

Cost Management, Benefit Design and Administration Committee

Meeting – 12th April 2021

Item 3 Paper A

ACTIONS AND AGREEMENTS

VIRTUAL MEETING HELD ON 11th January 2021 – 11.00am

PRESENT

George Georgiou	Members (GMB)	Chair
Sean Collins	Practitioners	
Kevin Gerard	Practitioners	
Emma Mayall	Practitioners	
Rachel Brothwood	CIPFA	
Glyn Jenkins	UNISON	
Graeme Muir	Actuaries: Barnett-Waddingham	
Michelle Dorman	Actuaries: Mercer	
Alison Murray	Actuaries: Aon	
Catherine McFadyen	Actuaries: Hymans Robertson	
Con Hargrave	MHCLG	
John Bayliss	GAD	
Jenny Bullen	GAD	
Jeff Houston	LGA - Board Secretariat	
Robert Holloway	LGA - Board Secretariat	

1. Welcome, introductions and declarations of interest

The Chair welcomed all in attendance to the meeting. There was one apology from John Neal (UNITE) and no declarations of interest.

2. The Chair set out handling arrangements for the virtual meeting.

3. Matters arising

The Committee agreed the minutes for the previous meeting held on the 5th October 2020.

4. 95K Cap and Further Reforms

Jeff Houston (JH) provided an update on the impact the continuing delay in changes to LGPS regulations to implement HM Treasury's

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exit payment regulations is having, in particular, on the redundancy programmes of local authorities.

Discussions are continuing with the Pension Ombudsman on the handling of complaints. At a recent meeting their legal team suggested that benefit decisions to scheme members that entailed a 95K cap should make it clear whether the payment has been made in accordance with either the government's recommendation or in accordance with scheme regulations. It was also confirmed that the IDRP process would need to be exhausted before any complaint could be taken by the Pensions Ombudsman. It was also pointed out that cases could not proceed until the three judicial review cases have been settled unless the complaint relates to an unrelated matter, for example, maladministration.

All three judicial review cases have been given permission to be heard on all the grounds submitted by the various parties. But the key ground as far as the LGPS is concerned is what effect HM Treasury's exit payment regulations have on the LGPS' scheme regulations. The two day hearing is expected to take place some time after the 16th March.

Con Hargrave (CH) confirmed that no work on MHCLG's further reform regulations would be undertaken until the judicial review cases and any subsequent appeal cases have been settled. The delay will afford more time for consultees to consider the draft regulations.

Sean Collins (SC) asked what payments under Regulation 8 of the exit payment regulations should employers make? JH confirmed that this was a matter for employers to determine and could depend on, the outcome of the JRs.

Glyn Jenkins (GJ) reported that he was happy that the further reform regulations will be delayed given that many employers remain confused and unclear about their implications. Further communications even in cases where potential payments are well below £95k would be welcome. JH confirmed that further employer guides are being prepared.

JH asked the actuarial firms present whether standard strain cost factors are being used.

Graeme Muir (GM) from Barnett Waddingham said that they are waiting for factors from the Government Actuary's Department (GAD).

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Catherine McFadyen (CM) from Hymans Robertson reported that some funds were still making their minds up.

Michelle Dorman (MD) from Mercer agreed to check and report back.

Kevin Gerard (KG) reported that not many Welsh funds are applying the standard factors believing GAD's factors to result in costs that are too low.

Emma Mayall (EM) reported that some funds were adopting hybrid solutions.

George Graham (GG) reported that work is likely to be held up until after the various judicial review cases have been settled.

Agreed – that the committee noted the situation as described above.

5. McCloud

JH reported that HM Treasury will be introducing changes to the Public Service Pensions Act 2013 to enable scheme regulations to be compliant with the McCloud remedy provisions. Efforts are still being made to introduce the LGPS' regulations on remedy ahead of those of the unfunded schemes but CH confirmed that MHCLG is unaware of any plans on when they might be introduced. Discussions will however continue on whether the LGPS can go ahead under existing powers.

CH also confirmed that a Written Ministerial Statement on the LGPS remedy is expected shortly.

CH reported that draft LGPS regulations should be available in the Spring and that SAB would be consulted beforehand.

GG advised members that deferring implementation of remedy until 2023 would be a nightmare.

JH reminded members that consideration of the SAB cost management process can only commence once HM Treasury Directions are published, probably in the early Spring. John Bayliss (JB) said that he was unaware of when publication is likely.

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Agreed – that the committee noted the situation as described above.

6. SAB Guide to employer flexibilities

BH explained that to assist administering authorities and scheme employers to implement and operate the new flexibilities introduced in September 2020 MHCLG is aiming to publish high level statutory guidance at the end of January 2021 following a short technical consultation. The guidance will cover all three new flexibilities, that is, review of employer contributions between valuations, debt spreading and deferred debt arrangements.

At the same time SAB has re-convened the Practitioners Group to assist in the preparation of more detailed operational guidance with separate sections aimed at administering authorities and scheme employers.

Draft copies of both MHCLG's statutory guidance and SAB guidance were circulated to all administering authorities, Practitioner Group members and MHCLG for final comment with a deadline for comments of the 19th January.

The aim is for both sets of guidance to be published at the same time as soon as possible after the end of January 2021.

Agreed – that the committee noted the situation as described above.

7. Good Governance Project Update

Bob Holloway (BH) explained that the completion of final papers for consideration by the committee and SAB continued to be affected by the covid emergency and the unavailability of key members of the implementation group.

The aim remains for the project team at Hymans Robertson to be ready for final papers to be considered by SAB when it meets on the 8th February and if time allows, for committee members to have sight of them beforehand for comment.

Agreed – that the committee noted the situation as described above.

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8. External Audit & Redmond Report

BH reported that discussions are ongoing between the Secretariat and the CIPFA Pensions Panel regarding a response to the recommendations made in the Redmond Report on improving the external audit function in so far as it impacts on both local authority and LGPS pension fund accounts.

MD reported that their client funds are experiencing more queries from their external auditors, many of which are of a trivial nature. In some cases, external auditors are insisting that McCloud remedy costs are included even though at the present time this cannot be done on any reliable basis.

Rachel Brothwood (RB) agreed that the problem is very substantial resulting from external audit being under resourced through the regulated fee structure.

Agreed – that the committee notes the position as described above.

9. MHCLG Update

CH reported that most of the key issues on 95K Cap and McCloud had already been covered earlier in the meeting. But in addition, there are several other policy matters that remain on MHCLG's radar including the proposed move to a four yearly valuation cycle; the move of HE/FE bodies to Schedule 2 of the regulations and various equality issues.

Members were also advised that a new member of the pension's team at MHCLG, Oliver Watson, will be joining shortly from Ministry of Justice to work principally on the investment side of the team's work.

GJ asked whether New Fair Deal could be pushed further up MHCLG's agenda and whether a meeting would be helpful to resolve any outstanding legal issues. CH agreed to consider the request.

Agreed – that the committee noted the situation as described above.

10. AOB

BH reported that a few funds have expressed concern about Multi Academy Trusts (MATs) seeking to merge all their schools into a

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single fund and the effect that this could have on funding positions and cash flow. Members were advised that the Secretariat would continue to monitor the position and report back to the committee on developments.

Agreed – that the committee noted the situation as described above.

11. The date of the next meeting is on the 12th April 2021.

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