

# Cost Management, Benefit Design and Administration Committee

5<sup>th</sup> October 2020

Item 10 Paper C

## LOCAL PENSION BOARDS AND INDEMNITY COVER

### Issue

Whether SAB should review its position on the need for local pension board members to have indemnity cover and update its survey data held on uptake.

### Background

- 1.1 This paper seeks the committee's view on whether recommendations should be made to SAB to review its guidance on insurance cover for members of LGPS local pension boards.
- 1.2 In December 2015 SAB commissioned an opinion from James Goudie QC regarding the legal status of local pension boards and, in particular, whether boards are committees of a local authority for the purposes of the Local Government Act 1972. Subject to his conclusion, James Goudie was then asked to opine on whether local pension board members are covered by their local authority's indemnity cover. A full transcript of the opinion can be found at [http://lgpsboard.org/images/Guidance/Pension\\_Boards\\_opinion.pdf](http://lgpsboard.org/images/Guidance/Pension_Boards_opinion.pdf)
- 1.3 On the question of indemnity cover James Goudie concluded:-  
  
“(1) Given that a Pension Board is a creature of the 2013 Act and not a council committee, the council's indemnity insurance will not automatically cover the Pension Board's membership;  
  
(2) There may nonetheless be circumstances in which the Pension Board's members would be potentially liable. Therefore –  
  
(i) The Council should extend its insurance, or  
  
(ii) The Pension Board should procure its own insurance.”
- 1.4 Based on this conclusion SAB has maintained the position that individual local pension boards should assess whether indemnity cover is needed and where this is the case, to enter into discussions with their administering authority to determine whether its existing indemnity

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cover can be extended to include members of local pension boards. Where that is not the case, a local pension board would need to procure its own insurance from the market.

- 1.5 A small number of local pension boards and administering authorities continue to seek clarification from SAB on whether indemnity cover for local pension board members is required, the latest being from the Wiltshire Pension Fund who ask SAB whether they have reviewed the legal opinion given in December 2015 and, in addition, whether SAB would undertake a survey to assess the number of local pension boards who have taken out some form of indemnity cover and in those cases, whether any claims have been made.

## Consideration

- 2.1 Having considered the matter carefully, the Secretariat can find no compelling reason to question the opinion given by James Goudie in December 2015 and would recommend to the committee that SAB's position on indemnity cover set out in paragraph 1.4 above should not be reviewed.

## Conclusion and Recommendation

- 3.1 Five years on from the legal opinion there would appear to be good reason for SAB to update its knowledge base on the extent to which local pension boards have taken out some form of indemnity cover and to request details of any claims that have been made under such cover.
- 3.2 In 2017 SAB undertook a comprehensive survey of local pension boards. A follow up survey has been agreed by SAB which is ready for circulation and which includes a question on indemnity cover. It does not however, seek any information on any claims made by local pension boards. The committee is therefore asked to consider whether a small amendment to the survey should be made to include this additional question.

**Recommendation – that the committee agrees that a question to identify whether any claims have been made by local pension boards under their indemnity cover should be included in the survey.**