

## **Paper A: Minutes of meeting held on 7 March 2022 - Hybrid**

### **PRESENT**

Cllr John Fuller	Chair, LGA
Cllr Richard Wenham	LGA
Cllr Goronwy Edwards	LGA
Cllr Eddie Reeves	LGA
Cllr Oliver Ryan	LGA
Cllr Keith House	LGA
Cllr Alan Waters	LGA
Cllr Phil Murphy	LGA
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA
Ms Linda Welsh	SPPA
Mr George Graham	SAB representative
Mr Kevin Gerard	Technical Group representative

### **Secretariat**

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

## 1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF] welcomed members to the online meeting and introduced George Graham [GG] who has replaced Rachel Brothwood as the SAB representative.

## 2. APOLOGIES

Apologies were received from Cllr Bev Craig and Karl White.

No declarations of interest were declared.

## 3. MINUTES

The minutes of the previous meeting held on 13 December 2021 were agreed.

## 4. MATTERS ARISING

Lorraine Bennett [LB] confirmed that Eversheds Sutherland had been chosen to deliver the timeline of pension scam communications referred to at the last meeting.

Representatives from Prudential attended the last Scheme Advisory Board (SAB) meeting. The Board asked them to provide a communication specifically for LGPS administering authorities and a timeline for service improvements. LB expects Prudential to supply this communication in the next few weeks.

David Murphy [DM] and Kimberley Linge [KL] confirmed that employers and administering authorities in Northern Ireland and Scotland had experienced similar problems with Prudential. This has caused delays in the retirement process for members with AVCs.

## 5. REGULATIONS UPDATE ENGLAND AND WALES

LB presented the key points from Paper B.

### **New legal requirement to 'nudge' AVC members to guidance**

The Department for Work and Pension (DWP) has responded to the Stronger nudge to pensions guidance consultation. Regulations will require administering authorities to 'nudge' members with in-house AVCs towards Pension Wise guidance when they apply to take their AVC or transfer their AVC fund from 1 June 2022. The administering authority will also have to offer to make the appointment on the member's behalf.

A joint response to the consultation was submitted by the LGA and the LGPC in September 2021. The DWP has taken some of the issues raised in that response into account in their response.

The Pensions Regulator has updated its [Communicating and reporting guidance](#) to include the requirement to direct members to Pension Wise guidance in certain circumstances.

**Action:** LGA pensions team to provide further information to administering authorities about the new requirements by updating the existing AVC technical guide.

## Dashboards

The aim of the pensions dashboards is to allow scheme members to see information about all their pensions, including the State Pension, securely online. The DWP launched a consultation in January on draft regulations to achieve this. The six-week consultation closes on 13 March 2022. LB noted that six weeks was a relatively short period to respond comprehensively to the issues raised in the consultation document, draft regulations and draft standards which amount to several hundred pages. DM agreed that a consultation period of six weeks was not long enough for such a significant consultation.

The consultation and draft regulations propose that public service pension schemes will have to connect with the dashboards by 30 April 2024 at the latest. Administering authorities will have a legal duty to provide information in response to requests received through the dashboard once this staging date has passed.

The LGA draft response says that this deadline is unachievable for LGPS administering authorities. We expect the McCloud remedy regulations to be in force from October 2023. This means that administering authorities will then start re-calculating benefits back to 1 April 2014, paying arrears and interest and potentially re-visiting transfer values. We will state that a connection deadline of April 2024 is not achievable and suggest it be moved to April 2025. LB will share the draft response with the Committee on 8 March 2022.

Administering authorities will need to provide data from annual benefits statements or from a recent calculation in response to a request from a member once their identity has been verified. It is not yet clear whether annual benefit statements for active and deferred LGPS members who are in scope of the McCloud remedy will need to include any figures associated with that remedy. Until the position for annual

statements is clear, it will not be possible for suppliers to start work on software developments in this area for McCloud or pensions dashboards.

KL and DM agreed that a staging deadline of April 2024 was not achievable for NILGOSC or Scottish administering authorities. Their responses to the consultation will reflect this opinion.

## PSPJO Bill

The Government made further amendments to the Public Service Pensions and Judicial Offices (PSPJO) Bill on 21 January 2022. The changes that are most important to the LGPS are:

- Redefining “remediable service” to cover members who were not in pensionable service on 31 March 2012 but were in a qualifying scheme before then. This will mean that more LGPS members are in scope of McCloud remedy protection. Some of those members will be harder to identify, particularly if their protection stems from membership of a public service pension scheme other than the LGPS. Administering authorities that chose to follow the SAB advice and collect working hours and service break data for all post-2014 members will have the information they need. Any administering authorities who collected this data only for members who were active members on 31 March 2012 will need to approach employers for data in respect of additional members now in scope of the remedy.
- Unprotected teachers with excess service will be moved to the LGPS for the remedy period in respect of that excess service. Teachers with excess service will be eligible for the Teachers’ Pension Scheme for all their service from 1 April 2022. This will mean complicated manual calculations for employers and administering authorities as they construct LGPS membership for the remedy period and arrange for the payment of the correct level of employer and employee contributions. Teachers will then have the option to complete a transfer from the LGPS back to the Teachers’ Pension Scheme.

It is the Secretariat’s understanding that the Bill is on track to receive Royal Assent by 1 April 2022. There will be a further consultation on amendments to the LGPS regulations to introduce the McCloud remedy later in the year. This is necessary because the 2020 consultation did not cover pensions tax or compensation. DLUHC intends to publish draft regulations with that consultation. The regulations will be in force from 1 October 2023 with retrospective effect from 1 April 2014.

JF asked about software suppliers' readiness for these changes and the current level of engagement with them. Joanne Donnelly [JD] confirmed that the SAB and LGA were holding regular meetings with software suppliers to keep them informed about developments. Suppliers are reticent to start any significant system developments until the final regulations are in place. JD alerted the committee to the concern about who would be meeting the cost of these developments.

KL noted the plan for SPPA to work in tandem with DLUHC so they can work to similar timescales. This should reduce the development burden for suppliers.

Kevin Gerard [KG] set out his expectations from an administering authority perspective. He expects a development and testing period of six months from 1 October 2023 during which the team will perform calculations manually. After that period, most calculations will be automated, with only the most complex requiring manual calculation or correction.

### **State Pension age**

DWP launched a second review of the State Pension age on 14 December 2021. The review is required by the Pensions Act 2014 and must be published by 7 May 2023. The Normal Pension Age in the LGPS is linked to the State Pension age. Any change in State Pension age will change the age at which an LGPS member can first access their benefits without an early payment reduction.

### **Head of Pensions**

Jeff Houston [JH] is retiring from the role of Head of Pensions at the LGA and Secretary to the Local Government Pension SAB in England and Wales on 31 March 2022.

After a competitive recruitment exercise, we are pleased to announce that Joanne Donnelly will be taking over the role from 1 April 2022. Jo previously worked at HM Treasury and is currently Senior Pensions Secretary and Deputy SAB Secretary.

## **6. SAB UPDATE [E&W]**

JH presented the key points from paper C. He concentrated on three major issues that are on the agenda for the SAB meeting scheduled for the afternoon.

### **Levelling Up White Paper**

The White Paper includes the Government's intention to set an ambition for administering authorities to invest up to 5 percent of their assets in projects which support the local area. The term "local" in this context refers to the whole of the UK,

including Scotland and Northern Ireland. The proposals will only apply to administering authorities in England and Wales.

We expect to see a DLUHC consultation in the summer. The consultation will provide more detail about this proposal and cover pooling guidance and climate risk and reporting regulations.

It is not clear whether existing investments will count towards the 5 percent target, but it appears the Government is aiming for new investments of that level. JF pointed out that many administering authorities already invest in UK infrastructure. It is not risk-free for a fund to increase investment in this area if this already represents a significant proportion of their assets.

Goronwy Edwards [GE] had attended a recent regeneration meeting for North Wales. Investment in the tidal energy scheme discussed at that meeting is a project that could count towards the 5 percent target.

JH stated that the Secretariat together with the Responsible Investment Advisory Group will investigate and recommend appropriate educational opportunities for Board and Committee members in due course.

## Sharia Law

Several LGPS administering authorities have raised concerns about members opting out of the LGPS due to their religious beliefs. Some members do not believe that the LGPS is compliant with Sharia law. Employers are concerned that employees may make a discrimination claim because they do not offer a scheme that is Sharia compliant.

The SAB sought legal advice from Lydia Seymour (Outer temple Chambers) on the position for the LGPS. She has recently provided her advice in response to that request. In her view, the SAB is correct to consider this important and very complex issue. There is currently no provision that would allow an employer to offer an alternative scheme to a specific group. It may be possible to offer a defined contribution scheme, such as a Sharia-compliant scheme provided by NEST. Membership of that alternative scheme would have to be available to all employees who have opted out of the LGPS, not just those that have done so because of their religious beliefs.

JH noted that it is possible for interpretation of the Equalities Act to capture many different groups who are opposed to the investment principles adopted by an administering authority. Phil Murphy [PM] commented that the LGPS could be weakened if employers are forced to offer multiple schemes designed to cater to

different religions and beliefs. That impact could be more significant for a smaller employer.

DM pointed out that member benefits in the LGPS are not determined by investment returns. JH acknowledged that this is accepted in the unfunded public service pension schemes and that they are considered Sharia compliant. LGPS investments do not determine the level of benefits a member receives, but those investments are necessary to provide benefits, and the member may not agree with the way that money is invested.

The SAB will be asked to consider this question and whether they should seek further expert advice.

### **Section 13 Report**

The Government Actuary must report under section 13 of the Public Service Pensions Act 2013 in connection with the actuarial valuations LGPS funds in England and Wales. The Government Actuary has reported on compliance, consistency, solvency and long-term affordability.

The GAD report included three recommendations that propose action by the SAB:

- Look at inconsistency of methodology and assumptions used in valuations by different administering authorities. Consider whether a consistent approach needs to be adopted for academies and for assessing the impact of issues such as McCloud.
- Deficit recovery - ensure all funds' plans for deficit recovery can be demonstrated to be a continuation of the previous plan.
- Asset transfer arrangements - local authorities want to be able to sell assets and pay the income to the pension scheme but, unlike in the private sector, they are not allowed to. Some are leasing assets for this purpose instead. The Board is to review whether this practice is legal and economical.

KG suggested that it might be prudent to increase a deficit recovery period as this could mean lower adjustments in response to future changes. In JH's view, GAD is concerned about administering authorities adopting a combination of reducing employer contributions and extending the recovery period.

## Ukraine [not in report]

The SAB has asked funds for information about their exposure to Russian investments. The 16 responses received so far reveal a level of exposure of under 0.25 percent of total assets. It is very difficult to sell these assets because the Russian stock exchange is closed and there is no demand for them on other exchanges.

Richard Wenham [RW] reported receiving enquiries about investments in companies with links to Russia. Although many are withdrawing, not all of them are. JH agreed that indirect investments and passive investments may also have links to Russia. KL reported that Scottish funds have a similar level of exposure to English and Welsh funds and that most are passive or group investments.

A sanctions regime in place from 1 March 2022 will cover new investments. The SAB website will be updated to reflect any developments.

JH confirmed that administering authorities may take non-financial considerations into account when making investment decisions, if Scheme members are likely to agree with that position.

## Amendment to the PSPJO [not in report]

An amendment to the Public Service Pensions and Judicial Offices (PSPJO) Bill was passed on 22 February 2022. The amendment will introduce a power for the Secretary of State to publish guidance instructing administering authorities not to make investment decisions that conflict with the UK's foreign and defence policy. This provision has been put forward in advance of the Boycotts, Divestment and Sanctions Bill which is expected during this Parliament.

The SAB is seeking assurances that the guidance will not fetter investment committees' ability to take proper account of ESG considerations.

## 7. 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) Regulation 2018 was extended for two weeks to allow interested parties to respond fully.



Responses to the consultation raise issues concerning changes to regulations 60 and 61 which extend the powers for funds when dealing with exiting employers.

SPPA has involved their legal team to consider the underpin changes proposed in the consultation.

### **McCloud update**

Scottish Ministers intend to mirror LGPS England and Wales regulations to implement the McCloud remedy. KL expects the Local Government Pension Scheme (Transitional Provision and Savings) (Scotland) Regulations 2022 to come into force on 1 April 2023. They will be backdated to 1 April 2015.

### **Dashboard**

SPPA have also raised concerns with the DWP that the timeline for connecting with pensions dashboards will be challenging for administering authorities.

## **8. REGULATIONS UPDATE NORTHERN IRELAND**

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

### **LGPS regulations**

DM confirmed that regulations to implement the McCloud remedy in the LGPS Northern Ireland have already been drafted. Those amendments will need to be re-written to accommodate the provisions of the PSPJO Bill.

A new consultation was issued on 8 October 2021 on regulations to introduce changes to survivor benefits in response to the Goodwin and Walker cases. The regulations have not yet been laid. New legislation may be affected because of the forthcoming elections to the Assembly.

On 1 November 2021, the NI Assembly agreed a legislative consent motion for the PSPJO Bill which means the Bill will be adopted by Northern Ireland once passed in England and Wales. The motion does not apply to the recent amendment concerning investment decisions referred to earlier in these minutes.

## **9. UPDATE FROM TECHNICAL GROUP**

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

Most administering authorities have collected the data they will need to implement the McCloud remedy. They are now in the process of cleansing those returns and raising queries with employers. Administering authorities are not yet reporting that

any employers have refused to supply the data that they have requested. Some employers are having difficulties gathering the relevant information, particularly if they have changed payroll provider during the remedy period. KG expects teams to have to perform some manual calculations as a result of rule changes associated with the McCloud remedy. This additional workload will mean team expansion is needed.

KG does not believe that there has been any improvement in Prudential's performance. He welcomes the expected communications from Prudential and the SAB's efforts to resolve the issue.

Technical Group will be asking all administering authorities to report on their progress in preparation for the introduction of pensions dashboards. They hope to encourage a standard approach to common issues.

## **10. TRAINING AND CONFERENCE UPDATE**

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

The governance conference was run successfully as a hybrid event on 20 and 21 January 2022. The conference was very well received with feedback showing an average rating of 4.3 out of 5. The AV team were excellent. We will be using them again for next year's governance conference in Cardiff on 19 and 20 January 2023.

The new training focus group met for the first time in January. The group, made up of representatives of administering authorities, will help to guide our training plan for the next two years. We aim to finalise and publish the training programme for the next year by the end of March 2022.

Lisa Clarkson joined the LGA pensions team in March. She will concentrate on our offering to scheme employers. This expansion of the team will help us to satisfy the demand for employer role training.

Fundamentals training for elected members is currently being organised. We intend to deliver the three training days in London, Birmingham and online.

LGPC members will be offered a complimentary place at both Fundamentals and the Conference. We will invite you to request a place once the schedule has been confirmed.

## 11. ANY OTHER BUSINESS

DM stated that the Government Actuary is planning for actuarial valuations to take climate change into account. He asked whether a SAB subcommittee could assist with coordination so that all four actuaries take the same approach in this area. JD confirmed that the Responsible Investment Advisory Group members were experts in this field. They are working on standard templates to use for this purpose. DLUHC also expects an annual report on this subject, which means that standardisation will be essential.

The Committee noted that Hymans had produced a report for Norfolk on carbon footprint. Alan Waters is happy to share that report with other members of the Committee.

DM on behalf of Northern Ireland thanked Jeff for all his valuable help over the years, particularly during the 2014/15 scheme changes. KL echoed those sentiments on behalf of LGPS Scotland. JF recognised that six million scheme members have benefited from Jeff's diligence and hard work. The Committee wished Jeff well in his retirement.

## 12. DATE OF NEXT MEETING

Meetings for the remainder of this year will be held on:

- 6 June 2022
- 10 October 2022 – date change due to Conservative Conference 3 Oct
- 5 December 2022.

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