

Investment, Governance and Engagement Sub Committee

MEETING OF THE 26th SEPTEMBER 2022

Item 3 Paper A

Actions and Agreements - Meeting of 23rd May 2022

PRESENT

Cllr Yvonne Johnson
Cllr Robert Chapman
Peter Wallach
Rodney Barton
Nick Buckland
Sandra Stewart
Pete Smith
David Walker
Alison Murray
Kieran Harkin
Glyn Jenkins
Oliver Watson
Fiona Miller
Christophor Ward
Jonathan Hunt
Joanne Donnelly
Jeremy Hughes
Bob Holloway
Gareth Brown

Chair – L.B. Ealing
LAPFF
Practitioner
Practitioner
Practitioner
Greater Manchester Pension Fund
Actuaries (Barnett Waddingham)
Actuaries (Hymans)
Actuaries (Aon)
Actuaries (Mercer)
UNISON
DLUHC
Pool Operating Companies
Government Actuary's Department
Adviser, LGA
Head of Pensions, LGA
Senior Pensions Secretary, LGA
Pensions Secretary, LGA
Pensions Analyst, LGA

APOLOGIES

Apologies for absence were received from George Georgiou, Gary Delderfield, Lisa Colquhoun and Mark Wynn.

Welcome, introductions and declarations

1. The Chair welcomed all in attendance and introduced Jeremy Hughes, formerly of DLUHC, who has replaced Jo Donnelly as Senior Pensions Secretary (Deputy Board Secretary) and Christophor Ward from GAD who has replaced John Bayliss on this committee.
2. The Chair advised members of the virtual meeting's protocol.

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Item 3 - Actions and agreements from the meeting of 21st February 2022

3. The minutes of the meeting were agreed.

Item 4 – Queen’s Speech Update

4. Jo Donnelly (JD) briefed members on a number of Bills announced in the Queen’s Speech that will be of relevance to the LGPS including the Levelling Up and Regeneration Bill and the Boycotts, Divestment and Sanctions Bill.

5. On the BDS Bill JD explained that the Communities Secretary already has a power under the Public Service Pensions and Judicial Offices Act 2022 to issue directions or guidance on investment decisions that conflict with UK foreign policy but that the power is unlikely to be exercised whilst the BDS Bill progresses through its Parliamentary stages. Members were also advised that the scope of the BDS Bill will be wider than the existing power under the PSPJO Act to cover all public bodies and purchasing and procurement as well as investment policies and decisions.

Agreed – That the committee noted the position as set out above.

Item 5 – SAB Forward Look

6. JD explained to members that after six years in operation the time was right for SAB to reviews its own scope, role, working methods and future workplan. A number of meetings with Board members have been held with an emerging consensus that SAB needs to be more proactive in its activities, work more closely with Ministers in taking forward its programme and to improve the way in which it communicates with scheme stakeholders.

7. Members were advised that a recommendation will go to SAB to set up a small steering committee comprising the Chair, Vice-Chair, an employer representative, and others to advise, to meet on a regular basis to better manage the Board’s activities and work programme. SAB will also be asked to agree a recommendation that it should publish an annual report of its activities, achievements and workplan to accompany the scheme annual report.

8. The Secretariat will prepare a paper for SAB to consider when it meets on the 6th June 2022.

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Agreed – That the committee noted the position as set above.

Item 6 – Code of Transparency Compliance Update – Paper B

9. Jonathan Hunt (JH) informed members that Paper B is updated at each committee meeting to give members information about the extent of compliance with the Code, using data from the SAB's Cost Transparency database, and to highlight any particular areas of concern.

10. Fiona Miller (FM) asked whether the high number of late templates was due to difficulties in obtaining data to complete private markets templates. In response, JH explained that the issue was more to do with templates being adapted to fit more closely with managers' systems, which led to them being rejected by the database when uploaded. Discussions with asset managers and Byhiras are ongoing to resolve the matter. JH stressed that this was a technical and procedural problem and that the data needed was available and that companies are happy to disclose it.

Agreed – That the committee noted the position as set out in Paper B

Item 7 – Letter from Michael Lynk/UKLFI

11. Bob Holloway (BH) presented Paper C and advised members that the Secretariat still awaited the additional information regarding the UN database that Michael Lynk undertook to provide at the meeting in January.

17. Members were further advised that in response to the SAB Chair's letter to UK Lawyers for Israel (UKLFI) explaining that attending the meeting in January is not to be taken as agreement with any of the statements made by Michael Lynk in his initial letter to administering authorities, UKLFI had responded by asking the Chair to amend the statement on the SAB website. After discussion with the LAPFF Chair, members were advised that a decision had been made not to engage further with UKLFI until such time that the information requested from Michael Lynk has been received or it is clear that it will not be sent. Michael Lynk's office has been chased twice for a reply but a response is still awaited.

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18. Rodney Barton (RB) asked whether Michael Lynk has lost interest in the matter. In response, BH said that the recent evidence suggests that that may be the case but that the same cannot be said for UKLFI.

Agreed – that the committee noted the position as set out above.

Item 8 – RIAG Chair's Report

19. Sandra Stewart (SS), RIAG Chair, informed members that the Group had been given an update on relevant Bills in the Queen's Speech including the Levelling Up and Regeneration Bill and Boycotts, Divestment and Sanctions Bill.

20. Members were also informed that the Group discussed at length the Michael Lynk letter and concluded that the lack of response from him was difficult to understand given the simplicity of the questions asked, and his apparent high level of interest in the scheme.

21. The Group also considered a recent High Court case (Butler-Sloss and others v Charity Commission for England and Wales and another) that may be of relevance to how fiduciary duty applies in the context of the LGPS.

22. SS reported that the rest of the meeting was given up to a discussion with DLUHC regarding the forthcoming public consultation on levelling up and TCFD reporting amongst other things. On levelling up SS explained that the consultation was now expected in the Autumn this year but that it was made clear to DLUHC that a better response would be achieved if a few of the major elements were separated out and consulted on earlier.

23. On TCFD reporting SS advised members that Oliver Watson (OW) from DLUHC had advised that the reporting framework would comprise four metrics, one of which would be on data quality. OW further explained that in earlier discussion with the group the intention was that the data quality metric would be optional but that the current view is that it should now be mandatory.

24. Councillor Robert Chapman (RC) urged DLUHC not to delay implementation of TCFD reporting longer than necessary as many fund authorities are delaying setting their net zero targets until the reporting framework is in place and guidance published. RC also referred to the case law mentioned at paragraph 21 above and asked whether this could assist in resolving any uncertainty around the fiduciary duty owed by LGPS pension committee members. In

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response BH explained that SAB had consulted on this back in 2019 but that no definitive answer had been forthcoming. JD further advised that the answer may become clearer during passage of the BDS Bill, should be matter be debated.

Agreed – that the committee noted the position as set out above.

Item 9 – DLUHC Regulatory Update

25. OW reminded members that the forthcoming public consultation is now likely to be published in the Autumn and will cover a range of elements including TCFD reporting, levelling up, the CMA Order and pooling guidance for administering authorities. In addition, a data collection exercise on how many assets have been pooled with the aim of creating a consistent scheme-wide picture of progress is proposed. It is not certain at this stage whether the data would be collected from pools as now, or collected by SAB.

26. FM asked OW if the request would be with the pools rather than funds. OW confirmed that that would be the case. FM then asked if the guidance would apply to pools. OW confirmed that this could not be the case and that the guidance could only apply to fund administering authorities.

Agreed – that the committee noted the position as set out above.

Item 10 – AOB and date of next meeting

27. BH advised members that Mark Wynn has decided to stand down from the committee to afford more time to the new Compliance and Reporting committee that he now Chairs. BH explained that an informal approach has been made to Jeffrey Dong, Deputy s.151 officer at Swansea Council to replace Mark as the Treasurer's representative on the committee. Members were advised that if Jeffrey declines the invitation administering authorities will be invited to put names forward with the committee then making a recommendation to SAB.

28. BH also advised members that Glyn Jenkins (UNISON) has replaced Colin Meech as a scheme member representative.

29. Date of the next meeting is 19th September 2022.

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