

09 May 2019**Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE,
AND EMPLOYEES****UPDATE ON THE LOCAL GOVERNMENT SCHEME ADVISORY BOARD****Purpose of the Report**

1. The purpose of this report is to provide the Pension Committee with a high level summary of the current topics being considered by the National Local Government Scheme Advisory Board.

Information

2. The Local Government Scheme Advisory Board is a body set up under section 7 of the Public Service Pensions Act 2013 and the Local Government Pension Scheme Regulations (LGPS).
3. The purpose of the board is to be both reactive and proactive, and seeks to encourage best practice, increase transparency and co-ordinate technical and standards issues. It will consider items passed to it from the Ministry for Housing, Communities, & Local Government ("MHCLG"), the board's sub-committees and other stakeholders as well as items formulated within the board. Recommendations may be passed to the MHCLG or other bodies. It is also likely that it will have a liaison role with the Pensions Regulator. Guidance and standards may be formulated for local scheme managers and pension boards.
4. The board will from time to time be asked by the local government minister to develop options for scheme developments.
5. As well as responding to requests from government the board can also develop options and recommendations of its own in order to improve the efficiency and effectiveness of the scheme. This has included recommendations to clarify regulations and initiatives outside of the regulations such as investment cost transparency.
6. Finally the board can play a vital role in providing a route for ideas for development from the various stakeholders in the LGPS and a conduit for feedback from government to those ideas. In doing so it seeks to work closely with existing LGPS forums such as CIPFA Pensions Panel, the LGPS Technical Group and the Local Authority Pension Fund Forum.

Current Work Activities of the Scheme Advisory Board

7. The Scheme Advisory Board Website is: www.lgpsboard.org/

8. The following points summarise the meeting of the Scheme Advisory Board on 16 January 2019 and highlights the main topics being considered and the impact on Nottinghamshire Pension Fund :-

Cost Cap

What is the Cost Cap?

9. Government reforms to public service pensions were introduced from 2015. As part of the reforms, the government accepted the recommendation of Lord Hutton's Independent Public Service Pensions Commission that there be a ceiling (or Cap) on cost to the employer. The "employer cost cap" was introduced by the Public Service Pensions Act 2013. Its aim is to target and control future spending on public service pensions.
10. The employer cost cap is reviewed at each scheme valuation: every 4 years for the unfunded schemes; and every 3 years for the LGPS.
11. As a funded public service scheme, the LGPS in England and Wales is subject to a second cost control mechanism, managed by LGPS Scheme Advisory Board.
12. The idea of the costs control mechanism is to keep costs between the target floor and ceiling. If the ceiling or floor are breached, there is a consultation to allow the scheme manager, employers and members to agree the steps needed to bring costs back within target. These changes might include changes to future benefit accrual, or to employee contributions.

What the Board Have Done

13. The Board was advised that since it had last met on the 10 October, there have been ongoing discussions with MHCLG and other interested parties regarding the package of scheme improvements formulated by the technical group commissioned by the Board and subsequently agreed by the Board itself to bring the scheme's costs of 19.0% back to the target cost of 19.5% for the LGPS.
14. It was also confirmed that the Secretariat is working with scheme stakeholders to prepare a Q&A document to assist administering authorities in explaining the cost cap arrangement and its implications to scheme employers and others.
15. Board members expressed concern that in the absence of any agreement by government on the Board's agreed package that the deadline of 1 April 2019 for regulatory changes to be introduced was becoming increasingly challenging. The representative from MHCLG confirmed that a consultation paper based on the Board's agreed package was close to being finalised and that the consultation would be ready to be launched once the green light has been given by the government. It was also confirmed that the normal 12 week consultation period could be shortened to help achieve the 1st April deadline for any changes to be introduced.
16. It was also confirmed that the HM Treasury cost cap arrangement would still need to be undertaken at a later stage and would take on board the changes introduced under the Board's own arrangement.

Academies and Third Tier Employer projects

17. In 2017 the SAB issued a tender for a third party to collate and report the issues surrounding Tier 3 employers' participation in the LGPS (but not make any recommendations). Tier 3 employers include charities, housing associations, universities and higher and further education colleges and typically have no guarantee or backing from Central Government or another LGPS employer. There are estimated to be around 1,750 Tier 3 employers in the English and Welsh LGPS, with a liability totalling around £27bn.
18. The commissioned report has now been published and covers the information gathered from a range of stakeholders: Tier 3 employers, their employees, administering authorities and the actuarial firms that advise LGPS funds. The main themes raised from each group included:

Tier 3 Employers

- A general lack of transparency
- Insufficient consideration of affordability
- A lack of consistency between funds (e.g. flexibilities offered on exit costs)
- High costs and a lack of visibility of costs associated with transferred-in benefits on redundancy.

Members

- Communication quality is mixed and inconsistent across funds
- Majority do not want to leave the LGPS to join an alternative pension arrangement but this is at odds with the direction of travel among Tier 3 employers
- 55% of members would welcome more flexibility in relation to benefits offered by the LGPS

Administering Authorities

- Lack of flexibility in the exit process
 - Tier 3 employers lack of understanding of the costs, funding risks or exit costs which is exacerbated by low levels of engagement
 - Concern on the variation in funding treatment for Tier 3 employers across different funds
19. The next stage of the project will be taken on by a small, "balanced" working party made up of members from the SAB, which will consider how the issues raised could be addressed.
20. The Board was advised that the work of the academies administration working group and third tier employers' project working group had been put on hold due to competing priorities, in particular, work on the Board's cost cap arrangement. Work on both projects will now be resumed as a matter of urgency.

Good Governance in the LGPS project

21. The SAB Board was advised that on the 29 November 2018, a panel representing the Chair, Vice-Chair and practitioner representative had interviewed the three bidding teams and unanimously agreed that the project should be awarded to Hymans Robertson.
22. However, concerns were subsequently raised about how Hymans Robertson would manage the potential conflict of interest given their position as clients to a number of LGPS administering authorities and the potential for recommendations to lead to paid work advising

on TUPE transfers. At the Board's request, Hymans Robertson prepared a statement explaining how they would manage any such conflict which was subsequently accepted by the Chair and Vice Chair on the Board's behalf.

23. The Board also agreed that the project should be re-named from the previous 'Separation Project' as this name had given rise to unfounded fears that options around removing the scheme from Local Authority control were being considered. It was agreed that "Good Governance in the LGPS" better reflected the aims and ambitions of the project to enhance the delivery of the function within local authority structures.
24. The SAB has commissioned Hymans Robertson to facilitate a consultation on good governance structures for the LGPS. The purpose of the consultation is to consider how best to accommodate LGPS functions within the democratically accountable local authority framework in a way that ensures that conflicts of interest are addressed and managed appropriately and that the LGPS remain appropriately resourced to deliver its statutory functions. The Board have asked Hymans Robertson to help the SAB identify the real issues and potential options for change to the current arrangements which are proportionate, pragmatic and would improve LGPS governance in these areas.
25. Through the consultation process, SAB will be seeking the views of many stakeholders, representing all elements of the LGPS, as possible. Scheme stakeholders will be invited to complete a short online questionnaire which asks for examples of actual conflicts that can arise, along with views on the effectiveness of current LGPS governance arrangements and suggestions for improvement. Further stages of consultation will include interviews and workshops with key stakeholders. This will allow the SAB to consult on a series of options that reflect the reality of LGPS governance.
26. Hymans have issued a questionnaire across the LGPS funds and associates of the LGPS closing date the end of May.

MHCLG Draft Statutory Guidance on Pooling

27. The MHCLG representative confirmed to the Board that the consultation was not a public consultation and has been sent to interested parties (administering authorities, local boards, the SAB and pool companies) for informal comment. Closing date for comments is the 28 March. The Board agreed that member's comments should be sent to the Secretariat who would then draft a composite response to be considered and agreed by the Chair. This would not prevent individual organisations represented on the Board from responding directly to MHCLG provided that it was made clear that it does not represent the views of the Board. Administering authorities are welcome to share the draft guidance with advisors and incorporate their views within the authority's response.

The Pension Fund previously reported a response on 07/03/2019.

IORP II Directive

28. The EU has recently approved a major revision of the EU legislation on workplace pension schemes called the Directive on Institutions for Occupational Retirement Provision. 'IORP II',

as it is known, was finalised in January 2017. The Directive focuses on the governance of pension schemes and on their communication with individual members.

29. 'IORP II', is not yet part of UK law, so we cannot say what the implications will be. The Board is currently in discussions with MHCLG on key elements of the Directive to avoid any potential legal challenge to the way it has been transposed by the UK government.

Local Pension Boards

30. The Board is currently considering a draft survey to be undertaken in the summer regarding the work of local pension boards.

2019/20 Budget and Work plan

31. The Board considered a paper, setting out an early indicative proposed budget and work plan for 2019/20. Although members were advised that no new major projects were envisaged and that the year should be regarded as a period of consolidation, it was suggested that some work on annual and lifetime tax allowances may be necessary. The Board agreed that the Secretariat should continue to firm up the 2019/20 budget and work plan with the view of this being submitted to MHCLG in February.

Other Options Considered

32. It was agreed that The Pension Committee be updated on Topics affecting the LGPS in Nottinghamshire.

Reasons for Recommendation

33. This report has been compiled to inform the Pension Committee of the activities of the LGPS Scheme Advisory Board and how they impact on the work of the Administration Authority in its governance of the Nottinghamshire Pension Fund. The implications of the work of the Scheme Advisory Board can then be considered and reflected in the work of the Pension Committee and the Pension Board in their work plans.

Statutory and Policy Implications

34. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

35. There are none arising directly for the Nottinghamshire Fund as a result of the contents of the report as this is for Member information only.

Financial Implications

36. There are no direct financial implications of the issues outlined in the report.

RECOMMENDATION

It is recommended:

That the Pension Committee consider the activities of the Scheme Advisory Board and ensure that the Administering Authority implements the recommendations of the Board once they are formally communicated to Pension Funds.

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For any enquiries about this report please contact:

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Constitutional Comments (KK 26.04.2019)

37. The proposal in the report is within the remit of the Nottinghamshire Pension Committee.

Financial Comments (KP 26.04.2019)

38. There are no direct financial implications contained within the report.

Background Papers and Published Documents

None

Electoral Division(s) and Member(s) Affected

All