LONDON BOROUGH OF CROYDON

REPORT:	PENSION BOARD
DATE OF DECISION	11 APRIL 2024
REPORT TITLE:	Local Government Pension Scheme Advisory Board / The Pensions Regulator Update
CORPORATE DIRECTOR / DIRECTOR:	Jane West, Corporate Director of Resources (Section 151 Officer)
LEAD OFFICER:	Matthew Hallett – Acting Head of Pensions and Treasury;
CONTAINS EXEMPT INFORMATION?	NO
WARDS AFFECTED:	N/A

1. SUMMARY OF REPORT

1.1 This report advises the Board 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.

2. RECOMMENDATION

The Pension Board is recommended:

2.1 to agree to note the contents of this report.

3. REASON FOR RECOMMENDATION

3.1 It is best practice for the Pension Board to be advised of the matters currently being considered by the Local Government Pension Scheme Advisory Board and The Pensions Regulator which are relevant to the Fund.

4. BACKGROUND AND DETAILS

4.1 Local Government Pension Scheme Advisory Board (SAB)

Update on LGPS Gender Pensions Gap Report

At the end of March 2024 the Board advised that Jo Donnelly, Head of Pensions at the LGA, and Secretary to the Local Government Pension Scheme Advisory Board has written a blog post to set out the SAB's work on the Gender Pensions Gap in the LGPS to Local Authority employers. The blog covers the work the SAB undertook to analyse the gap and highlights the action plan which is looking at possible changes that could be made to the LGPS to reduce levels of inequality. As part of the ongoing work programme on the Gender Pensions Gap, the LGA are hosting a virtual event aimed at HR/Senior Managers at Councils and LGPS Administrators on 9 May 2024 at 2pm. The event is free for Local Authorities who are LGA members.

The earlier Gender Pensions Gap report for LGPS identified a substantial difference between the average level of LGPS pension benefits accrued by male and female scheme members. The difference between men and women as to their accrued benefits in the Local Government Pension Scheme is 34.7% for benefits in the reformed CARE scheme and 46.4% for benefits in the legacy final salary scheme. For benefits in payment the difference was even greater (49%).

While this potentially indicates some progress towards equality, the Board asked the Government Actuary's Department (GAD) to explore these gender gaps in more depth, focussing on:

- Career patterns – in particular, evidence of recent and past part-time working
- Differences relating to employers or categories of employers
- Comparing our analysis with the LGA's 2019 gender pay gap report

This further report sets out GAD's findings. Essentially there is no simple answer and there seems to be a complex interaction between the types of work women do, their career patterns (in terms of part-time working and gaps in service) and their ability to progress their careers after having taken on childcare or other caring responsibilities. The report shows, for example, that:

- Part-time working patterns are closely related to gender pension (and pay) gaps for LGPS members. Controlling for differences between men and women in terms of both current and historic part-time working patterns reduces, but does not eliminate, these gender gaps. Possible explanatory factors include length of service and employer differences.
- Pay and pension gender gaps can be attributed to both differences for males and females working for the same employer ('within employer') and differences in the proportions of males and females working at higher or lower paying employers ('between employer') as well as between different categories of employers.

There is as yet no settled approach to data and methodological issues that would allow detailed comparisons to be drawn between gender gaps with different public sector pension schemes. The Board has therefore proposed that GAD put in place a common reporting framework for all of the public sector schemes, potentially working this into the quadrennial scheme valuation process. Similarly, we believe that the relationship between gender pay and pension gaps reporting needs to be addressed to allow for greater transparency and understanding.

The Board has decided to set up a small working group to consider next steps. For example:

- Are there any in-scheme changes that would help address the levels of inequality (e.g. around the ability to buy back service)
- Can we direct employers to best practice in managing the career paths of those who take time off for caring responsibilities
- How do we communicate with members to ensure they are informed about the potential pension implications of the career choices they make
- How can we mainstream this kind of analysis so we can properly evaluate "what works" and how much is left to do.

If you are interested in taking part in the working group, then please contact the SAB Secretariat directly.

Report on the LGPS and Sharia law

On 25 March 2024 the Board advised that in December 2023, the Board approached Lydia Seymour (Counsel) following the receipt of a report into the relationship between Sharia Law and the LGPS written by Mufti Faraz Adam of Amanah Advisors. Counsel was asked to update her initial legal advice on the outstanding questions from her 2022 advice. The key messages from her advice are that the legal risk of a case being successfully brought against a scheme employer in an Employment Tribunal on the basis of indirect discrimination, or a judicial review being brought against an administering authority or the Department for Levelling Up, Housing and Communities (DLUHC) for breach of the public sector equality duty, remain extremely low. The summary of Counsel's advice is on the Legal Opinions and Summaries page.

On 23 January 2023 the Board reported on advice it had received as follows:

In 2022, the Board considered the legal advice of Lydia Seymour (Counsel) on the issue of members opting out of the LGPS on the basis of their (principally Islamic) religious belief, and whether this might constitute unlawful discrimination on behalf of the scheme. Lydia's advice suggested that before giving a definitive opinion, we needed to instruct an expert in Islamic finance to provide advice on the issue of whether the LGPS is Sharia compliant, and the range of views that Muslim members and potential members might have on that question. The Board commissioned Mufti Faraz Adam of Amanah Associates to produce this report.

This report has now been received and examines the issue primarily from the starting point that a statutory defined benefit (DB) pension scheme, like the LGPS, is an extension of the employer/employee contract. The report concludes that as a part of the contractual arrangement between employer and employees, Muslim employees can continue to contribute to, and benefit from, the excellent benefits offered by the LGPS. The underlying rationale for this conclusion is set out below:

1. *Mufti Faraz Adam acknowledges that the pension benefits payable to members upon retirement are deferred salaries arising from the debt obligation placed upon the employer when contributions were paid into the fund.*
2. *Employees are owed a debt by their employers in the form of salary and pension*

contributions.

3. *The principle of risk transfer is pivotal when considering ownership in Sharia law. In the LGPS the investment risk and legal ownership of the funds rests with scheme employers and the administering authority – not the employee. Consequently, LGPS members do not own the underlying investment assets. This effectively isolates members from the investment activities carried out within the funds.*
4. *The money to pay pensions is largely derived from employer and employee contributions, which ultimately come from local government funding or private-sector revenue (which are Sharia compliant), and from investment income.*
5. *While not bearing the responsibility for, or risk of, the investment choices made by funds, Mufti Faraz Adam recognises that Muslim (and indeed all scheme members) have a legitimate interest in fund investments and whether these can be made in accordance with their moral and religious beliefs.*

The Board would like to thank Mufti Faraz Adam for providing such a comprehensive and considered opinion.

The Board hopes that the report will offer comfort to Muslim members of the LGPS in the knowledge that they can continue to participate in the scheme. Indeed, we hope that the report may encourage some who had opted out to opt back in and ensure that they benefit from the employer contribution to their pension, as well as the valuable benefits that the LGPS offers.

In publishing this report, the Board makes no claim of expertise on the matter of Sharia law and wishes to be clear that this report represents the views of the author and not the Board.

The aim of the Board in commissioning the report was to address possible legal risk for scheme employers, and also to ensure that the LGPS is as inclusive as possible. The Board will now go back to Counsel for her definitive opinion and will consider that advice at the earliest opportunity.

The Board would emphasise that it has no ability to implement directly any recommendations made in the report, it can only make recommendations to the Minister who is responsible for the rules of the scheme. No proposals for changes to the scheme will be considered until the Board has had a chance to fully analyse the further advice from Counsel.

The Board believes that the LGPS offers excellent value for money for members, as employers make a significant additional contribution. Membership provides members and their families with important benefits and greater security in retirement, as well as protection in the unfortunate event of ill-health or death.

Economic Activity of Public Bodies (Overseas Matters) Bill enters Committee Stage

On 20 March 2024 the Board advised that the Economic Activity of Public Bodies (Overseas Matters) Bill, also known as the Boycotts, Divestments and Sanctions Bill has entered Committee Stage after its second reading in the House of Lords on 20th February 2024. The Bill seeks to ban LGPS administering authorities from making investment decisions influenced by political and moral disapproval of foreign state conduct, except where this is required by formal Government legal sanctions, embargoes, and restrictions. The Local Government Association (LGA) has issued technical briefings in response to each stage and the most recent briefing issued after the second reading in the House of Lords can be found here. The Secretariat will continue to evaluate amendments put forward and will suggest amendments that would improve the Bill if no similar amendments are tabled. The Bill team have indicated their expectation that Royal Assent will be attained swiftly once the Lords proceedings are complete. A fuller update on the Bill's activity since June 2023 can be found in the paper for Item 5 at the Board meeting held on 11th March 2024.

On 3 July 2023 The Economic Activity of Public Bodies (Overseas Matters) Bill, also known as the Boycotts, Divestments and Sanctions Bill had its second reading in the House of Commons. The Bill seeks to ban LGPS administering authorities from making investment decisions influenced by political and moral disapproval of foreign state conduct, except where this is required by formal Government legal sanctions, embargoes, and restrictions. In the course of the debate, significant concerns were expressed about the Bill. These centred around its rationale, its practicability and also whether it constituted a significant over-reach of Ministerial authority. The LGA has published a technical brief on the Bill which includes a section on the Bill's effect on pensions as well as the LGA view on this. The SAB will be providing written evidence on the Bill to the Public Bill Committee which will scrutinise the draft Bill. As far as the Board is aware, there is no evidence that any LGPS fund has instituted inappropriate politically motivated boycott or divestment policies.

Board issues response to DLUHC's consultation on audit backlog

On 6 March 2024 the SAB has issued a short response to the DLUHC consultation on "*Addressing the local audit backlog in England*". The consultation was discussed at the Compliance and Reporting Committee when it met on 12th February. The Committee agreed that the Board should express concern that if there were wide-spread disclaiming of LGPS administering authority accounts in order to meet the new deadlines, then there would be knock-on consequences for the 18,000 scheme employers that rely on information from the pension fund audit in order to complete their own audits. Essentially, the scheme employer auditor will need to do further work to gain assurance on the information provided it to it by the LGPS actuary on its assets and liabilities under the scheme, which well may be material, depending on a range of factors. The Board's response also takes this opportunity to re-emphasise the representations it made in an earlier letter asking that pension fund audit should be separated out from the host authority audit. This would also resolve some of the consequential problems with backlogs as it is not the audit of the pension fund account which is usually holding up completion of the host authority's audit report.

The Pension Regulator's (TPR) General Code of Practice

On 19 January 2024 the Scheme Advisory Board welcomed the publication of The Pension Regulator's (TPR) General Code of Practice ('the Code') which had been laid in Parliament and which is expected to come into force on 27th March 2024. It replaces Code of Practice 14 for Public Sector Pension Schemes and brings together 10 previous TPR Codes into one single Code. The Secretariat is studying the Code closely to identify any new requirements for funds and how the Code's requirements align with items on the SAB workplan, such as the SAB's 2021 Good Governance recommendations.

TPR's research on governance and administration shows that the LGPS already has high standards of governance in place, but the Code provides an opportunity for funds to review current practices, but also presents challenges during what is an already busy time within the LGPS. Clarity is required on which parts of the Code specifically apply to the LGPS and what these mean for funds and how they should be applied in practice. The SAB will support funds in understanding any new requirements in the Code and where needed, will produce new or update existing guidance to assist funds with their responsibilities.

Statement on surpluses

On 20 December 2023 the Board issued a full statement on the topic of fund surpluses.

Key Messages from SAB on the DLUHC Consultation on Investment Issues (Next Steps for Investments in the LGPS)

On 23 November 2023 the Board published the following information statement:

Alongside the Chancellor's Autumn Statement, the response to the "next steps on investments" consultation was published by DLUHC on 22 November 2023.

The consultation largely adopts the measures the government originally consulted on, with the main points from the consultation (in paragraph 9) set out as follows:

"After having considered the responses, the government will now implement the proposals that we set out in the consultation to accelerate and expand pooling, and increase investment in levelling up and in private equity. We will:

- *set out in revised investment strategy statement guidance that funds should transfer all assets to their pool by 31 March 2025, and set out in their ISS assets which are pooled, under pool management and not pooled and the rationale, value for money and date for review if not pooled*
- *revise pooling guidance to set out a preferred model of pooling including delegation of manager selection and strategy implementation*
- *implement a requirement in guidance for administering authorities to set a training policy for pensions committee members and to report against the policy*
- *revise guidance on annual reports to include a standard asset allocation, proportion of assets pooled, a comparison between actual and strategic asset allocation, net savings from pooling and net returns for each asset class against their chosen benchmark*
- *make changes to LGPS official statistics to include a standard asset allocation and the proportion of assets pooled and the net savings of pooling*
- *amend regulations to require funds to set a plan to invest up to 5% of assets in levelling up the UK, and to report annually on progress against the plan*
- *revise ISS guidance to require funds to consider investments to meet the government's ambition of a 10% allocation to private equity."*

The Secretariat is continuing to read and absorb the response, and an update to the Board's website will follow soon.

On 2 October 2023 the Board submitted its full response to DLUHC's consultation on investment issues which opened on 11th July 2023. This consultation included proposals in a range of areas, including; setting a target date for the migration of all listed assets to pools, a proposed move to fewer pools (with a target size of £50bn), a requirement for funds to have a plan to invest up to 5% of assets to support levelling up in the UK and a proposal for funds/pools to dedicate 10% of assets to private equity investments.

The Board's response was shaped by a working group comprised of elected members, scheme representatives and practitioners from the Board's membership, led by Board Chair, Cllr Roger Phillips.

On 11 July 2023 DLUHC issued a consultation on a number of investment-related proposals for the LGPS. These include imposing a deadline of 31 March 2025 for the transition of listed assets from funds to pools; proposals around increasing LGPS investments in private equity and projects that meet the government's levelling up agenda; details around the implementation of the Competition and Markets Authority Order relating to investment consultants, and a technical change to the 2016 investment regulations. The consultation will run for twelve weeks and closes on 2 October 2023. You can view the consultation on the gov.uk website. DLUHC is asking that respondents use the online consultation link to respond. The Scheme Advisory Board will be responding to the consultation and will publish information about its discussions, as well as a draft response, in due cours

On 9 December 2022, the Chancellor of the Exchequer announced a set of reforms (known as the "Edinburgh 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.

Publication of the 2022 Scheme Valuation Report

On 10 August 2023 the Scheme Advisory Board published a detailed report that pulls together data from all of the 2022 local fund valuation reports. The Report aims to provide a rich source of information about a range of vital issues for Scheme members, employers and other stakeholders. It shows that:

- The average funding level has improved from 98% in 2019 to 107% at 2022 (on local funding bases), with all Funds reporting an improvement in their position since 2019
- Average contribution rates to meet future service costs rose from 18.6% of payroll at 2019 to 19.8% of payroll at 2022
- Overall, contribution rates fell – reflecting lower deficit contributions – to 21.1% of payroll at 2022 from 22.9% of payroll at 2019
- Employee contributions increased marginally from 6.5% of pay to 6.6%

The report also examines the main assumptions used by funds in their 2022 valuations, looking at trends around setting of the discount rate, life expectancy and future expectations for inflation and salary increases.

Compliance and Reporting Committee's Annual Report working group - Review of 2019 CIPFA 'Preparing the Annual Report' guidance

On 27 July 2023 the Board reported that the Annual Report working group had been reviewing the 2019 CIPFA 'Preparing the Annual Report' guidance and had identified several areas within the current guidance which now require updating and clarification. A priority has been to streamline the guidance and reduce duplication with other reporting obligations wherever possible.

Another key area of improvement identified was how funds should report and categorise the allocation of assets. This area is covered in DLUHC's recent consultation on LGPS investments, which proposes a requirement for 'a single standard set of data on investments across annual reports and LGPS statistics'. The new guidance will suggest funds follow a 'worked example' template provided by the SAB which aims to improve consistency and better scheme-level reporting of asset allocation in the SAB annual report. Using standard data to report asset classes also aims to make the annual report process simpler for funds and more consistent for readers to directly compare data. The 'worked example' template for the categorisation of assets will shortly be shared by the SAB secretariat team and should be incorporated into reporting as soon as possible whilst the new guidance is being prepared.

From an administrative perspective, the Key Performance Indicators are being reviewed, with various fund officers and software providers invited to provide comment on the current guidance. The aim is better to define them and allow for standardised reporting so that funds can properly benchmark themselves against others. The new guidance aims to be in place ready for the 2023/24 reporting period but there are reporting changes which the Board hope can be implemented on a voluntary basis for 2022/23 annual reports.

Publication of the tenth Scheme Annual Report

On 26 June 2023 the Board published the tenth Scheme Annual Report. The aim of this Report is to provide a single source of information about the status of the LGPS for its members, employers, and other stakeholders. Continually improving key information about the Scheme as a whole is one of the top priorities of the Board. This report aggregates information supplied in the 86 fund annual reports, as of 31 March 2022.

Climate risk reporting

On 15 June 2023 DLUHC confirmed that implementation of climate reporting obligations would be delayed at least until next year. Presuming regulations are forthcoming in time for 1st April 2024, reports covering the period 1 April 2024 - 31 March 2025 would need to be produced by December 2025.

On 23 May 2023 the Board advised that TPR have published a review of climate-related disclosures by occupational pension schemes. The paper sets out TPR's preliminary observations and feedback to industry, based on their review of a selection of climate-related disclosures published by occupational pension schemes. The review relates to private pension schemes but contains observations which may be useful for LGPS funds ahead of the implementation of climate risk (TCFD) reporting in the LGPS – which is now expected to commence from 1 April 2024, with first reports due in late 2025.

On 22 February 2023 SAB published the results of their survey to guage the preparedness of pension funds for the changes being considered by Government as follows:

We received a total of 51 responses to this survey. Approximately 30% of respondents indicated their fund does not have adequate resources to produce a risk report. From those without the adequate resources, 45% indicated they do not have a sufficient project plan in place to deliver a report by the anticipated deadline of December 2024. 25% of respondents do not believe that they have access to sufficient data to populate a risk report and a further 27% of respondents are unsure if they have access to the necessary data. Scope 3 carbon emissions data and carbon emissions data for alternatives and private markets were regularly *cited as being extremely difficult to obtain. Although 56% responded that they have a plan in place to produce the data required to an acceptable standard, many funds cited they were dependent on the ability of third parties such as pools and fund managers to source the data and conduct the climate risk analysis.*

35% of respondents indicated they had conducted a full assessment on what expertise was required for risk analysis. 27% have not and 35% of funds had undertaken some sort of assessment. 69% of respondents indicated they had a plan to source the resources required for the production of the report. While many funds indicated they were awaiting more certainty before carrying out assessments of what was required for the report, some were pressing ahead with plans as soon as possible.

The Board is working closely with the Department and administering authorities to better understand the challenge and support them through it. We intend to repeat this survey after the Government Response to last year's consultation is published, and the precise requirements are clearer.

Interestingly, the survey also found that 25 funds reported a date of 2050 or sooner for reaching net zero in their asset portfolio, however a substantial number of respondents indicated that risk reporting will not change or will have a limited impact on their asset allocation or choice of investments. Rather they considered it as a means to "show progress" against targets set. Some stated that it provided a focus for engagement both with their asset managers and the underlying companies in order to effect real world change, rather than simply "greening" the portfolio.

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.

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 seeks 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.

'McCloud' remedy in the LGPS – supplementary issues and scheme regulations consultation

On 30 May 2023 DLUHC launched a consultation that seeks views on changes to the Local Government Pension Scheme in England and Wales (LGPS). This follows a previous consultation that DLUHC undertook in 2020 on proposals to address discrimination found by the courts in the 'McCloud' case. The Court of Appeal ruled in 2018 that younger members of the judicial and firefighters' pension schemes had been unlawfully discriminated against – known as the McCloud judgement. The Department published the government response in April 2023 confirming the steps it will be taking to resolve the McCloud age gap discrimination in respect of the LGPS in England and Wales.

DLUHC are now seeking views on issues relating to the McCloud remedy. This will cover reconsulting on some areas, and consulting on issues not covered in the first consultation. The department are also seeking views on draft scheme regulations (see annex A) which would implement the remedy. The consultation closes at 11:59pm on 30 June 2023.

On 3 March 2023 SAB has published guidance to assist administering authorities with McCloud data issues. The guidance sets out what options administering authorities may consider if they are unable to collect the data needed to implement the McCloud remedy. It covers both missing data and data that may be inaccurate. The guidance should be read in conjunction with the legal advice provided by Eversheds on McCloud data issues which is referenced within the guidance document.

2021/22 Annual Reports and Audit issues within the LGPS

On 30 May 2023 SAB issued the following statement in respect of the impact of completed triennial valuations on the delayed 2021/22 accounts

> *Councils may be aware that the delay in finalising accounts for 2021/22 has meant that information from the March 2022 triennial valuations of pension funds has become available before the audit of many accounts has been signed-off. This has led some auditors to request that the accounts are re-done using this more up to date information.*
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> *Following discussions between stakeholders, last week the National Audit Office (NAO) issued supplementary guidance to auditors (guidance note SGN 3) and CIPFA issued supplementary guidance to accounts preparers (CIPFA Bulletin 14 Supplement). Taken together these make it clear that there is no need for the accounts to be re-stated using the triennial valuations, unless the original valuation in the accounts contained material omissions such as not taking account of an existing large-scale restructuring/redundancy programme. Hopefully, this will now prevent the issue of pension valuations adding further to the delays in finalising accounts.*

On 15 February 2023 the Minister for Local Government responded to the letter written to him in August 2022 by SAB on delays in the external audit of local authority accounts, including pension fund accounts. He welcomed the Board's advice and recommendation to consider the separation of main authority accounts and the pension fund accounts and has asked his officials to consider the scope for developing this further.

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.

On 3 August 2022 the Board Chair, Cllr Phillips, has written 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.

DLUHC consultation on changes to the SAB's cost management process (Scheme Cost Assessment – SCA)

On 23 May 2023 the Board issued the following statement:

> *DLUHC has issued the final regulations and published its response to the consultation on reforming the SAB's own parallel process for reviewing scheme cost. This is the process set out in Regulation 116 of the 2013 Regulations, which runs during the HM Treasury-led quadrennial scheme valuation process. The changes take into account SAB's response to the consultation and better align the SCA with HMT's reformed cost control mechanism (CCM).*
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> *It helpfully re-iterates that the SAB process operates prior to the HMT CCM and gives the SAB greater flexibility in the making of recommendations to the Secretary of State where there is a breach. However, it leaves open for further discussion the link with the new "economic check" in the CCM.*

On 6 March 2023 SAB submitted its response to DLUHC's consultation. The SAB scheme cost assessment is the part of the cost management process which operates independently of, and prior to, the HM Treasury directed cost management process. The response is generally supportive of the Department's approach as they have taken on board many of the points made by the Board on how best to re-align the SAB process with the HM Treasury process, which was reformed last year. SAB hope that an opportunity will be found to make the necessary amendments to the 2013 LGPS Regulations ahead of the 2020 scheme valuation process being undertaken. The full response can be found here.

On 30 January 2023 DLUHC launched an 8 weeks 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.

4.2 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 matters of interest to the LGPS:

TPR's general code

On 10 January 2024 TPR issued the following press release:

Governing bodies have been challenged by The Pensions Regulator (TPR) to use the introduction of its new general code of practice as an opportunity to ensure their scheme is fit for the 21st century.

***TPR's new general code**, laid in parliament today, brings together and updates 10 existing codes of practice into one set of clear, consistent expectations on scheme governance and administration.*

While the new code looks different – with expectations set out in short, focused modules – many of the standards set out are not.

The new format makes it easier for governing bodies to find TPR's expectations and ask themselves whether, and how, they are meeting those expectations.

TPR's research suggests there remains a subset of disengaged trustees who fall short of the standards expected or are unaware of the existence of such codes.

Louise Davey, TPR's Interim Director of Regulatory Policy, Analysis and Advice, said: "Our new general code is an opportunity for governing bodies to make sure their schemes meet the standards of governance we expect, and savers deserve. It means there is no excuse for failing to know what TPR expects of them.

"Some governing bodies have already grasped this opportunity and carried out analysis to ensure there are no gaps in their governance. However, we believe there are many who have not done so and risk falling short of our expectations.

"Those that do not meet the code's expectations should take action to improve their scheme's governance.

"Trustees of schemes unable to meet our expectations should consider whether defined contribution savers would be better off in a larger, better-run scheme, and whether defined benefit savers would see higher standards of governance in a consolidation arrangement.

"At the very least governing bodies should be aware of where they fall short of our expectations and have clear and realistic plans in place to address those shortcomings."

*The results from our **annual survey of trustees of DC trust-based pension schemes (PDF, 2,191kb, 47 pages)**, published in July 2023, showed trustees of four in 10 (40%) micro and small schemes were either unaware of TPR's codes of practice or had never used them.*

And, despite extensive industry engagement during the consultation on the new code, less than one-quarter (23%) of the trustees of these schemes were aware the new code was set to be introduced – with trustees of small and micro schemes the least likely to report being aware, just one-fifth (19%) and almost one-tenth (9%) respectively.

Effective systems of governance and the own risk assessment

The new general code sets out in detail what TPR expects of a scheme that is required to maintain an effective system of governance. This brings together many key aspects of running a scheme, not least in terms of risk management. The detail of what constitutes an effective system of governance will be dependent on the size and complexity of the scheme.

TPR will expect scheme governing bodies to be able to demonstrate that they have appropriate procedures and policies in place.

The own risk assessment is a periodic review of the effectiveness of the features of the system of governance and will help the governing body focus on key areas in need of improvement in the governance and operation of their scheme.

Notes for editors

- *The general code of practice is the name given to TPR's programme to merge 10 of its existing codes of practice into a single new code of practice. The consultation on the single code ran from 17 March 2021 to 26 May 2021, during a period of national lockdown. It heard the views of more than 1,000 members of pensions community through TPR's use of remote communications. The consultation received more than 100 formal responses comprising around 17,400 separate answers.*
- *The general code was laid in Parliament on 10 January. It's laying period lasts for 40 days. The code is expected to come into force on 27 March.*
- *The 10 codes of practice rolled into the general code are:*
    - *Reporting breaches of the law*
    - *Early leavers*
    - *Late payment of contributions (occupational pension schemes)*
    - *Late payment of contributions (personal pension schemes)*
    - *Trustee knowledge and understanding*
    - *Member nominated trustees/member-nominated directors putting arrangements in place*
    - *Internal controls*
    - *Dispute resolution reasonable periods*
    - *DC code*
    - *Public service code*
- *TPR is the regulator of workplace trust-based pension schemes in the UK. Our statutory objectives are to:*
    - *protect members' benefits*
    - *reduce the risk of calls on the Pension Protection Fund*
    - *promote, and to improve understanding of, the good administration of work-based pension schemes*
    - *maximise employer compliance with automatic enrolment duties*
    - *minimise any adverse impact on the sustainable growth of an employer (in relation to the exercise of the regulator's functions under Part 3 of the Pensions Act 2004 only)*

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 N/A

6. CONSULTATION

6.1 No consultation outside the formal process is required.

7. IMPLICATIONS

7.1 FINANCIAL IMPLICATIONS

7.1.1. There are no direct financial implications arising from this report

7.1.2. Comments approved by Matthew Hallett, Acting Head of Pensions on behalf of Allister Bannin, the Director of Finance. (Date 03/04/2024)

8. APPENDICES

8.1 None

9. BACKGROUND DOCUMENTS

9.1 None