

LGPC minutes

Meeting held on 3 February 2020

PRESENT

Cllr Phil Murphy	Substitute Chair, LGA
Cllr Goronwy Edwards	LGA
Cllr Alan Waters	LGA
Cllr Richard Wenham	LGA
Cllr Clive Lloyd	SAB rep
Cllr Sharon Taylor	LGA – Dial in
Cllr Simon Blackburn	LGA – Dial in
Mr Jeremy Hughes	MHCLG
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA

Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Ms Elaine English	LGPC
Mr Jeff Houston	LGPC

1. INTRODUCTION FROM NEW CHAIR

The new Chair, Cllr Byron Rhodes [BR] was unfortunately unable to attend the meeting due to ill health. Cllr Phil Murphy [PM] agreed to Chair the meeting.

PM introduced himself to the meeting and introductions were made. No declarations of interest were reported.

2. APOLOGIES

Apologies were received from Cllr Byron Rhodes – LGA, Cllr John Fuller – LGA, Mr Kevin Gerard – Technical Group rep, Cllr Paynter – LGA and Linda Welsh – Scottish Officers Group.

3. MINUTES

The minutes of the previous meeting held on 6 November 2019 were agreed subject to the change on page 2, paragraph 5 whereby “same” sex civil partner should have read “opposite” sex civil partner.

4. MATTERS ARISING

Lorraine Bennett [LB] informed the Committee that Exit credits and Responsible Investment Guidance would be covered in later agenda items.

The Pension Ombudsman (TPO), page 3 - Since the last meeting the LGPC secretariat have reviewed their publications covering transfers and have updated them where necessary. They have included an article in the LGPC Bulletin about the implications for transfers from the LGPS to another occupational scheme.

Member Videos, page 3. The videos have now been launched. The LGPC Secretariat has asked regional groups whether they support the production of a video about what members should consider if they are thinking about transferring their pension. The response from the regional groups is a unanimous yes.

Action: To report progress at the next meeting.

5. REGULATION UPDATE [E&W]

LB presented the key points from paper B.

Exit Credits

MHCLG is expected to respond to the consultation on the Local valuation cycle and the management of employer risk in February 2020. The response is expected to include a change to the regulations to allow administering authorities to consider the amount of risk borne by an employer when calculating an exit credit. Since exit credits were introduced in May 2018, it had come to light that a number of contracting authorities have side agreements which remove the risk of deficits on exit from service providers. Cllr Richard Wenham [RW] asked whether the change in regulations would be retrospective. Jeff Houston [JH] replied that the majority who responded to the consultation were in favour of retrospection. There are court cases which are currently on hold and the MHCLG response to the consultation is likely to influence the courts' decisions.

Pensions Bill

It was confirmed in the Queen's Speech on 19 December 2019 that the Pensions Schemes Bill will be reintroduced. The Bill will strengthen TPR's powers and create a legislative framework to support pensions dashboards. LB referred the Committee to the Parliament website to view the draft legislation and Explanatory Notes.

The LGPS (Amendment) Regulations 2019

The LGPS regulations have been updated to introduce survivor pensions for opposite sex civil partners. The LGPC Secretariat is in the process of updating online resources and guides to reflect the change.

Jeremy Hughes [JHu] reported that a legal challenge has been brought against Warwickshire CC. The surviving cohabiting partner of a member who left the scheme before 1 April 2008 is challenging the decision not to pay them a survivor's pension.

David Murphy [DM] asked whether full equalisation of survivor benefits was being considered. JHu confirmed that the estimated cost of this across all public sector schemes is £5/6 billion. The cost to the LGPS in England and Wales is approximately £2.5 billion [post meeting update: JHu has since confirmed that the actual estimated cost across the public sector is £3.5bn; estimated cost to the LGPS is £1.1bn]. RW asked for a clear explanation of these costs. JH stated that most of the cost would be incurred by retrospectively increasing survivor benefits that have already been paid.

Exit Payment reforms

Exit payment reforms which were first announced in 2015 and were delayed are now expected to progress.

Exit cap

The exit cap will limit the employer payments related to an employee's exit to £95k, which will include the strain cost of paying an LGPS pension early. A second consultation on this proposal was launched in April 2019. The LGA responded to this consultation and their response can be viewed on the lgpsregs.org website.

Exit Payment recovery

Exit payment recovery was included in the Conservative manifesto in 2019. Exit payment recovery would require a person who leaves a public sector job with an exit payment to repay some or all of that payment if they return to public sector employment within a year. Exit payment recovery would only apply to individuals who earn more than £80,000 a year. We expect that this policy will introduce a duty on employers not to employ an individual affected by exit payment recovery until a repayment plan is in place.

JH noted that this policy has UK-wide implications, but that it is a devolved issue. Kimberley Linge [KL] stated that she does not expect this policy to be implemented in Scotland, but that Scottish employers will be encouraged to have regard to these rules once they are introduced in England and Wales. David Murphy [DM] stated that Northern Ireland have passed a consent motion agreeing for the UK government to pass legislation for Northern Ireland on this usually devolved issue. Cllr Clive Lloyd [CL] asked how many people were likely to be affected by exit payment recovery. JH expects the number to be in the tens, rather than hundreds. Cllr Sharon Taylor [ST] raised concern over the 12-month deadline and noted that people may delay re-employment until the thirteenth month to avoid repayment. It was noted that the 12-month period was a HM Treasury policy decision. The Chair asked if there would be an opportunity to lobby for a change in the period. JH confirmed that there will be a consultation on the draft regulations which will allow the Committee to voice its opinion.

Fair deal

The Government's response to the Fair deal consultation which closed on 4 April 2019 has not been published.

6. SAB UPDATE [E&W]

JH presented the key points from paper C.

Good Governance

Hymans Robertson were awarded the contract to look into how LGPS functions are delivered within the local authority framework. Hymans presented their findings to the SAB in July and November 2019.

In summary, the findings were:

- Publication of a new Governance Compliance statement to include an LGPS responsible person
- Outcome measures should use existing indicators where possible
- Updated guidance should be published or approved by MHCLG
- Guidance should set out minimum requirements of knowledge and understanding for responsible person and decision makers
- Governance reviews to be biennial and on a consistent basis
- Introduction of a LGPS 'Peer Challenge' process by invitation.

The next phase of the project will involve identifying the outcome measures to be used. A proposed timetable will be presented to the SAB at the afternoon meeting.

Responsible Investment guidance

The SAB will be publishing two sets of guidance:

- i) Definitions and duties
- ii) Options for examples of best practice.

The first set of guidance will collate the information that is already available including QCs' opinions and case law. There are differing views about how fiduciary duty applies in the LGPS. These views will be taken into account in deciding how to provide clarity. The decision in the ongoing legal challenge concerning investment decisions that are not in line with UK foreign policy is likely to have an impact on the guidance.

A draft version of the guidance was agreed at the November SAB meeting. A public consultation on the draft guidance concluded at the end of January 2020.

ST pointed out that members are increasingly concerned about investment decisions that are contradictory to the climate emergency declaration that many councils have made.

The Committee expressed concerns about the use of acronyms and the possibility of being misled by investment managers. A standard method of measuring a company's carbon footprint will help to inform investment decision. There is currently no standardisation.

McCloud judgment

The Supreme Court denied the Government's request for an appeal in the McCloud case. The SAB will be asked to agree to form two working groups to assist with the formulation and implementation of regulatory changes:

- i) A policy group to assist MHCLG in considering any areas of policy
- ii) An implementation group which will include practitioners, member reps, actuaries, software providers and employers to consider implementation and communicating the scheme changes to members and employers.

It is expected that a consultation on a proposed remedy for the LGPS will be launched in the Spring. Correcting past calculations will present a significant challenge for administrators. Advice from actuaries indicates that as many as half the members covered by the remedy may have already left the scheme. It is likely that their deferred or pension benefits will have to be re-calculated. Survivor benefits and past transfer and trivial commutation payments may also have to be reviewed.

The remedy may be more complex in the other public sector schemes. We expect the other schemes to undertake an options exercise, allowing employees to choose between membership of the career average or final salary schemes. There is a risk of further legal challenge from a member who ends up worse off as a result of the option they take.

JH expressed concern about the period between the date a decision on the remedy is made and the date the relevant changes are made to the regulations. How much primary legislation must be changed will determine the length of this period of uncertainty. The SAB is seeking legal advice about what protection an employer might have if a member makes a claim against the scheme and employer.

RW and ST asked about the cost of the exercise, both in terms of paying increased benefits and the administrative resource needed to review and amend past benefit calculations. A major influence on cost will be the length of the remedy period, which is not yet known.

Simplification and Guidance

JH stated that work will recommence shortly.

Employer support

The academies and Tier 3 projects will be ending in the near future. The outcome of these projects will be to use Pensions Administration Strategies to improve data quality.

Further discussions

RW asked whether there was any indication that the cost cap process would restart. The FBU has launched a legal challenge to restart the cost cap process to improve member benefits or reduce member contributions. The McCloud will affect the cost of providing the scheme. The view of the Committee was that no scheme development in response to the cost cap should be undertaken until the full cost of the McCloud remedy has been assessed.

DM noted that certain investments are linked to RPI. The Government is currently consulting on replacing RPI with CPIH, which would yield lower returns. JH confirmed that the SAB has asked funds to let them know their level of investment in this type of product. They will feedback to HMT when the results are known.

7. REGULATIONS UPDATE SCOTLAND

The Committee noted the key points from paper D, which was presented by Kimberly Linge [KL].

LGPS (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019

These regulations were signed on 19 December 2019 and come into force on 1 March 2020. Pension overpayments will be identified as part of the GMP reconciliation exercise. These regulations allow those overpayments to be converted to scheme awards, meaning that pensions in payment from Scottish public sector schemes will not be reduced when an overpayment is identified.

LGPS (Miscellaneous Amendments) (Scotland) Regulations 2020

SPPA have consulted on these regulations that would allow Scottish ministers to substitute a different fund maintained by an administering authority for a scheme employer.

Section 13

GAD has published its Section 13 report on the 2017 valuations of the 11 LGPS funds in Scotland.

SPPA consultation – statutory valuations

SPPA have launched a consultation to seek views on changes to the local valuation cycle and the option of suspending an employer's liability to pay an exit payment. The consultation closes on 9 March 2020. The Committee noted that administering authorities in England and Wales had raised concerns about the move to a four-year valuation cycle. KL is aware of similar concerns in Scotland. JHu confirmed that no final decision has yet been made.

McCloud

Scotland are awaiting the outcome from England & Wales before any action taken.

8. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper E, which was presented by DM.

LGPS Regulations

On 19 December 2019 regulations on marriages for same sex couples and civil partnerships for opposite sex couples in Northern Ireland were made at Westminster. In some cases, the changes will improve the benefits payable to a surviving same-sex spouse or same sex civil partner.

NI Government

On 11 January 2020, Northern Ireland political parties agreed to enter into government. The local Minister will now be able to make appointments to the NILGOSC Committee. The Assembly will review all legislation that has been laid since January 2017.

9. UPDATE FROM TECHNICAL GROUP

The Committee noted the key points from Paper F, which was presented by LB in the absence of Kevin Gerard [KG].

Administering authorities had been asked to agree to meet the cost of a procurement exercise for an online knowledge system for the LGPS in England and Wales. At the December Technical Group, it was unanimously agreed not to recommend that the LGA pursue this procurement exercise. The Norfolk Framework may be used to set up a list of suppliers.

The Technical Group discussed the CIPFA annual report guidance relating to KPI reporting. Concern was raised that no consultation had taken place even though a CIPFA working party had been established. CIPFA have been invited to the next Technical Group meeting in March to discuss how they can work more closely with administering authorities to ensure consistency in reporting standards.

The Technical Group is aware that not all funds have signed the National Insurance database data sharing agreement. The Group agreed that the LGA should contact Section 151 Officers, Chairs of Pension Committees and Local Pension Board to inform them of non-compliance.

10. TRAINING AND CONFERENCE UPDATE

Elaine English [EE] reported that the Fundamentals Programme that ran from October to December 2019 over nine days at three locations was attended by over 300 delegates and the feedback received was very positive. EE also reported that the Annual Governance Conference that took place in York on 23/24 January 2020 was a great success. Over 150 delegates attended and gave very positive

feedback. Dates for next year's Fundamentals programme are currently being worked on and will be advertised at the next meeting. The 2021 Governance Conference will be held on 21 – 22 January in Bournemouth. If any member of the Committee would like to attend either the Fundamentals programme or the Conference as our guest, please secure your place by emailing EE at elaine.english@local.gov.uk

Practitioner Training for 2020 will include the employer role, death and survivor benefits and the residential Insight course. The first events courses will run in March 2020 and will be advertised shortly.

ST asked if consideration could be given to providing training on the enhanced governance requirements once the Good Governance review is complete.

11. ANY OTHER BUSINESS

12. DATE OF NEXT MEETING

4 May 2020, 10 August 2020 & 2 November 2020
