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CT/13/26
Investment and Pension Fund Committee
7 June 2013

LGPS SCHEME GOVERNANCE

Report of the County Treasurer

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: That the Committee notes the passing of the Public Sector Pensions Act and the ongoing review of LGPS Scheme Governance.

1. Introduction

1.1 The legislative framework for most public sector pension schemes was effectively created in its current form in the Superannuation Act 1972. Subsequent secondary legislation has created the structure of the Local Government Pension Scheme (LGPS).

1.2 The Public Sector Pensions Act ('the Act') received Royal Assent on 25 April 2013 and builds on, but does not replace, the existing legislation above. The Act implements the recommendations of the Independent Public Service Pensions Commission report (the 'Hutton Report') published in 2011. Following consultation with trade unions and employers the agreed outcome was a new legal framework for public sector pensions introducing:

- Career average linked pensions
- A link between normal retirement age and state pension age
- An employer cost cap
- Revised arrangements for scheme governance

1.3 The Act is a framework piece of legislation to ensure more consistency between schemes, and so does not contain detail of individual scheme designs. The intention is that scheme designs will be set out in further regulations and scheme rules in due course. The detailed benefit regulations for the new LGPS 2014 scheme are currently subject to a series of consultations between DCLG, employers and trade unions.

2. Proposed Changes to Governance

2.1 The Act also provides a standard governance framework within which all public sector pension schemes should operate. In summary, the Act introduces a list of new governance groups:

- Scheme Advisory Board – to make recommendations to the Secretary of State, the Pension Regulator and local boards on the effective governance, administration, performance and cost management of the scheme
- Pensions Board – to assist the Scheme Manager in securing the effective and efficient governance and administration of the pension scheme. The Act requires that the Board must have an equal

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number of employer and member representatives, and that members must not have a conflict of interest. For local authorities the Act allows for the Board to be an existing committee so that the committee could have the dual role of Scheme Manager and Pensions Board.

- Scheme Manager – to be responsible under the regulations for managing and administering the pension scheme. The Act makes clear that for the LGPS this will be the relevant administering authority.

2.2 This framework is an important development for the unfunded pension schemes as these have typically had little or no formal governance structure other than through direct control by the relevant Government department. The terminology is also logical for the unfunded schemes as these effectively have one employer for the whole scheme. However, the LGPS scheme has long had a well-developed governance structure. Also, the LGPS includes many employers and Funds. DCLG have therefore been tasked with applying the Act's governance framework to the LGPS.

2.3 A shadow scheme advisory board has been formed by the Local Government Association and trade unions to assist DCLG prepare its formal consultation on governance arrangements. It is expected that this consultation exercise will run over the summer of 2013. There will then need to be the normal rounds of draft and final legislation, probably followed by the issuing of statutory guidance. There may also be a transitional period in which the actual governance changes can be made. The implementation of any new governance arrangements may therefore be some way away, with DCLG suggesting legislation will not be until 2015.

2.4 DCLG have made it clear that the statutory responsibility for the LGPS as a whole will still rest with the Secretary of State of CLG. The governance arrangements of individual Funds are also likely to be left largely to individual administering authorities.

3 Potential areas for discussion during the consultation

- 3.1 While no firm proposals have yet been made, there are a range of matters which will need to be considered during the consultation on scheme governance:
- How administering authorities should meet the requirement to have a local Pensions Board as well as a Scheme Manager. There are a range of potential options such as creating a new Board to sit above the existing Committee (similar to a scrutiny committee); allowing the Committee to perform both roles; or making the Committee the Pension Board to oversee the work of a smaller operational group. It is possible that the decision over which option should apply could be left to individual authorities.
 - Will the Pension Board need to be a formal Council Committee
 - How conflicts between the two functions are resolved
 - What training and skills are required to sit on relevant groups
 - Is there a need for a separate Scheme Advisory Board given that other groups already perform a similar function, how will it be funded (possibly by a levy on Pension Funds), how are Funds represented, what relationship it would have with DCLG.

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- How advice will be given to authorities by the Scheme Advisory Board. Will this be directly through published guidance and league tables, or indirectly through DCLG or groups such as CIPFA.
- The role of The Pension Regulator in relation to LGPS Funds.

4 Other scheme developments

- 4.1. DCLG have launched an informal 'call for evidence' on the question of LGPS Fund sizes, potential mergers and cost management. This appears to be the result of lobbying by the London Pension Fund Authority following a debate about the future of the smaller London Funds. Unfortunately there is no further detail available as to how the call for evidence will be reported, although the Committee will be kept informed of progress. Brandon Lewis, the DCLG Minister, stated in a recent NAPF conference that:
- he is 'not wedded to the existing number of 89 funds', and
 - 'the scheme could benefit from a smaller number of optimal funds',
 - the government anticipates 'a clear way forward' by May 2014, although legislative changes could take much longer
 - 'between 1 and 5' funds may be appropriate.
- 4.2. Partly related to this, there has been wider media coverage of investment costs and the potential for fund mergers. A front page article in the Financial Times noted the varying costs across funds of similar size in the LGPS. The Devon Pension Fund was shown to have lower costs relative to funds of a similar size. However, the Committee should note that it is difficult to make meaningful comparisons between different strategies and there are no simple explanations of the different costs across funds.
- 4.3. The Government have also been reviewing the 'Fair Deal' arrangements which protect the pension arrangements of public sector staff when they are TUPE transferred. It is expected that the Government will be announcing a decision in the near future. Again, the Committee will be informed of the results at a future meeting.

5. Conclusion

- 5.1. The Committee should note that DCLG intend to begin a consultation exercise during 2013 on how the governance arrangements of LGPS Funds may need to adapt to comply with the Public Sector Pensions Act. Once DCLG issue their findings the Committee can consider how to apply the new requirements to the Devon Pension Fund.

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Electoral Divisions: All

Local Government Act 1972

List of Background Papers – Nil

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