

REPORT TO:	Pension Board 23 March 2023
SUBJECT:	SAB Good Governance Review Progress Update
LEAD OFFICER:	Matthew Hallett - Acting Head of Pensions and Treasury

1. RECOMMENDATION

The Board is asked to:

- 1.1 Consider the contents of this report and to comment as appropriate.

2. EXECUTIVE SUMMARY

- 2.1 This report details the requirements of the SAB Good Governance Review and the Fund's progress in implementing the recommendations.

3 DETAIL

- 3.1 In January 2019, the Scheme Advisory Board (SAB) appointed Hymans Robertson to facilitate a review of governance structures for the LGPS. Hymans Robertson issued a report in July 2019 outlining the results of the review. The following conclusions were included in the report:

- Governance structure is not the only determinant of good governance. Funds with similar governance models produced differing results;
- There was a clear view that the establishment of new bodies was not necessary and instead there should be greater guidance within the existing structures;
- There is preference for a set of mandatory standards that all funds should achieve, drawing on current good practice;
- Standards should be regularly and independently reviewed.

- 3.2 Leading on from these conclusions Hymans made the following proposals:

- There should be an outcome- based approach, based on minimum standards.

- This outcome based approach should include:
 1. Robust conflict management, including defining roles and responsibilities.
 2. Assurance the sufficiency of administration, along with the appropriate budget.
 3. Policy on employer and member engagement.
 4. Regular independent review of governance.
 5. Enhanced training (particularly for S151s and S101 committees).
 6. Update of relevant guidance and better sign-posting.

3.3 The Good Governance Review Phase 2 report was agreed by the SAB on 6 November 2019.

The Phase 2 Report included proposals categorised into six main areas:

- General;
- Conflicts of interest;
- Representation;
- Skills and training;
- Service delivery for the LGPS functions;
- Compliance and improvement.

The Scheme Advisory Board accepted the proposals in the Good Governance report Phase 2 on 3 February 2020 and requested that the project team and working groups provide further detail on the implementation of these proposals. Following consultation meetings it was decided that some proposals from the Phase 2 Report needed further consideration and analysis ahead of implementation. This detail was included in the Phase 3 report which was issued in February 2021.

The table below details the proposals as set out in the Hymans Robertson Good Governance Report to the SAB – Phase 3 (Appendix A):

Area	Proposal
A. General	<p>A1. MHCLG will produce statutory guidance to establish new governance requirements for funds to effectively implement the proposals below. (“the Guidance”).</p> <p>A2. Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund. (“the LGPS senior officer”).</p> <p>A3. Each administering authority must publish an annual governance compliance statement that sets out how they comply with the governance requirements for LGPS funds as set out in the Guidance. This statement must be co-signed by the LGPS senior officer and S151.</p>

B. Conflicts of Interest	<p>B.1 Each fund must produce and publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed within the governance of the fund, with specific reference to key conflicts identified in the Guidance.</p> <p>B.2 The Guidance should include reference to the latest available legal opinion on how statutory and fiduciary duties impact on all those involved in the management of the LGPS, and in particular, those on decision making committees.</p>
C. Representation	C1. Each fund must produce and publish a policy on the representation of scheme members and non-administering authority employers on its committees, explaining its approach to voting rights for each party.
D. Knowledge and Understanding	<p>D1. Introduce a requirement in the Guidance for key individuals within the LGPS, including LGPS officers and pensions committees, to have the appropriate level of knowledge and understanding to carry out their duties effectively.</p> <p>D2. Introduce a requirement for s151 officers to carry out LGPS relevant training as part of CPD requirements to ensure good levels of knowledge and understanding.</p> <p>D3. Administering authorities must publish a policy setting out their approach to the delivery, assessment and recording of training plans to meet these requirements.</p> <p>D4. CIPFA should be asked to produce appropriate guidance and training modules for s151 officers.</p>
E. Service Delivery for LGPS Function	<p>E1. Each administering authority must document key roles and responsibilities relating to the LGPS and publish a roles and responsibilities matrix setting out how key decisions are reached. The matrix should reflect the host authority's scheme of delegation and constitution and be consistent with role descriptions and business processes.</p> <p>E2. Each administering authority must publish an administration strategy.</p> <p>E3. Each administering authority must report the fund's performance against an agreed set of indicators designed to measure standards of service.</p> <p>E4. Each administering authority must ensure their committee is included in the business planning process. Both the committee and LGPS senior officer must be satisfied with the resource and budget allocated to deliver the LGPS service over the next financial year.</p>
F. Compliance and Improvement	<p>F1. Each administering authority must undergo a biennial Independent Governance Review and, if applicable, produce the required improvement plan to address any issues identified. IGR reports to be assessed by a SAB panel of experts.</p> <p>F2. LGA to consider establishing a peer review process for LGPS Funds.</p>

3.4 Proposal A1 is for the MHCLG to produce statutory guidance to establish new governance requirements for funds to effectively implement the proposals listed in the table.

DHLUHC Ministers have given approval to take the recommendations forward and put them into law with the exception of recommendation B2. However, to date, these have not been enacted in law and statutory guidance has not yet been issued.

Recommendation B2 concerning fiduciary duty was originally written as follows:

****B.2 The Guidance should refer all those involved in the management of the LGPS, and in particular those on decision making committees, to the guide on statutory and fiduciary duty which will be produced by the SAB – now updated****

However, this has since been amended to the following:

B.2 The Guidance should include reference to the latest available legal opinion on how statutory and fiduciary duties impact on all those involved in the management of the LGPS, and in particular those on decision making committees.

There are no immediate plans for SAB to opine on or publish a statement on fiduciary duty given the conflict between Nigel Giffin's opinion and those of the Supreme Court in the Palestine case. Therefore, this recommendation has been updated.

The remainder of the recommendations are expected to be taken forward and officers are currently working to progress these.

3.5 ***A2. Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund. ("the LGPS senior officer")***.

This is one of the core recommendations within the report and is a matter for the section 151 officer to take forward. Several example models are provided within the report, along with core requirements of the role, underpinning principles and characteristics, personal competencies and organisational structure.

3.6 ***A3. Each administering authority must publish an annual governance compliance statement that sets out how they comply with the governance requirements for LGPS funds as set out in the Guidance. This statement must be signed by the LGPS senior officer and, where different, co-signed by the S151 officer.***

B.1 Each fund must produce and publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed within the governance of the fund, including reference to key conflicts identified in the Guidance.

C.1 Each fund must produce and publish a policy on the representation of scheme members and non-administering authority employers on its committees, explaining its approach to representation and voting rights for each party.

The Annual Governance Compliance Statement was agreed at the October 2022 Pension Committee. Officers have prepared a Conflicts of Interest Policy which is with the Council's Monitoring Officer for review. Proposed changes to the Council's Constitution which include representation and voting rights were agreed by Pension Committee in December 2022. The proposed Constitution changes have been passed to the Monitoring Officer for updating the Council's Constitution. The Monitoring Officer has given a commitment to have the Conflicts of Interest Policy reviewed and the constitution changes enacted by May 2023.

3.7 D.1 Introduce a requirement in the Guidance for key individuals within the LGPS, including LGPS officers and pensions committee members, to have the appropriate level of knowledge and understanding to carry out their duties effectively.

D.2 Introduce a requirement for s151 officers to carry out LGPS relevant training as part of their CPD requirements to ensure good levels of knowledge and understanding.

D.3 Administering authorities must publish a policy setting out their approach to the delivery, assessment and recording of training plans to meet these requirements.

D.4 CIPFA and other relevant professional bodies should be asked to produce appropriate guidance and training modules for s151 officers and to consider including LGPS training within their training qualification syllabus

The intention is that SAB engage with the professional accountancy bodies to develop LGPS training modules for accountancy professionals operating within local authorities. The Pension Committee adopted an updated Knowledge and Skills Policy and the CIPFA Knowledge and Skills Framework at the June 2022 meeting. A training plan is in place which includes mandatory elements and training is reviewed as a standing item at both Pension Committee and Pension Board. Training undertaken will be published in the Governance and Compliance Statement and as part of the Annual Report.

3.8 E.2 Each administering authority must publish an administration strategy.

The Fund has an administration strategy in place and will keep this under review. It will be updated on consideration of any revisions to statutory guidance that maybe put into place.

3.9 E.3 Each administering authority must report the fund's performance against an agreed set of indicators designed to measure standards of service.

The working group considered this and recommended that rather than attempting to define a universal set of standards for administration across the LGPS, the KPIs should focus on ensuring that each fund has defined service standards, and has the governance in place to monitor their service standards and to benchmark those standards against other funds where appropriate.

Reports covering the Pensions Administration Service including KPIs are provided to Pension Committee and Pension Board at every meeting. Reporting will be kept under review and quality of reporting and what is reported on will be enhanced over time.

3.10 E.4 Each administering authority must ensure their committee is included in the business planning process. Both the committee and LGPS senior officer must be satisfied with the resource and budget allocated to deliver the LGPS service over the next financial year.

The Fund produces a Business Plan every year which covers the next three years. This is presented to Pension Committee and Board to agree. Improvements to the plan have been made and Officers recognise that further improvements need to be made to full incorporate recommendations from the Good Governance review which states:

- 1. Budgets for pension fund functions should be sufficient to meet all statutory requirements, the expectations of regulatory bodies and provide a good service to Scheme members and employers.*
- 2. Required expenditure should be based on the fund's business plan and deliverables for the forthcoming year*

It is expected that the Committee and Board will take an active role in the business planning process going forward. Details of whether the budget has been approved will need to be included in the governance compliance statement which will need to be signed by the section 151 officer.

Officers have accessed training provided by Hymans via webinars on business planning. Fund Advisors have led member engagement sessions in other authorities as part of the planning process. This may be an option that the Fund may choose to explore.

3.11 F.1 Each administering authority must undergo a biennial Independent Governance Review and, if applicable, produce the required improvement plan to address any issues identified.

Croydon has already undergone two independent governance reviews, the first in 2019 and the second in 2021. This is a process that is familiar to officers and has facilitated improvements which have been incorporated into the workplan, policies and procedures.

Officers will be looking to the Board and Committee to support procurement of a third review with AON later in the year. However, it would be prudent to make more progress on incorporating the SAB Good Governance Review recommendations before that.

3.12 F.2 LGA to consider establishing a peer review process for LGPS Funds.

This is a matter for the LGA to progress.

3.13 The Board are asked to consider the contents of this report and comment as appropriate.

4. CONSULTATION

4.1 Officers have consulted Hymans Robertson on progress of the SAB Governance Review and many of the recommendations have already been taken forward with input from both Committee and Board.

Further input may be sought from the Fund's governance advisors AON on further implementation of these actions.

5. DATA PROTECTION IMPLICATIONS

5.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF PERSONAL DATA'?

NO

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

CONTACT OFFICER:

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APPENDIX:

Appendix A: Hymans Robertson Good Governance Phase 3 Report to SAB

BACKGROUND DOCUMENTS:

None.