to upload data. The aim is to get more timely data. The committee will set up a working group to take this forward. The LGPS is an industry leader in this area, but people need to better understand the benefits.

In GG's view, it is important to report all costs in reports and accounts, but not all funds do so. Funds may wish to consider use of the system when choosing fund managers. DM noted that the information could be used to defend investment choices, because funds can show the true total costs, but that no one is currently challenging those decisions.

JF noted the many issues funds currently face and asked whether this system could prove its usefulness, as opposed to being a 'nice to have'.

Compliance and Reporting Committee

This new committee is now up and running with Mark Wynn as Chair. It is working with CIPFA to deliver significant workplan and workstreams. It is clear that CIPFA is struggling to devote resources to this area. The Committee can make progress using the expertise available to it.

JF noted that CIPFA may now have more time and resource to devote to other useful projects.

Responsible Investment Advisory Group

DLUHC have now published their consultation on reporting requirement for climate risk. The consultation closes on 24 November 2022. Similar reporting requirements are already in force for larger private sector schemes.

The SAB recognises that there is a limited amount of standardisation in reporting. This will make producing a scheme-wide report challenging if not impossible.

Cllr Doug McMurdo [DMc] is supportive of measures to mitigate climate risks. He noted that GAD has instructed actuaries to consider climate risk in the 2022 Section 13 report. JF asked to give notice to DLUHC that the Committee wants more information on the purpose of the GAD instruction to actuaries and how the approach was decided between GAD and DLUHC.

Kimberly Linge [KL] noted concerns about GAD's request for information on climate risk. This will be very difficult and of limited use because of the lack of standardised reporting. SPPA will be asking for more information from GAD.

7. REGULATION UPDATE SCOTLAND

The Committee noted the key points from paper D, which was presented by KL and distributed at the meeting.

McCloud remedy

SPPA expects to publish its response to the 2020 consultation early in December 2022. Draft regulations and a further consultation will follow early in 2023.

Government Actuary – Factor Review

SPPA expects a change in the SCAPE rate in the near future. This will affect the calculation of cash equivalent transfer values. Some calculations such as transfers and divorces will need to be suspended if a change is announced. Administering authorities may wish to consider their current member communications and make sure that they make it clear that the factors that underpin calculations are regularly reviewed and may change.

Ill Health Guidance Review

SPPA is responsible for the second stage of ill health appeals. There has been some resistance from administering authorities concerning ill health guidance. That guidance instructs the employer and adjudicator to look at medical evidence as well as the Occupational health report when making a decision.

SPPA commissioned the Pensions Ombudsman to deliver a seminar on ill health to address these concerns. SPPA will review the seminar and comments made in response to it and update the guidance accordingly. It will consult on the changes before publication.

LGPS Scheme Advisory Board

[Scottish Annual Report 20/21](#) has been published on the Scottish SAB website.

8. REGULATIONS UPDATE NORTHERN IRELAND

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

LGPS regulations

McCloud remedy consultation closed on 31 January 2021; response is awaited.

Trade Union Legal Action

Claims for hurt feelings have been made against NILGOSC in connection with the McCloud remedy by 4,219 employees. There is no reason why these claims should be restricted to Northern Ireland, but so far, they are. There are very tight timescales for responding to complaints and this additional burden is impacting workloads and could have an adverse effect on administrative performance.

9. UPDATE FROM TECHNICAL GROUP

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

McCloud remedy

Administering authorities are reporting their progress on the McCloud remedy project by responding to a quarterly survey. The number of responses has been good. Those responding are progressing well in collecting data and updating the relevant records. The LGA has facilitated a McCloud missing data group to ensure cases are dealt with consistently across all administering authorities.

DLUHC update

DLUHC issued an update on potentially removing contribution bands from regulations and moving them to statutory guidance. This would allow contribution bands to be changed more easily and quickly.

DLUHC is aware of the difficulties administering authorities are facing with recruitment and retention of staff.

AVCs and Prudential performance

Prudential is the AVC provider for around 70 administering authorities. Poor performance is still being reported despite reassurances from Prudential in their letter dated 29 April 2022. Administering authorities have reported an improvement in performance, but not to the level of service they expect. We understand the problems, at least in part, stemmed from the introduction of a new system in November 2020. Employers were not made aware of changes in processes necessitated by that new system.

A meeting planned for September was re-scheduled for early October. Prudential were very positive in the meeting and have agreed to work more closely with administering authorities when they make changes in future.

Roughly five percent of members have an AVC fund, but this generates a disproportionate amount of work for administering authorities. The number of members taking out an AVC may increase as more employers recognise the cost savings related to salary sacrifice AVC arrangements.

DLUHC has sought the advice of a lawyer who confirmed that the regulations do not require AVC life assurance benefits to be offered. As there are only a small number of companies operating in this market, the provision of life assurance AVCs was considered a barrier. In the past, administering authorities reviewing their AVC provider often stayed with Prudential.

GG recommends changes to the regulations to make it clear that administering authorities are not required to offer life assurance AVCs.

DMc asked whether the fact that pension funds hold Prudential stock could be used as leverage to encourage performance improvements.

(After the meeting it was ascertained that LGPS funds generally hold stock in Prudential plc, which is a separate entity from Prudential the AVC provider that is part of M&G).

10. TRAINING AND CONFERENCE UPDATE

Elaine English [EE] gave a verbal update:

Fundamentals

Fundamentals training 2022 is a bespoke three day training course aimed at elected members and other who attend pension committees and local pension boards. The training this year will be delivered in person in London and Birmingham and separately online. Booking is now open and interest is high.

Annual conference

The annual governance conference will take place in Cardiff on 19 and 20 January 2023. The programme is now finalised, and the event is open for bookings.

EE reminded the Committee that LGPC elected members are offered complimentary places at Fundamentals and the Annual Governance Conference. Please email EE elaine.english@local.gov.uk if you would like to attend.

Annual training programme

The 2023 training programme is currently being finalised we hope to publish it in November.

Employer Role training: 12 sessions April to November

Aggregation training: February and March

Survivor benefits training: April and May

Retirement training: TBC

Insight Residential: York in May, online in July and Bournemouth in September.

We also expect to deliver other forms of training and resources in 2023:

- McCloud webinars
- commissioned training days
- the basics for administrators in England and Wales – by March 2023
- discretions for employers in England and Wales – December 2023

Our annual governance conference will be taking place in York on 18 and 19 January 2024. Save the date – more information will follow.

JF welcomed the extra resources devoted to training as the demand for training has never been higher.

11. ANY OTHER BUSINESS

DM raised the issue of the impact of high inflation on the annual allowance. The annual allowance is supposed to reflect the increase in a member's pension benefits above inflation. However, we expect LGPS career average pension accounts to increase by 10.1 percent in 2022/23. The allowance for inflation will be 3.1 percent only. HM Treasury has left it up to individual schemes to make adjustments to re-align revaluation with the annual allowance pension input period. We expect the NHS Pension Scheme regulations to be changed to protect doctors from the impact of high inflation.

DM asked whether there should be a united approach across the LGPS. Modelling has suggested that generally employees earning over £75,000 will be affected. This issue will be added to the agenda of the next meeting for further discussion.

DM noted that actuaries will have assumed active CARE pension accounts, deferred pensions and pensions in payment will all increase by CPI in April 2023. He asked whether there is any possibility that a different increase could apply. JD pointed out that increases to pensions in payment mimic the increase to the State Pension. She does not expect a different approach this year. The wording in the Public Service Pensions Act 2013 is looser, meaning HM Treasury could use a different rate to revalue active CARE pension accounts.

12. DATES OF NEXT MEETINGS

5 December 2022, 20 February 2023, 22 May 2023, 17 July 2023 and 4 Dec 2023.