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LGPS Central

Explanation of LGPS Central Governance Structure

19 October 2016



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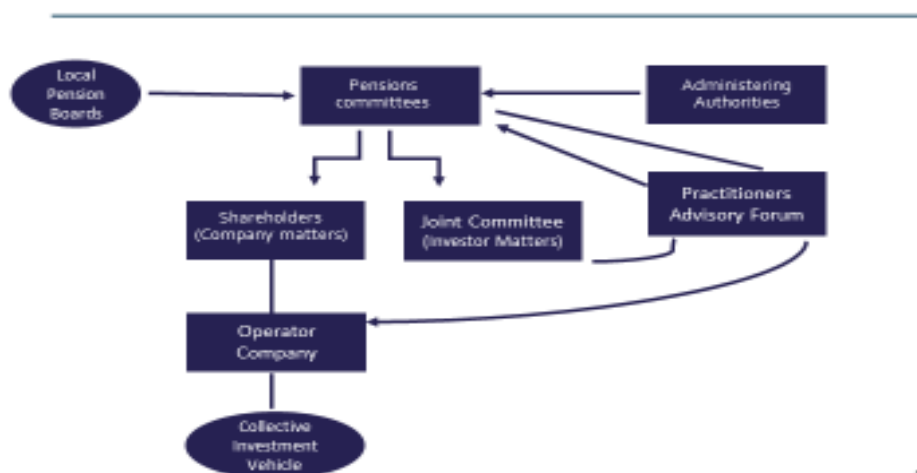
Detailed advice

1. Background

We have been asked to provide a high level summary of the LGPS Central governance structure, in particular setting out the roles and interactions of the key bodies, including LGPS Central Limited, the shareholder representatives, the joint committee and the Practitioners Advisory Forum.

In broad terms the structure is summarised in the following diagram:

Proposed Governance Structure



Joint Committee

- 1.1 The Joint Committee will be the forum for dealing with common investor issues relating to the Operator and the ACS.
- 1.2 Each administering authority will be individual investors in the ACS (and any other pooled vehicles managed by the Operator) and each will have investor rights afforded by the suite of key documents which, in the case of the ACS, are made up of the constitutive deed, application form, key investor information, prospectus and FCA handbook of rules and guidance. These investor rights are embedded in those documents and cover matters including the right to withdraw from the pooled vehicle, investor reporting (including frequency and content) and investor voting rights (including on proposed changes to the pooled vehicle).
- 1.3 We understand that the administering authorities do not want to delegate their actual key decision making powers or investor rights to the Joint Committee. Instead these will be retained for exercise by the individual authorities subject to consideration of any recommendations the Joint Committee may make.

Explanation of LGPS Central Governance Structure

- 1.4 It is expected the Joint Committee will meet twice a year (with support from the Practitioners Advisory Forum) to discuss and agree a common consensus view on investor issues such as:
- 1.4.1 concerns over Operator service delivery and KPIs,
 - 1.4.2 matters requiring investor approval; and
 - 1.4.3 other Pool related investment issues, for example adopting common approaches to investment policies (for example common social, environmental and corporate governance policies or policies on voting rights).

1.5 The Joint Committee would not make binding decisions on these issues but would make recommendations back to each authority (via the Practitioners Advisory Forum) to individually approve.

1.6 Given the limited delegation to the Joint Committee, a formal joint committee structure is not the only way this part of the governance structure could be delivered. However, a joint committee structure provides a tried and tested structure that delivers a clear and transparent separation of shareholder matters and investor matters. On the other hand, a formal joint committee structure equals adds a level of bureaucracy, cost and effort which the structure would necessitate. Pros and cons of a joint committee structure are set out below.

Shareholder Representatives

1.7 Shareholder meetings will be the forum for dealing with the shareholder rights of the administering authorities as shareholder in the Operator. This is distinct from investor/customers issues dealt with by the Joint Committee.

1.8 Certain major decisions (e.g. changes to articles of association, rights in shares, buy-back of shares etc) which would have an effect on the shareholders' rights are usually required, through the Companies Act 2006, to be approved by the shareholders at a general meeting called by the directors of the company. Shareholders can also via a Shareholders' Agreement provide that the company can only take certain actions with their prior approval (such as adopting strategic plan, board changes, entry into/termination of certain key contracts, changes to key employee terms and conditions).

1.9 In order to retain sufficient control over the company to address 'Teckal' issues from a procurement perspective, the Shareholders Agreement needs to provide that certain key strategic shareholder decisions will require unanimous approval of all the shareholders before they can be approved at a shareholder meeting.

1.10 Meetings of the shareholders are subject to the requirements of the Articles of Association of the Operator, the terms of the Shareholders Agreement and general company law. They are therefore subject to different rules to a Joint Committee meeting (e.g. access to information and voting rules) and for this reason need to be kept separate.

1.11 Each authority will be represented at shareholder meetings by an appointed representative of that authority. This may or may not be the same individual that represents the authority on the Joint Committee. It is intended that shareholders will meet quarterly.

1.12 Having different individuals at the shareholder level and on the Joint Committee would clearly help to manage conflicts of interest (should they arise) and may assist in retaining clarity of governance functions being carried out. However it would be possible to put in place an appropriate conflicts policy to deal with potential conflicts.

Explanation of LGPS Central Governance Structure

Practitioners Advisory Forum

- 1.13 The Forum will be made up of an officer from each administering authority (such as the Section 151 officer or a pension fund officer). The Forum is not a legal entity but a working group of officers. The terms of the Forum will be set out in an Inter Authority Agreement confirming how the Forum will be comprised, operate and be resourced and funded.
- 1.14 As this is a working group of officers, no statutory functions can be delegated to the Forum. The Role of the Forum is:
- 1.14.1 To support the meetings of the Joint Committee and action its recommendations;
 - 1.14.2 To act as a mechanism to facilitate discussions between the individual administering authorities as investors and the Operator; and
 - 1.14.3 To analyse the Pool-wide investment performance of the Operator, including its investment costs, customer service and delivery of wider investor services such as voting and responsible investment. They will also review risk management and compliance arrangements from an investor perspective.
- 1.15 The Practitioners Advisory Forum would not have a formal role at shareholder meetings but could attend to deliver presentations etc.

Explanation of LGPS Central Governance Structure

2. **Pros and Cons Analysis**

PROS OF A JOINT COMMITTEE

Tried and tested structure used by local authorities to provide joint working arrangements.

Subject to clear and certain public law rules governing the operation of joint committee meetings (even if its actual delegated powers are very limited).

Provide a clear and visible separation of shareholder matters and investor matters (especially if different representatives attend shareholder meetings) which would help to manage conflicts (especially if different representatives were on these two bodies).

Provides openness and transparency from a public access perspective in terms of access to minutes and papers. This would avoid potential criticism that the authorities are not acting in a transparent manner (especially given that shareholder meetings will be private).

Potentially reduces the risk that other meetings (including shareholder meetings) taking place are perceived as being meetings at which collective authority positions are being influenced which should have been subject to rules on local authority meetings.

To the outside world it represents confirmation that authorities are working collaboratively (and are seeking to manage the joint arrangements collectively and consistently). Adoption of a Joint Committee would be a recognition of the changes being made in the way the LGPS pension funds are being managed/invested i.e. collectively and is not simply continuation of business as before.

In the event wider powers do need to be delegated to the Joint Committee in the future (or on an ad hoc basis) there would be an existing structure in place to facilitate this.

CONS OF A JOINT COMMITTEE

In the absence of the delegation of material administering authority powers, it entails the creation of a formal structure that doesn't make actual decisions and involves additional time and cost.

In this case, the operation of the Joint Committee is more formal and therefore open to public access that it necessarily needs to be.

The costs of operating and supporting a Joint Committee structure will be more expensive than alternative solutions. However, if the Committee only meets twice a year this will be limited.

The different rules covering meetings of shareholders and Joint Committee meetings can cause confusion especially if the representatives are the same individuals and meetings are held consecutively.

The role of the same chair (ideally with an understanding of shareholder meetings and company law) on both bodies will be vital to manage the meetings in the appropriate way.

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