

Scheme Advisory Board meeting on 8 July 2019

Main points circulated by Pensions Secretary

This note summarises the meeting of the Scheme Advisory Board on the 8th July 2019. Full details of the meeting and agenda papers can be found on the website. www.lgpsboard.org

The Chair opened the meeting by thanking former Councillor, Denise Le Gal, for all the help and support she has given during her membership of the Board.

Under "Actions and Agreements" the Board was asked to seek further clarification from the Pensions Regulator about the scope of Codes of Practice and other guidance, apart from Code of Practice 14, that LGPS administering authorities need to have regard to. This follows a case involving one English shire county fund who has been fined for failing to alert all their scheme members to a late payment of contributions. The Secretariat will be meeting the Pension Regulator's public service pension team on the 13th August and will raise this matter with them. Contrary to what was reported, the Pensions Regulator has since confirmed that no fine was imposed and no enforcement action was taken in this specific case.

Good Governance

The project team at Hymans Robertson presented the final draft report to the Board. The Board agreed that the report should be published before the end of July to allow Board members a short period to submit any comments they may have. The Board also agreed that following publication of the report, the Secretariat should commence work, in conjunction with scheme stakeholders, to outline the practical steps necessary to implement the main options set out in the report for consideration by the Board in November. Once approved, scheme stakeholders will be given the opportunity to comment on the Board's recommendations before any formal approach is made to MHCLG Ministers for changes to the scheme's regulations or guidance.

SAB Levy Invoices

The Board was advised that there were still four administering authorities who have yet to pay SAB levy invoices dating back to 2017/18. The Secretariat will continue to discuss payment with these authorities but for the future, the Board agreed that failure to pay the SAB levy within a reasonable timeframe could result in non-payees being identified in summary reports and with certain services and access to LGA/SAB events being withdrawn.

MHCLG Consultations

A: 95k Cap

Following consultation with Board members and those of the Cost Management, Benefit Design and Administration committee, a response to HM Treasury's consultation was submitted. The response included individual examples where the proposed 95K cap was impacting on the local government workforce unfairly and disproportionately with long serving members as well as the high paid being subjected to the proposed cap. A response from the LGA has also been submitted.

B : Fair Deal

The Board was advised that discussions are continuing with MHCLG, in particular, on what the default position should be if negotiations between employer and contractor fail to reach agreement. The Board agreed that the "deemed employer" option should be the default position given that it would give employers, contractors and scheme members complete clarity about the position should no agreement be reached on whether the "deemed employer" or "admitted body" should apply. The Board agreed the draft response.

C : Four Year Valuation period; exit payments/credits and HE/FE

On the proposal to move local fund valuations in the scheme to a four yearly valuation cycle in line with valuations undertaken by unfunded public service pension schemes and all scheme valuations. The next round of scheme valuations will be undertaken in 2020 and 2024 which means that there would be a potential 5 years between the current 2019 LGPS local valuations and the first of the four year period valuations. The Board agreed that five years without local valuations would not be the best way forward and that despite the administrative complexities of the alternative of an interim full set of valuations after 3 years, that is, in 2022 followed by another set in 2024, this was marginally the better of the two options. The Board also agreed that the response should record some concern about allowing administering authorities too much flexibility in exercising the proposed facility to hold an interim valuation. The Board took the view that the regulations and guidance must be clear that the circumstances in which the interim valuation power is to be used must be fully set out in an authority's Funding Strategy Statement.

On exit payments, the Board was advised that the proposals included a new concept of "deferred employer" that would allow employers to continue to be recognised as such despite having no active members and having exited the scheme. The Board agreed the draft response on exit payments and noted that supplementary guidance would help to provide a robust framework to govern the exercise of the proposed power.

On exit credits, the Board was advised that the draft response included representations to close an unintended loophole whereby administering authorities were liable to pay exit credits at the end of a contract even though steps had been taken by the employer to remove any risk from the contractor. The draft response agreed by the Board proposes that the amending regulations should include a provision requiring fund actuaries to take any side agreement into consideration when assessing exit credit payments.

On the proposal in the consultation to change the status of HE/FE bodies from scheduled to designated bodies, although a view was expressed that the proposed response was too negative regarding the potential impact on the scheme; the substantive view taken was that that this part of the consultation should be deferred until the outcome of the Third Tier Employer's project is concluded and that such a delay was necessary to properly assess the impact of the proposed changes on scheme membership and cash flow positions. The Board agreed that the Board Secretary should re-draft the relevant section of the consultation response to reflect the different views expressed by Board members.

Copies of all the draft responses referred to above can be found at <http://lgpsboard.org/index.php/about-the-board/prev-meetings>

Pensions Tax

The Board was advised that HM Treasury is willing to hear representations from public service pension schemes concerned about the impact annual and lifetime allowances are having on the effectiveness of their workforces and service delivery. Particular reference was made to the situation in the health sector where it is claimed that waiting list targets are not being met because NHS staff are refusing to work overtime and additional shifts for fear of taking earnings and pension benefits over tax thresholds. It was suggested that some of these claims were being exaggerated. There was also a concern whether any remedy forthcoming from government may apply retrospectively to put right decisions taken in the past to avoid tax thresholds. The Board noted that the Secretariat will continue to attend the working group established by a number of public service pension schemes to lobby HM Treasury

McCloud

The Board was advised that a meeting between MHCLG, external auditors and GAD would take place shortly to discuss the implications of the Supreme Court's decision to refuse the government's application to appeal the McCloud judgement and, in particular, the impact this is having for signing off local authority accounts. Although there is now certainly that the McCloud judgement stands and that the case will now go back to the Employment Tribunal for remedy, there was clear support for the Board to issue a message to scheme stakeholders clarifying the uncertainties that remain. The Board agreed that the Secretariat should prepare a draft statement for consideration and approval of the Chair.

Local Pension Board Survey

The Board agreed that members should be given until the end of July to comment on the draft survey prepared by the Investment, Governance and Engagement committee. The Secretariat will then prepare the survey for publication in August with a deadline of completion by the end of November. This will allow provisional findings to be reported to the Board when it next meets on the 4th November. The Secretariat was also tasked to open discussions with stakeholders on the best way of distributing the survey to ensure a good response.

Dates of next meetings

These are scheduled for the 4th November and the 3rd February, 11th May, 3rd August and the 2nd November 2020.

Bob Holloway
Pensions Secretary