

Croydon Council

REPORT TO:	Local Pension Board 11 July 2019
SUBJECT:	Good Governance Structures for the LGPS: Separation of Responsibilities Project
LEAD OFFICER:	Nigel Cook, Head of Pensions and Treasury
FINANCIAL SUMMARY: This report sets out options for responsibility for administering the Local Government Pension Scheme including consideration of adequate resources. There are potentially implications for both the administering authority and the Pension Fund.	

1. RECOMMENDATIONS

- 1.1 To note the terms of this exercise and refer any comments to the Pension Committee.

2. EXECUTIVE SUMMARY

- 2.1 This report describes the scope of the piece of work commissioned by the Local Government Pension Scheme, Scheme Advisory Board in respect of good governance structures for the LGPS. It describes some of the potential areas of conflict and the process by which options have been identified.

3 DETAIL

- 3.1 The Local Government Pension Scheme, Scheme Advisory Board, 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 remains appropriately resourced and able to deliver its statutory functions. The SAB have asked Hyman Robertson to help 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.
- 3.2 Throughout this process the SAB will be seeking the views of as many stakeholders, representing all elements of the LGPS, as possible. These stakeholders will be asked for examples of actual conflicts that can arise, authority's views on the effectiveness of current LGPS governance arrangements and for suggestions for improvement.
- 3.3 This exercise follows a review of the options for greater separation drafted by KPMG for the LGPS Scheme Advisory Board in September 2015. This review set out the four models described below in this report, comprising three options and the status quo against which the options will be evaluated. Initially the following potential options for reform were identified:
- A Stronger role for Section 151 Officer;
 - A distinct entity within Host Authority (i.e. group the responsibility for all LGPS related activities within one function);
 - A joint Committee;
 - A dedicated Authority (i.e. a Combined Authority);
 - A dedicated Public Body (not a Local Authority) (i.e. a pensions body created by a government department to take over the role of Scheme Manager within the LGPS which would remain in the public sector but would not be Local Authority).

Each of these five options was initially assessed against the following criteria:

- Accountability;
 - Compliance with established best practice and removal of conflict of interest;
 - Financial Transparency;
 - Legislative Ease;
 - Costs (Implementation and Ongoing); and
 - Service to Stakeholders.
- 3.4 The focus of this work is the issue of ensuring that are addressed and managed appropriately. Several potential areas of conflict in the LGPS were identified, including:
- Between the Section 151 Officer of the Host Authority and other officers in the Host Authority (e.g. the Section 151 Officer could be conflicted on contribution rate increases at each valuation in their dual role with

- responsibility for the Council cash costs and duties regarding the financial probity of the Fund);
 - Between the Section 151 Officer of the Host Authority and the Councillors on the Section 101 Committee (e.g. the Councillors on the Section 101 committee could look to seek local investment which should be considered in the context of the Fund not local political imperative);
 - Between the Host Authority and the other Local Authorities in the same Fund;
 - Between the Local Authorities in a Fund and the other employers (e.g. the Local Authority may seek preferential treatment on funding versus other employers and an example of this is academy conversions where unfair treatment of academies prevails.
 - Where the Administering Authority sits within the Host Authority and the Host Authority could seek to influence the pace of funding by exerting pressure on the Section 151 Officer; or
 - Where the Administering Authority is not able to effectively resource the pensions function and is not able to effectively manage recharges.
- 3.5 Initial work on the project also identified that behavioural change may be required and also that it was very clear that the Pension Board had an important role to play.
- 3.6 In terms of behaviour change this exercise focusses attention on the Section 151 Officer, training skills and expertise. The report notes that the Section 151 Officer should fully understand their role and responsibilities to the Fund and that this will assist them in dealing with any conflicts that may arise. Ensuring they understand what the role involves, what duties need to be fulfilled and how they can be fulfilled may be an area which requires some development. The online Trustee toolkit which is used in the private sector to help new and existing Trustees understand their role has been successful in driving best practice and ensuring Trustees can deliver their legal obligations and in the same way new tools could be made available.
- 3.7 The role of the Pension Board has been the subject of discussions amongst the Local Government Pension Funds. This debate continues to concentrate on the role of the Boards and how they will interface with the existing pension committees i.e. the Section 101 Committees. There is clear separation of roles between the committees insofar as Section 101 Committees are primarily responsible for the funding decisions and management of the LGPS Funds, whereas Boards have a focus on governance, including administration and delivery of benefits and service to the members, and in particular that the scheme regulations are complied with. They do however, have significant responsibilities for ensuring that both risks and potential conflicts of interest are managed. Both the Pension Regulators' Code of Practice (Number 14) and CIPFA's Framework on Governance offer useful explanations of these duties, which effectively require Pension Boards to scrutinise how the pension scheme is run and decisions are made.
- 3.8 In principle, the greater the separation between the Pension Funds and the employers, the lesser the risk of conflicts arising. This project is therefore directing

effort at looking at options for greater separation. There are three key roles in relation to the operation of a Fund –administration, investment of assets and ensuring financial probity. Conflicts are reduced if the Section 151 Officer does not carry out these roles. Conflicts are also reduced if a named pensions officer who takes on these responsibilities is wholly accountable to a Section 101 Committee to which the administration and investment of assets responsibilities have been delegated. There would be additional benefits in having a dedicated pensions team which reports to the named pensions officer and works solely for the pensions function. The named pensions officer could be accountable directly to the Chief Executive Officer, with the appropriate responsibility attached to that role to enable them to effectively carry out the operation of the Fund. In order for the Section 151 Officer to delegate the financial probity responsibilities to the named pensions officer changes to the Local Government Act 1972 would be required.

- 3.9 Conflicts would be reduced and there would be greater financial transparency by the Fund being made subject to an independent audit and annual governance statement and the named pensions officer being responsible for the Fund's financial probity (for example through delegation by the Section 151 Officer).
- 3.10 Although this project has yet to report the following options have been identified for evaluation. These will each be evaluated against the base case which reflect the current arrangements.

Option 1 – A stronger role for the Section 151 Officer and the formation of a distinct entity within the Host Authority;

Option 2 - Joint Committee of two or more Administering Authorities more Administering Authorities

Option 3 - Complete separation of the Pension Fund from the Host Authority

- 3.11 Invitations to express interest in this project were issued in September 2018 and the commission awarded to Hymans Robertson LLP in February 2019. As described above Hymans have stated their intention to consult widely and capture as many views as possible from those working within the LGPS. This will include carrying out a number of related activities including issuing surveys, arranging interviews, organising seminars and discussing at various LGPS events. As a first stage, before any options for change were finalised by SAB, Hymans intend to carry out a shorter survey to identify some of the real world problems which governance changes should aim to address. This will also help inform the options SAB consults widely on in the second stage of the project.

4 FINANCIAL CONSIDERATIONS

- 4.1 The options described by this report each carry financial implications, as of yet uncoded. These will ultimately be a cost to the Pension Fund.

5. OTHER CONSIDERATIONS

- 5.1 Other than the considerations referred to above, there are no customer Focus, Equalities, Environment and Design, Crime and Disorder or Human Rights considerations arising from this report

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