Paper A: Minutes of meeting held on 5 December 2022 - Hybrid

PRESENT

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

Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Mr Jeremy Hughes	Scheme Advisory Board (SAB)
Ms Elaine English	LGPC

1. INTRODUCTION FROM THE CHAIR

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

2. APOLOGIES

Apologies were received from Cllr Phil Murphy, Cllr Bev Craig and Ms Jo Donnelly.

No declarations of interest were declared.

3. MINUTES

The minutes of the previous meeting held on 10 October 2022 were agreed.

4. MATTERS ARISING

Lorraine Bennett [LB] informed the Committee that 43 LGPC subscriptions totalling £350,000 are still outstanding. This is due to the introduction of a new LGA finance system which meant a delay in being able to check for and chase outstanding payments. Elaine English [EE] is now able to chase because finance reports are now available. JF to raise this issue with the LGA Head of Finance.

5. REGULATIONS UPDATE ENGLAND AND WALES

LB presented the key points from Paper B.

Ministerial changes

Lee Rowley MP is the new minister responsible for the LGPS in England and Wales. The Chair of the Scheme Advisory Board (SAB) is due to meet the Minister for the first time in early December. The Minister has a wide portfolio and the Committee hopes that pensions will get sufficient attention. Lee Rowley does not have a background in pensions, but has been a local councillor. Cllr Keith House [KH] expects a high level of engagement from the Minister based on previous meetings he has attended with him.

Laura Trott MBE MP has been appointed as the new DWP Minister for Pensions.

LGPS statistics for 2021/22 published

On 26 October 2022, DLUHC published LGPS statistics for England and Wales for the 2021/22 year. The figures show a reduction in income which is due to the 'frontloading' of employer pension contributions earlier in the valuation cycle. This is also reflected in a 24.3 percent drop in employer contributions.

The market value of LGPS funds on 31 March 2022 was £364 billion, an increase of 8 percent in twelve months.

Membership numbers were up, but the increase in the number of active members was slower than the increase in deferred and pensioner members. There was also a significant increase in the number of retirements – nearly 95,000 retirements in 2021/22, an increase of 14.2 percent. This was due in part to the retirements of members who had delayed their retirement plans during the pandemic.

McCloud

LGA and SAB have created a working group to produce guidance for administering authorities to use if they cannot get the accurate data they need to calculate a member's underpin. The group includes representatives from administering authorities, actuaries, DLUHC, SPPA and LGA.

The first draft of the guidance has been completed. The LGA has obtained legal advice on when the guidance should be used and the responsibilities of the administering authority and employer. That legal advice will be incorporated into the guidance. DLUHC will need to approve the SAB guidance to ensure it does not clash with any guidance the department issues in the future. The SAB hopes to publish the guidance in the new year.

The timings related to the McCloud remedy have slipped. We now expect a response to the 2020 consultation before Christmas, a second consultation early in 2023 and final regulations before the summer recess in 2023. The SAB will set up McCloud remedy implementation groups after the consultation response has been published.

David Murphy [DM] expressed his disappointment at the revised timings which will make it very difficult for administrators to implement the remedy. They had hoped for a lead-in time of 12 months to develop and test system updates and prepare member communications. It is now looking like they will only have three months.

Kevin Gerard [KG] pointed out it will be problematic for the rules to be in force from 1 October 2023 because of these delays. Pension software suppliers will not be able to deliver the required system changes in time. This will mean that calculations will have to be done manually which is excessively time-consuming and carries a greater risk of error.

George Graham [GG] noted that this exercise will involve a huge amount of work to revisit past leaver calculations, but very few members will see any increase to the value of their benefits.

JF will raise the issue of McCloud timings at the SAB meeting on 5 December 2022.

September 2022 CPI rate

On 19 October 2022, the Office for National Statistics announced the CPI rate for September 2022 was 10.1 percent.

This rate is normally used to increase LGPS deferred pensions, pensions in payment and active CARE pension accounts in the following April. We await confirmation through Statutory Instrument in February or March that this increase will apply in April 2023.

The Government confirmed in the Autumn Statement that the State Pension triple lock will be honoured. This provides a good indication that the 10.1 percent increase will also apply in the LGPS.

Annual allowance and high inflation

The annual allowance is the amount a member's pension benefits can increase in a year above inflation without the member having to pay a tax charge. A quirk in the regulations in means that inflation allowed for in the annual allowance calculation is not the same as the inflationary increase that applies to a member's pension account in the relevant period.

In the 2022/23 year, 3.1 percent inflation will be allowed for, but we expect the increase to apply to CARE pension accounts to be 10.1 percent.

HM Treasury has allowed individual schemes to decide whether to change their scheme rules to correct this misalignment. We understand that the NHS Pension Scheme rules will be changed to correct this anomaly. We await a decision from DLUHC on whether the LGPS rules will be changed.

Without a change, more people will exceed the annual allowance in 2022/23. These will mainly be higher earners and carry forward rules mean that not all will incur a tax charge. There is very little time to make the change which would need to be in place by April 2023. Software suppliers have indicated that this would require a significant amount of development which would have an impact on their progress on the McCloud remedy.

DM said that modelling indicates there will be an increase in the number of people exceeding the annual allowance in 2022/23 and an increase in the tax charges that become payable. He is concerned that members affected may challenge the calculation in the courts.

GG noted that an increased number of members exceeding the annual allowance would increase the burden on administrators. Many of these cases require a time-consuming manual check as the annual allowance calculation delivered by the software system is not always reliable. He also noted the workforce impact. The annual allowance was intended to impact the highest earners but it is now affecting a larger part of the workforce. People are taking early retirement or not applying for promotions to avoid pension tax charges.

Pensions dashboards

The Pensions Dashboards Regulations 2022 received Royal Assent on 21 November 2022 and they come into force on 12 December 2022. We continue to raise queries with DWP and Pensions Dashboards Programme (PDP) about the application of the regulations.

We plan to issue a connection guide early in 2023 that is specific to the LGPS.

DWP responded to the further dashboards consultation on 17 October 2022. We had suggested in our response to the consultation that scheme managers would need more than 90 days' notice of the Dashboard Available Point (DAP) – the date on which dashboards are available to all members of the public. The DWP response confirms that it will increase the DAP notice period from 90 days to six months.

The PDP has published updated standards for connecting to the dashboards ecosystem.

The Pensions Regulator is consulting on its dashboards enforcement policy. We will respond to the consultation before it closes in February 2023.

6. SAB UPDATE [E&W]

Jeremy Hughes [JH] presented the key points from paper C.

Good governance action plan

As reported at the last meeting, DLUHC ministers have accepted almost all SAB's recommendations in the good governance report. DLUHC plans to launch a consultation in 2023. They plan to bring forward all the recommendations as a package, but this could mean the changes are held up by the progress of the 'slowest moving' provision.

The consultation will include proposals to change the Annual Report. These include removing strategy statements and instead including details about what the fund has done to achieve the targets set out in its policies and strategies in the Annual Report.

Training requirements for pension committee members are likely to be introduced. Funds will need to demonstrate the knowledge and skills of committee members and to keep those skills up to date.

The final regulations will be accompanied by guidance and further consultations are expected in 2023.

The Committee discussed the recent problems associated with LDIs. In JF's view, training would not have had an impact on that issue. GG pointed out that committee members are responsible for making a broad investment strategy. That strategy is delivered by officers who should have a better understanding of investment vehicles. JH is not aware of any administering authorities suffering unsustainable losses as a result of the LDI crisis but SAB is monitoring the issue.

The Committee noted that MiFID II means that the onus is on asset managers to explain the product that they are selling. DM wants to make sure that administering authorities can continue to opt up to professional investor status under MiFID II. If elected members need to be professionally qualified, it will be even harder to get people to serve on committees.

Section 13 report

The Government Actuary made recommendations as part of his report into the 2019 fund valuations. One recommendation was for the SAB to establish a consistent approach to schools converting to academies. GAD has committed to publish recommendations to support that work. This is now expected in 2023.

The Government has a target of all schools becoming academies by 2030. This would represent a significant acceleration, particularly for primary schools.

Consultation on pooling, levelling up and CMA order

DLUHC will be consulting on a range of investment issues in the new year. We expect an early consultation to include the target from the Levelling Up agenda for the LGPS to invest at least 5 percent of assets in local infrastructure projects.

JF pointed out that investing in local schemes could lead to a concentration risk. 'Local' for this purpose means within the UK, not necessarily in the area local to the administering authority.

JF emphasised the importance of being on the front foot and influencing the definition of 'infrastructure'. Infrastructure does not have to be buildings. JF gave the example of investing in a local water company.

The SAB expects a Bill covering boycotts, divestment and sanctions in 2023. No further information on timing is yet available.

Cost Control 2016 and 2020

We are waiting for a response to the HM Treasury consultation on the discount rate methodology. SAB has discussed reforms to its cost management process with DLUHC officials. The aim of the reforms is to better align the process with the HM Treasury cost control mechanism.

A Judicial Review concerning the inclusion of McCloud remedy costs as member costs will be heard in January 2023. It is possible that the Judicial Review will delay the 2020 cost control mechanism process.

Assumptions for standardised actuarial valuation basis (2020 reports)

The cost management committee approved a report from GAD which sets out the actuarial valuation basis to allow comparison of funding levels between funds. These are broadly similar to assumptions used in previous years.

Survivor benefits and death grant entitlement

We hope to see a DLUHC consultation on survivor benefits in March 2023. Incremental amendments have been made to survivor benefits over time which make it more complicated to implement new regulations. The 2023 consultation is expected to address the issues raised in the Goodwin case and to propose the removal of the upper age limit for paying death grants.

Gender pensions gap

The SAB is keen to examine the compounding effects of lower pay, maternity breaks and lack of promotion on the gender pensions gap. The board is in discussion with GAD about undertaking further analysis.

Differences in pension entitlements between genders will not be solved by changes to the pension scheme rules. The results and analysis will be of interest to Scheme employers who should be considering this issue as part of public sector equality duties.

In the past we have looked at pensions in payment. By investigating pensions currently accruing, we will be able to see if this is a historical issue or an ongoing pattern.

Investment committee

The investment committee is considering how to raise awareness of the code of transparency reporting tool and make it more effective. Use of the tool varies across administering authorities and evidence suggests it is not leading to a reduction in costs. Annual investment costs in the LGPS rose again last year to £1.8 billion.

The SAB is currently considering the budget it will need to develop the tool and provide support and training to boost understanding. The SAB expects a significant increase to the levy to fund this and other major projects. The SAB levy is a statutory levy - it has to be signed off by DLUHC and administering authorities must pay it.

LB stated that the SAB levy is compulsory whereas the LGPC subscription is voluntary.

Compliance and reporting committee

The newly established committee has now begun work on a number of workstreams that would have previously been undertaken by the CIPFA pensions panel. These include:

- Funding Strategy Statement guidance update
- Review the Annual Report guidance
- Separation of the pension fund audit from host authority audit
- Refresh of the Knowledge and Skills framework
- Guidance on issues with pension fund accounting for non-public sector scheme employers and
- Review guidance on administration, communication and governance strategies and statements.

Some of these workstreams will feed into the good governance project.

The SAB is aware that delays to the host authority's audit has delayed the publication of some Annual Reports. SAB has recently issued a statement to remind administering authorities of the requirement to publish an Annual Report by 1 December. If it is not possible to include audited data in the report, it should be based on unaudited data and re-published once audited data is available.

The SAB has asked DLUHC to separate pension audit from the host authority audit. This has already been done in Wales, Scotland and Northern Ireland but DLUHC believes a change to primary legislation would be needed for England. Separating the pension audit from the host authority audit should mean that it is done by those with pensions expertise.

Currently funds spend a significant amount of time dealing with questions from auditors with limited knowledge. Pension funds are also responding to queries from Scheme employers and their auditors about valuation of assets for the employer accounts.

Responsible Investment Advisory Group

SAB responded to the recent DLUHC consultation on climate risk reporting. We expect a response to the consultation, regulations and guidance that will include more detail about the new responsibilities.

The Committee discussed the SAB response to the consultation and the implications of this policy for investment decisions:

- The SAB response acknowledges the limited powers of individual funds – national Government policies would be more effective in addressing the climate emergency.
- It is hard for investors to ignore industries that are profitable such as oil and energy companies.
- The Law Commission opinion on fiduciary duty is useful – funds can consider climate impact of investments if this would have scheme member support, but they are not required to do so.
- Some funds did not think that these regulations would change their investment decisions. These regulations should be a nudge to change behaviour, but they would be more effective if there was more clarity on what funds are allowed to do and what they are being asked to do.
- There is no standard measure of environmental impact of investments and measurement is particularly difficult for private equity and bonds. Measuring scope three emissions presents a particular problem.
- The Pensions Regulator is currently reviewing climate risk reports from private sector schemes. The results of this review could inform the LGPS regulations.
- Funds will need significant resources to comply with the reporting requirements. We hope that investment pools will be able to help.
- Cllr Alan Waters [AW] championed the progress that Norfolk Pension Fund has made in this area. The obligation to pay pensions to current members extends at least 60 years into the future. It is in the interest of those members that the fund takes a long term view of investments. Norfolk Pension Fund invests in renewable energy rather than extractive industries and AW expects that trend to continue.

7. REGULATION UPDATE SCOTLAND

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

Section 13 report

Scottish Ministers have appointed GAD to review the actuarial valuations of each fund and employer contributions rates. They expect the report to be published later in December 2022. It will look very similar to the corresponding report for England and Wales published a year ago.

Annual allowance and high inflation

LGPS Scotland is also considering the impact of high inflation on the annual allowance. They have asked the LGPS Scotland SAB for advice.

KL expects changes to be introduced to pension schemes for NHS staff and police in Scotland. There is support for the change, but it is unfortunate that it is being considered now when there is so little time and so much else going on.

8. REGULATIONS UPDATE NORTHERN IRELAND

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

LGPS regulations

The McCloud remedy consultation closed on 31 January 2021. The Department has not yet responded.

Trade union legal action

NILGOSC has received Industrial Tribunal claims from nearly 13,000 Scheme members across 47 employers. The claims relate to hurt feelings as a result of the discrimination identified in the McCloud legal case. NILGOSC has had to employ additional staff to deal with the claims.

There is no reason why such claims could not be made against the LGPS in the rest of the UK, but none have been brought so far. Claims have been made against other public service pension schemes and their employers in Northern Ireland. The protections offered to older members in the LGPS and the proposed remedy to correct that position are very different in the LGPS compared with the unfunded schemes. It is possible that the result of the tribunal could be different for the LGPS.

Governance

The Northern Ireland Local Government Pension Scheme Advisory Board last met in September 2021.

9. TRAINING AND CONFERENCE UPDATE

EE gave a verbal update:

Fundamentals

Fundamentals training 2022 is a bespoke three day training course aimed at elected members and others who attend pension committees and local pension boards.

We have had over 125 delegates at for each of the three days, with over 90 people attending the online events. Unfortunately, two of the face-to-face events had to be postponed due to rail strikes. Most of the delegates attended the online course instead. Feedback received has been very positive.

Day three will run tomorrow (6 December 2022) at Smith Square in London and online on 20 December.

Fundamentals is an annual event that we will run again next year between October and December.

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. We have over 90 delegates registered to attend in person and over 50 attending remotely. We have increased the spaces available to attend in person because we expect more bookings for this prestigious event.

The 2024 annual governance conference will take place in York on 18 and 19 January.

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

Employer and administrator training

Bookings for both employer and practitioner training have proved very popular with some courses having waiting lists. Unfortunately, some face-to-face events were cancelled due to the rail strikes but delegates were offered places at future online events. Feedback from all courses has been very positive.

Annual training programme

We have published our 2023 training programme. Events with confirmed dates will open for booking in the middle of December. We will be running:

- 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 will also 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

11. ANY OTHER BUSINESS

LB reminded the Committee to let Elaine or herself know whether they plan to attend meetings in person or virtually. This will allow us to arrange the necessary security badges and order the appropriate amount of catering.

Have a lovely Christmas.

12. DATES OF NEXT MEETINGS

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