

Investment, Governance and Engagement Sub Committee

MEETING 12TH OCTOBER 2020 ITEM 2 PAPER A

ACTIONS AND AGREEMENTS

MS TEAMS MEETING HELD ON 13th JULY 2020 – 1.00pm to 3.00pm

PRESENT

Cllr Yvonne Johnson	Chair
Cllr Robert Chapman	LAPFF
Peter Wallach	Practitioner
Rodney Barton	Practitioner
Mark Wynn	Practitioner
Pete Moore	CIPFA
Colin Meech	Members (Unison)
George Georgiou	Members (GMB)
Annemarie Allen	Actuaries (Barnett Waddingham)
Keiran Harkin	Actuaries (Mercer)
Matt Woodman	Actuaries (Hymans)
Mary Lambe	Actuaries (Aon)
Teresa Clay	MHCLG
Fiona Miller	Pool Operating Companies
Jeff Houston	Head of Pensions, LGA
Bob Holloway	Pensions Secretary, LGA
Liam Robson	SAB Secretariat, LGA

APOLOGIES

There were no apologies. All other members (or substitutes) were present.

1. Welcome, introductions and declarations

The Chair welcomed all in attendance and introduced Fiona Miller from Border to Coast as the pool operating companies representative. There were no declarations of interest.

2. Actions and agreements from meeting of 13 January 2020

Under Item 8 (AOB) Bob Holloway (BH) reported that in February 2020 SAB had expressed disappointment that three of the eight asset pools still refused to extend their joint committee arrangement to include scheme member representatives. A decision was taken to revisit the matter as part of MHCLG's re-consultation on pooling

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statutory guidance. The minutes of the meeting on the 13th January 2020 were agreed.

3. Supreme Court Judgement

Jeff Houston (JH) introduced Paper B and reported that following the Supreme Court's judgement being handed down in April SAB had agreed a short statement welcoming the judgement and concluding that responsible investment policies belong at the local level. Reference was also made to SAB's decision to prepare a summary of the judgement in conjunction with the Board's legal adviser. The summary was published on the SAB web site on the 8th June.

JH explained that the judgement was helpful in confirming the independence of the scheme but that there was far less clarity on who owns the scheme and the fiduciary duty owed by elected members.

Members were also advised that a standard form of wording had been agreed to assist fund authorities when replying to enquiries from the media and special interest groups.

George Georgiou (GG) asked for clarity on what the judgement said about who owns the funds' money? JH responded by saying that this is one of many questions that remain less than clear but that the judgement had made it clear that it was not the government's money and that the scheme was not an instrument of the state.

Teresa Clay (TC) confirmed that there is no appeal against a Supreme Court judgement.

Councillor Robert Chapman (RC) asked how the continuing issues around fiduciary will be resolved. JH explained that Nigel Giffin QC has been invited to re-visit his earlier legal opinion on fiduciary duty in the light of the Supreme Court's judgement. Reference was also made to the legal opinion commissioned by one of the asset pools that is understood to have reached a different conclusion from that of Nigel Giffin. The intention is later in the year for a meeting with both QC's to explore the scope for common ground on what constitutes fiduciary duty in the context of the LGPS.

4. Responsible Investment A to Z Guidance

BH introduced Paper C and made specific reference to Annex A which set out in detail the proposal for bringing forward online A to Z responsible investment guidance as agreed by SAB when it met in April 2020. Members were advised that SAB's decision in April to change direction away from guidance on roles and responsibilities to

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an online responsible investment toolkit was based on the continuing lack of clarity on fiduciary duty and various issues raised by the Supreme Court judgement.

BH also explained that a way will be found to include a summary of the statutory responsibilities of elected members in the A to Z guidance but leaving aside any reference to fiduciary duty.

Mary Lambe (ML) made reference to Annex A of Paper C and asked who members of the Responsible Investment Advisory Group (RIAG) were. JH explained that the group had yet to be established but that membership would be representative of all LGPS stakeholders.

Fiona Miller (FM) referred to the importance of involving asset pools in the group.

Agreed – the committee agreed that the proposal set out in Annex A to Paper C should go before SAB when it meets on the 10th August with the recommendation that it should be approved.

5. Cost transparency/Compliance - Update

Liam Robson (LR) introduced Paper D and provided an update on progress of the online reporting arrangement provided by Byhiras released in April 2020.

LR advised members that as at June 2020 46 investment managers had set up 1023 schedules and uploaded 922 templates.

FM asked for more details about the validation process and to explain status shown as being late. LR confirmed that the system had built in validation rules, but that LGPS funds should use the information provided to engage with their managers. Templates expected as at 30 June (for year ended 31 March) would now be shown as late. LGPS pools are both data clients and data providers and had been set up on the system as such.

Pete Moore (PM) invited members to send any comments on the CTI templates to him as this will be on the CIPFA Pension Panel's agenda for their meeting on the 20th July and also asked if there has been any feedback on the ease of use of the online system. LR responded by confirming that most of the difficulties resulted from validation errors with the template which many of the more recent signatories to the Code were working through. JH made the point that the impact of covid-19 on the working arrangements of fund managers together with the well acknowledged auditing issues should not be underestimated.

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FM highlighted the importance of getting this right despite the amount of data issues that are being identified which could take a number of years to resolve.

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

6. Good Governance - Update

BH) explained that in April SAB had decided to stand down the Phase III Implementation Group during the covid-19 emergency but agreed that the project team at Hymans Robertson should continue to prepare draft papers for the Board's consideration without any direct engagement with group members.

However, following discussions with a number of S.151 officers in late June, it was agreed that the project team could renew direct engagement with group members on a one-to-one basis. BH explained that the intention remains for the project team to present a number of draft papers for consideration by SAB when it meets on the 10th August.

Agreed – That the committee noted the position as outlined above

7. MHCLG Update

TC referred to three main areas of work of interest to the committee:-

- **McCloud** – members were advised that MHCLG is confident that the statutory consultation on the McCloud remedy for the LGPS, including draft regulations, will be issued before Summer recess on the 22nd June.
- **Government Response** – it is also hoped that the government's response to the statutory consultation issued in May last year on valuation flexibilities and employer exit payment flexibilities can be issued before Summer recess with regulations perhaps to follow in the autumn.
- **Pooling statutory guidance** – TC confirmed that there remains a commitment to publish statutory guidance on pooling but not in the same form as last year's version. In the light of the Supreme Court judgement there are questions over the extent to which change can be implemented via statutory guidance. Regulatory changes may be necessary, but Ministers have yet to take a view on how to proceed.

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TC also made reference to the Pension Schemes Bill and the provisions on climate change risk. The committee was invited to submit their views on how this could be taken forward in the context of the LGPS.

8. Committee membership

BH advised members that the Government Actuary's Department has asked the Secretariat if a seat on the committee was possible given their wide ranging interests on valuation, section 13 and ESG matters. Without exception members were fully supportive of the request.

Agreed – That the committee agreed to recommend to SAB that a seat on the committee should be made available for a representative from the Government Actuary's Department.

9. AOB

BH advised members that the PLSA has agreed to engage with the Secretariat on the findings of their working group established to prepare guidance for trustees on their new disclosure responsibilities. Two draft papers on a standard voting template and on implementation standards have been prepared and BH undertook to circulate copies to members after the meeting. Members were invited to submit any comments to the Secretariat on potential areas of interest or common ground for the LGPS.

Agreed – That the committee noted the position as outlined above

GG asked whether the McCloud policy group would be convened when the consultation documents are published. JH confirmed that this would be the case.

10. Date of Next Meeting

The date of the next meeting was confirmed as 12th October 2020.

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