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London Borough of Haringey Pension Fund

Update on Scheme Advisory Board project
Good Governance in the LGPS

A paper by the Independent Advisor
September 2019

Introduction

The purpose of this paper is to update the Pensions Committee and Board on the Scheme Advisory Board project – Good Governance in the LGPS. As reported in previous papers (Pensions Committee and Board, 21 January 2019, Item 10, Appendix 1 and Pensions Committee and Board, 11 July 2019, Item 12, Appendix 1) the Scheme Advisory Board (SAB) invited proposals from interested parties to assist it in developing options for change with regard to the relationship of LGPS Pension Funds to their existing host authorities. Hymans Robertson were awarded the contract to work with the SAB and have completed work leading to a report to the SAB the final version of which was released on 31 July 2019.

Process adopted by Hymans Robertson

Following an initial fact-finding stage involving a sample of key stakeholders from across the LGPS Hymans Robertson issued an online survey to over 300 stakeholders on four Models in respect of possible governance structures which may be summarised as:

1. **Model 1 – Improved Practice:** Introduce guidance or amendments to the LGPS Regulations 2013 to enhance the existing LGPS governance arrangements by making more explicit recommendations regarding the operation of local LGPS Funds. This might include Scheme Advisory Board (SAB) guidance on minimum expected levels of staffing and resourcing and representation on Pensions Committees together with amendments to the LGPS Regulations to enhance the consultation in respect of the Funding Strategy Statement (FSS) and Investment Strategy Statement (ISS).

2. **Model 2 – Greater ring fencing of the LGPS within existing structures:** Greater separation of the Pension Fund management from the host authority (Administering Authority). This would likely include a Pension Fund Budget set by the Pensions Committee at the start of the year with reference to the Pension Fund's Business Plan and needs. Any changes to the budget would need to be approved by the Pensions Committee. The Section 151 Officer could remain responsible for the pensions function but recommendations on the Pension Fund Budget would be made by a Pension Fund Officer to the Pensions Committee. Provision for charges from the host authority such as legal support or HR would be in the Pension Fund Budget and not be simply recharged at the host authority's discretion. Under this model decisions over certain Human Resource matters could potentially be taken by the Pensions Committee.
3. **Model 3 – use of new structures: Joint Committee (JC):** Rather than the existing arrangement where the decision making is exercised by the Administering Authority (in this case the London Borough of Haringey) usually through a Pensions Committee, responsibility for all LGPS functions would be delegated to a Joint Committee. As London Borough LGPS Funds (with one exception) consist of only one major local authority a Joint Committee structure would only make sense in London if it comprised of a number of London Boroughs who presently each operate their own LGPS Fund.
4. **Model 4 – use of new structures: New Local Authority body/ Combined Authority (CA):** Under this model an independent structure with the Scheme Manager function (equivalent to the Administering Authority responsibility) would be established. This might be through a "Combined Authority" and all Pension decision making would be made by this "Combined Authority (CA)." The CA would be a local authority in its own right and a separate legal entity but responsible only for LGPS matters. If this option were adopted in London it would only make sense if each CA took over the functions of a number of London Borough LGPS Funds. The CA would consist of Councillors from the Councils (in the case of London the London Boroughs) within the geographical area covered by the CA. Other Employer and Employee representatives may also be included in decision making. There is one example of a Combined Authority in the LGPS at present which is the South Yorkshire Pension Fund which covers the geographical areas of Barnsley, Doncaster, Rotherham and Sheffield Metropolitan Borough Councils.

The survey was supplemented by Hymans Robertson through other activities including interviews, seminars and conversations with professional bodies. 140 responses were received to the online survey by the closing date. One to one interviews were carried out with both individuals and organisations. Organisations included the National Audit Office, CIPFA, Unite and Unison. Representatives of all 87 LGPS Funds (Administering Authorities) in England and Wales were invited to respond to the consultation undertaken by Hymans Robertson and direct feedback from representatives of 76 of these was received.

The findings from this activity formed the basis of a final draft report presented to the Scheme Advisory Board at its meeting held on 8 July 2019. The final report was subsequently published by the SAB on 31 July 2019. In responding to the online survey respondents were asked whether each of the four models would have a positive or negative impact on each of six criteria:

- Standards
- Clarity
- Conflict
- Consistency
- Representation
- Cost

Results and conclusions from the Hymans Robertson research activity

The online survey indicated a preference for Model 2 (greater ring fencing of the LGPS within existing structures) followed by Model 1 (improved practice) while the Hymans Robertson report states that *“Model 2 was also the clear preference in additional surveys at the PLSA conference in May and other events (Models 1 and 2 between them had more than 70% support).”*

In their feedback to Hymans Robertson *“many stakeholders pointed out that their existing models provided many of the features and benefits of Models 1 and 2.”* Also, however, respondents *“recognised that in order to achieve governance improvements through Models 1 and 2, the governance regime needs to include independent monitoring or review of local fund arrangements.....”*

There was little support for Model 3 (Joint Committee), which was the least favoured option. This was perceived to be both complex to establish and manage, and unlikely to provide improved governance outcomes. Model 4 (New Local Authority/Combined Authority) received minority support but with the majority of respondents considering this model to be *“very expensive and disruptive to implement.”*

The feedback received by Hymans Robertson resulted in them concluding that:

- *“.....governance structure is not the only determinant of good governance.....”*
- *“Survey respondents were also clear that establishment of new bodies is not required..... Instead the focus should be on greater specification of required governance outcomes from within the existing structures and a process to hold funds to account for this.”*
- *“Respondents favour developing a set of standards that all funds are required to achieve, drawing on current best practice and not.....disrupting current practices that deliver good outcomes already.”*
- *“Respondents emphasised that independent review is needed to ensure consistency in application of standards.”*

Proposals

Consequently, Hymans Robertson did not favour or propose specific consideration of any of the four Models of governance in respect of which stakeholders had been asked to provide feedback. Rather Hymans Robertson *“informed by feedback from stakeholders”* made four proposals for consideration by the SAB also stating *“many are things which well-run funds already do.”* In respect of each proposal Hymans Robertson explained why it was made and listed *“Suggested actions”* for SAB, CIPFA or the MHCLG. The proposals are:

1. **‘Outcomes-based’ approach** to LGPS governance with minimum standards rather than a prescribed governance structure.
2. **Critical features of the ‘outcomes based’ model** to include:
 - a. Robust conflict management including clarity on roles and responsibilities for decision making.
 - b. Assurance on sufficiency of administration and other resources (quantity and competency) and appropriate budget.
 - c. Explanation of policy on employer and scheme member engagement and representation in governance.
 - d. Regular independent review of governance.
3. **Enhanced training requirements** for Section 151 (Chief Finance Officers) and Section 101 (Pension) Committee members with training requirements for Pension Committee members on a par with Local Pension Board members.

4. **Update relevant guidance and better sign-posting** including suggestions that CIPFA review and update guidance for Section 151 (Chief Finance) Officers in respect of LGPS governance and that the MHCLG review and update Statutory Guidance on LGPS governance issued in 2008.

Scheme Advisory Board response

At the meeting of the Board of the SAB held on 8 July 2019 it was agreed that the SAB Secretariat (Officers) should in liaison with the project team from Hymans Robertson and Scheme stakeholders develop a detailed plan to implement the conclusions from the Hymans Robertson report for presentation to the November meeting of the SAB. Two working groups are to be established. One will focus on defining good governance outcomes and necessary associated guidance (the Standards and Outcomes Workstream). The other will consider options for the independent assessment of outcomes (the Compliance and Improvement Workstream). Each group will include a wide range of Scheme stakeholders. It is intended that an options report, which includes implementation proposals, will then be considered at the November 2019 Board meeting of the SAB.

The SAB have stated that any proposals then agreed by the Board would be subject to a full stakeholder consultation prior to any formal approach to the MHCLG for changes to the LGPS Regulations or Statutory Guidance. Consequently, it would appear that the SAB will not make any proposals to the Government until sometime in 2020.

Independent Advisor's comments and conclusion

It is pleasing to observe that Hymans Robertson clearly very carefully considered the feedback they received from many LGPS stakeholders and rather than seeking to simply promote or recommend one (or more) particular Model(s) chose to utilise the feedback received to conclude that there should be a focus on *".....greater specification of required governance outcomes.....and a process to hold funds to account for this"* The Proposals made by Hymans Robertson in their report seek to enable such an approach to be successfully implemented and improvements made without disrupting current good practice. As Hymans Robertson state in their reasoning for an **'outcomes-based approach'** *"Focussing on the desirable traits and outcomes expected of LGPS governance will enhance governance in a more reliable and cost-effective manner than prescribed changes in structure."*

Such an approach however requires an assurance regime. There is no doubt that any self-assessment regime has very clear potential weaknesses, for example in terms of objectivity and internal organisational pressure. It is proposed, however, that regular independent review of the governance of each LGPS Fund be undertaken to provide, in the words of the Hymans Robertson report, *"a more objective view."*

Given that a further report on Good Governance in the LGPS will be presented to the SAB in November 2019 and then any proposals agreed by SAB from this further report will be subject to a full stakeholder consultation it is clear that the implementation of any changes to the governance of the LGPS arising from the Good Governance in the LGPS project will be subject to a very significant time delay. This is because not only do both the SAB and CIPFA need to undertake material work in relation to the Proposals made by Hymans Robertson, and then consult LGPS stakeholders on this further work, but any Proposal which involves a change to the LGPS Regulations or Statutory Guidance would need to be referred to the MHCLG.

The MHCLG would have to consider the suggested changes and then formulate draft amendments to the LGPS Regulations and/or Statutory Guidance. The amendments proposed by MHCLG would then require to be consulted on through a Consultation which is normally open for 12 weeks. The MHCLG would then need to consider all responses received, publish a response and issue the final Statutory Guidance, or if amendments to the LGPS Regulations are required publish a Statutory Instrument. Under Government Consultation Principles issued in 2018 a period of up to 12 weeks is normally allowable for a Government Department to respond to a Consultation. Consequently, it is unlikely that changes to the governance of the LGPS arising from the Hymans Robertson report Proposals will come into effect until late 2020 at the earliest.

In conclusion, it appears that as a result of the work undertaken by Hymans Robertson the existing arrangements whereby the LGPS is administered by 87 separate Administering Authorities across England and Wales will continue. In addition, it appears that rather than seek to impose a “one size fits all” approach to the future governance of the LGPS the SAB is now working towards enhanced governance across the LGPS utilising an “Outcomes based” approach with minimum standards rather than a particular governance structure or structures, but which is assured by regular independent review.

John Raisin

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Note: The Hymans Robertson Report “Good Governance in the LGPS, July 2019 can be accessed at <http://www.lgpsboard.org/images/PDF/GGreport.pdf>

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