

**KG/EH**

**5<sup>th</sup> August 2013**

**Kevin Gerard**

**01267 224157**

LGPS Regulations  
Department for Communities and Local Government  
Zone 5/G6 Eland House  
Bressenden Place  
London  
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Dear Mr Perry,

**LGPS Governance Consultation**

I refer to the above consultation issued on 20<sup>th</sup> June 2013 and for ease of reference have replicated the 26 questions posed before each response. This response reflects both Employer and Administrating views/opinions.

1. What period, after new governance regulations are on the statute book, should be given for scheme managers/administering authorities to set up and implement local pension boards?
  - It would be appropriate due to Governance Regulation being laid before Parliament in early 2014 and the implementation of the LGPS 2014 that administering authorities have until 31<sup>st</sup> March 2016 to establish pension boards. This would also facilitate the national scheme advisory board having appropriate timescales to issue guidance and remits.
2. How long after new governance regulations are on the statute book should the national scheme advisory board become operational?
  - The national scheme advisory board should become operational and issue guidance to administering authorities

by 31<sup>st</sup> March 2015, this should include the structure and individuals who should present at meetings.

3. Please give details of any such “connected” scheme that you are aware of.
  - Not aware of any connected schemes.
  
4. Are there any schemes connected to the main Local Government Pension Scheme, other than an injury or compensation scheme, that the new Scheme regulations will need to refer to in setting out the responsibilities of scheme managers?
  - Not aware of any connected schemes.
  
5. What “other matters”, if any, should we include in Scheme regulations to add to the role of local pension boards?
  - None.
  
6. Should Scheme regulations make it clear that nobody with a conflict of interest, as defined, may be appointed to or sit on a pension board?
  - At the time of appointment the member may not have a conflict of interest. It is important to ensure that there is a robust process and procedure to deal with the circumstances where there is either a short term or long term conflict of interest. A short term conflict of interest may be resolved by the conflicted trustee not taking part in the decision making process.
  
7. Should Scheme regulations prescribe the type of information that may be “reasonably required”?
  - The regulation should prescribe the information a board member must reasonably expect to provide when there is a conflict of interest. The onus would be on the member to declare any conflict of interest on any agenda items prior to a pension board meeting.
  
8. Although not required by the Act, should Scheme regulations prescribe a minimum number of employer and employee representatives?

- The regulation should not prescribe a minimum number of employer and employee representatives as it may be impossible for some funds to meet these requirements.
9. Should the new Scheme regulations require local pension boards to be a body separate from the statutory committee or for it to be combined as a single body?
- If the current single committee structure was to remain it would be inappropriate for the same committee to scrutinise its decisions and actions therefore separate bodies should be set up. However this would result in additional resources (time and financial).
10. Apart from what is required under the Act, what other elements of local pension boards should be set out in the new Scheme regulations?
- The regulations should specify how scheme member representatives and employers are nominated, for example, it could be done by ballot, however, it must be ensured that there is a cross section of employer representation. The regulations must also specify who should attend the meetings to ensure consistency nationally. The regulations should specify the minimum number of meetings to be held per annum and an annual training plan.
11. Apart from what is required under the Act, what other elements of local pension boards should be left to local determination?
- The minimum number of 3 meetings per annum would be specified in the regulations, any meetings in excess of this should be left to local determination, composition of elected member representation should also be determined locally.
12. Should the new Scheme regulations prevent any incumbent scheme member representative being moved from a statutory committee to the local pension board (if the committee and the board are not one and the same body)?

- The regulations should not prevent any scheme member movement as they may have the skills, knowledge and experience which could be utilised by the Pensions Board.

13. Should the new Scheme regulations include a requirement for each local pension board to publish an annual statement of its work and for this to be sent to the relevant scheme manager, all scheme employers, the scheme advisory board and Pensions Regulator?

- An annual statement of the pension boards' work should be included in the fund annual report. This would include training undertaken, conflicts of interest, etc. and should be published on the fund website.

14. Apart from the training and qualification criteria that may be covered by the Pensions Regulator in a code of practice, are there any specific issues that we should aim to cover in the new Scheme regulations as well?

- None.

15. Should Scheme regulations simply replicate the wording of the Act? If not, what specific areas of work should the new Scheme regulations prescribe?

- I am content with replicating the wording within the act for the scheme advisory board as long as the replication is supplemented by additional clarification within the regulations to avoid any ambiguity arising in the circumstances described.

16. Should Scheme regulations include a general provision enabling the scheme advisory board to advise the Secretary of State on the desirability of changes to the Scheme as and when deemed necessary?

- If the scheme advisory board is going to propose scheme amendments to CLG it should only be done following consultation with all stakeholders.

17. Are there any specific areas of advice that Scheme regulations should prohibit the scheme advisory board from giving?

- Advice should be restricted to regulatory change and not structural change.

18. What options (if any other, please describe) would be your preference for establishing membership of the scheme advisory board?

- Our preference would be for the shadow scheme advisory board membership to be carried forward.

19. Should Scheme regulations require the Secretary of State to approve any recommendation made for the position of Chair?

- It is important that the Chair is approved by the Secretary of State to ensure that there are no conflicts of interest.

20. Should Scheme regulations prescribe tenure of office? If so, what should the maximum period of office be and should this also apply to the Chair of the board?

- Regulations should specify that the tenure of office is 3 years, however, members may be reappointed following a ballot, this would also apply to the Chair.

21. Should Scheme regulations make provision for board members, including the Chair, to be removed in prescribed circumstances, for example, for failing to attend a minimum number of meetings per annum? If so, who should be responsible for removing members and in what circumstances (other than where a conflict of interest has arisen) should removal be sought?

- The power to remove members should be delegated to CLG when a member has failed to discharge their duties in accordance with the terms of reference.

22. Should Scheme regulations prescribe a minimum number of meetings in each year? If so, how many?

- Scheme regulations should specify the minimum number of meetings as 3 per annum.

23. Should Scheme regulations prescribe the number of attendees for the board to be quorate? If so, how many or what percentage of the board's membership should be required to be in attendance?

- Regulation must specify a quorate, the recommendation is 75%.

24. Rather than make specific provision in Scheme regulations, should the matters discussed at Q19 to Q23 be left as matters for the scheme advisory board itself to consider and determine?

- To ensure openness and transparency the provisions should be contained within the regulations rather than determined at the discretion of the scheme advisory board.

25. Should the scheme advisory board be funded by a voluntary subscription or mandatory levy on all Scheme pension fund authorities?

- The scheme advisory board should be funded by a mandatory levy based on the membership numbers of each fund to ensure it has the resources to produce guidance, templates and create examples of best practice.

26. What would be your preferred manner of legal constitution of the scheme advisory board and how should Scheme regulations deal with the issue of personal liability protection for board members?

- Protection should continue in its current format.

If you require clarification or further information on any of the aforementioned points, do not hesitate to contact me.

Yours sincerely,

**Director of Resources**