

Croydon Council

REPORT TO:	Pension Committee 14 March 2023
SUBJECT:	Local Government Pension Scheme Advisory Board / The Pensions Regulator Update
LEAD OFFICER:	Matthew Hallett – Acting Head of Pensions and Treasury

1. RECOMMENDATION

- 1.1 The Committee are asked to note the contents of this report.

2. EXECUTIVE SUMMARY

- 2.1 This report advises the Committee of the matters currently being considered by the Local Government Pension Scheme Advisory Board and The Pensions Regulator which are relevant to the Fund. Any implications for the Fund have been noted and are being addressed in consultation with Fund advisers.

3 DETAIL

3.1. Local Government Pension Scheme Advisory Board (SAB)

DLUHC consultation on changes to the SAB's cost management process

On 30 January 2023 DLUHC launched an 8 week consultation on changes to the Scheme Advisory Board's cost management process – the process that operates separately from but alongside the quadrennial scheme-level cost management process, which is based upon HM Treasury legislation and directions. The consultation follows the report from the Government Actuary's Department into changes to the HM Treasury cost management process, and the resulting policy and legislative changes set out in HM Treasury's response to that report. It acknowledges the differences between these two processes but proposes measures suggested by SAB in its consultation response to better integrate the SAB process within the statutory HMT mechanism. The consultation closes on 24 March 2023 and [can be found here](#).

"Edinburgh Reforms"

On 9 December, the Chancellor of the Exchequer announced a set of reforms to drive growth and competitiveness in the financial services sector. It has been confirmed that the Government will be consulting in early 2023 on issuing new guidance on Local Government Pension Scheme asset pooling. The government will also consult on requiring LGPS funds to ensure they are considering investment opportunities in illiquid assets such as venture and growth capital, as part of a diversified investment strategy.

2021/22 Annual Reports

On 30 November 2022 the Board stated that it is aware that some pension fund audits are likely to be delayed again this year, largely due to issues with auditing the host authority's accounts. There is a statutory duty under regulation 57 of the LGPS Regulations 2013 for administering authorities to publish an annual report 'on or before 1 December'. The Board has [written to the minister](#) with proposals to help improve the timely completion of audit. In the meantime, it urges administering authorities to publish their 2021/22 annual reports based on the best data available to them by the statutory deadline. Ideally, the report would be based on audited data. However, if that is likely to result in a significant delay, the Board asks funds to produce and publish reports based on unaudited data (labelled as draft), and to re-publish an amended annual report with the external auditor's opinion and revised data after audit, where necessary.

Climate risk reporting consultation

On 18 November 2022 the Board submitted its response to DLUHC's climate risk reporting consultation. The response includes some over-arching observations on the role of pension funds (as well as their limitations), the production of climate risk reports as well as responses to the Department's specific questions on governance, scenario analysis, metrics, and risk management. The Board welcomed the opportunity to engage with the Department's proposals and believes that pension funds should be able to make a positive contribution by supporting the just transition to a sustainable future. The full response [can be found here](#).

Statement on employer contributions

On 1 November 2022 the Board announced that, at their meeting on 10 October 2022, they discussed emerging results from the current round of triennial fund valuations. Whilst understanding and recognising the extremely challenging position for local government finance, the Board asks that administering authorities and other fund employers have regard to the desirability for long term stability in pension contributions when considering whether reductions in employer contributions are desirable as a result of an improved funding position. [The full statement](#) gives more detail of the Board's discussion, and full reasons for making this statement.

Taskforce on Climate-related Financial Disclosures (TCFD)

On 1 September 2022 The Department for Levelling Up, Housing and Communities (DLUHC) [launched its consultation](#) regarding governance and reporting of climate change risks. The consultation sought views on proposals to require Local Government Pension Scheme administering authorities in England and Wales to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD). The consultation closed on 24 November 2022.

Scheme Advisory Board response to HM Treasury's exit pay consultation

In August, HM Treasury issued a consultation on a new controls process for high value exit payments paid to staff working in central government. Although that will not affect local government workers directly, some LGPS employers are likely to be covered by the new arrangements and on 17 October 2022 the Scheme Advisory Board submitted this [response](#).

Age discrimination in LGPS benefits

On 26 August 2022 the Board Chair, Cllr Phillips, [wrote to the Minister](#) recommending reform of the LGPS rules on death grants and survivor benefits. This is to address recent challenges that the current rules are discriminatory and also to investigate “future proofing” Scheme benefits against potential future legal challenge.

Audit issues within the Local Government Pension Scheme (LGPS)

On 3 August 2022 the Board Chair, Cllr Phillips, [wrote to the Minister](#) outlining issues facing funds as a result of audit issues relating to the main local authority accounts. The letter proposes separating pension fund accounts from main local authority accounts as a potential solution to the problem and asks the Minister to task officials to work with the Board and its committees to consider the benefits and risks of such an approach.

McCloud response

On 2 August 2022 the DLUHC provided an update on its work to rectify “McCloud” age discrimination. This has already been shared with LGPS administering authorities in England and Wales and software suppliers. Full details are available in the [July LGPC bulletin](#).

On 17 March 2022 the Queen gave Royal Assent to the Public Service Pensions and Judicial Offices Bill and it became the Public Service Pensions and Judicial Offices Act 2022.

Queen's Speech

On 11 May 2022, the Queen's Speech included a Procurement Bill which will cover the procurement, purchasing and investment decisions of public bodies and a Boycotts, Divestment and Sanctions Bill.

Levelling Up White Paper

On 27 April 2022 the Board Chair wrote to the Minister in response to the White Paper.

https://lgpsboard.org/images/Other/Letter_to_Kemi_Badenoch_Levelling_Up_270422.pdf

On 2 February 2022 the Government published the **Levelling Up White Paper** which includes references to LGPS funds having plans for up to 5% of assets to be allocated to projects which support local areas. SAB understands that in this context local refers to UK rather than local to a particular fund and that there will be no mandate beyond the requirement to have a plan. Further details are expected to emerge over the period up to an expected summer consultation which SAB understands will also include the outstanding climate risk and reporting regulations and the pooling guidance.

The White Paper also notes that the UK Infrastructure Bank is committed to expanding institutional investment in UK infrastructure, including exploring opportunities with the LGPS

[Levelling Up the United Kingdom - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

3.2 **The Pensions Regulator (TPR)**

TPR has a wider remit than the SAB and most of its publications / press releases concern private sector schemes. However, in recent months it has published the following matter of interest to the LGPS:

Funding Code of Practice for defined benefit pensions schemes

On 16 December 2022 TPR published its [draft funding code of practice for defined benefit \(DB\) pensions schemes](#) and a [consultation document](#).

The 14-week consultation sets out that schemes will be expected to set a long-term objective and a journey plan to get there. It is expected that schemes will reduce reliance on their sponsoring employer as they reach maturity. It will require trustees to improve risk management and raise the bar for evidencing supportable risk taking.

The code will support trustees, sponsoring employers and their advisers to manage their pension schemes and will replace the current code, introduced in 2014. It includes key expectations in relation to:

- trustees setting a plan for how they will achieve low dependency on the employer
- setting a journey plan to reach that point

- assessing the employer covenant as a key underpin for the level of risk that is supportable on that journey – considering cash, prospects and contingent assets
- setting their funding assumptions consistently with those plans
- open schemes allowing for future accrual where they can justify their approach
- assessing reasonable affordability when determining the appropriateness of recovery plans

The final regulations and code are currently planned to come into force in October 2023.

Dashboards compliance and enforcement policy

On 24 November 2022 TPR invited occupational pension schemes, their administrators, providers, and the wider industry, to respond to its newly published [consultation on dashboards compliance and enforcement](#).

The compliance and enforcement policy sets out TPR's expectations on how schemes should comply with new regulations, and its approach to regulating dashboard obligations. TPR is keen to hear from schemes of all sizes, their administrators and integrated service providers to ensure the new policy is understood by, and meets the needs of, the industry.

While TPR already regulates trustees and workplace pensions, a key part of complying with dashboard obligations will rest with third parties, such as administrators, employers and integrated service providers.

New legislation has been introduced enabling TPR to issue third parties with compliance notices. If they do not comply, they could be fined up to £50,000 (and individuals up to £5,000) for each breach. This is alongside other new powers to fine trustees and managers in the case of non-compliance with dashboard regulations. They include an option to issue penalties of up to £5,000 to individuals and up to £50,000 in other cases for any instance of a single compliance breach.

The consultation closed on 24 February 2023 and TPR expects to publish its final policy in spring 2023, ahead of the first schemes' dashboard deadlines in August 2023.

Guidance on tendering for fiduciary managers and setting objectives for investment consultants

On 4 August TPR took over the regulation of trustee duties from the Competition and Markets Authority. TPR has revised its guidance on the tender process for fiduciary management services and trustees setting objectives for their investment consultants.

Since December 2019, trustees have been legally required to run a competitive tender process when appointing fiduciary managers in relation to 20% or more of scheme assets. They have also been prohibited from receiving investment consultancy services without having set strategic objectives for their investment consultancy provider.

<https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-PC-14032023>

[guidance/funding-and-investment-detailed-guidance/tender-and-set-objectives-for-investment-service-providers/tender-for-fiduciary-management-services](https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/funding-and-investment-detailed-guidance/tender-and-set-objectives-for-investment-service-providers/tender-for-fiduciary-management-services)

<https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/funding-and-investment-detailed-guidance/tender-and-set-objectives-for-investment-service-providers/set-objectives-for-your-investment-consultant>

4. CONSULTATION

- 4.1 No consultation is required for this report however Fund advisors are consulted as appropriate on matters arising from it.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There are no financial or risk assessment considerations arising from this report.

Approved by: Alan Layton on behalf of Jane West, Corporate Director of Resources (Section 151 Officer)

6. LEGAL CONSIDERATIONS

- 6.1 Burges Salmon LLP (a legal advisor appointed to the Pension Fund) comments that there are no direct legal implications arising from the content of this report although it is important to be aware that a number of changes to the regulations governing the LGPS are likely to be announced in the next few months (for example dealing with McCloud remedies, climate change reporting and updated statutory guidance on investment matters (including pooling))

7. HUMAN RESOURCES IMPACT

- 7.1 There are no direct workforce implications arising from the recommendations within this report. The improvement to practice is welcomed as the pension scheme is a key employee benefit.

Approved by: Gillian Bevan Head of HR Resources and Assistant Chief Executives on behalf of Dean Shoemith, Chief People Officer

8. EQUALITIES IMPACT

- 8.1 The Council has a statutory duty to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must therefore have due regard to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 There are no impending equality implications arising from the report. However, should special severance payments be made in relation to the report, payments should be monitored by protected characteristic.

Approved by: Denise McCausland Equality Programme Manager

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no crime and disorder impacts arising from this report.

11. DATA PROTECTION IMPLICATIONS

11.1 Will the subject of the report involve the processing of 'personal data'?

No.

Has a data protection impact assessment (DPIA) been completed?

No. This report relates to matters relating to the administration of the LGPS and the Croydon Pension Fund.

Approved by: Alan Layton on behalf of Jane West, Corporate Director of Resources (Section 151 Officer)

CONTACT OFFICER:

Matthew Hallett – Acting Head of Pensions and Treasury.

BACKGROUND DOCUMENTS:

None.

APPENDICES:

None.