

Avon Pension Fund

LOCAL GOVERNMENT PENSION SCHEME

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LGPS Governance Regulations 2014
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Date: 12 August 2014

Dear Ms. Layne

Draft Regulations on Scheme Governance

Thank you for the opportunity to respond to the consultation on the Draft Regulations on Scheme Governance. Our comments focus on the need for clarification of definitions and process to ensure that funds can establish an effective Board that complies with the regulations.

Regulation	Comment
106 (1)	<p>Establishment:</p> <p>Clarity is required as to what “no later than 1st April 2015 establish” means. Does it mean that appointments must have been made by 1 April 2015? This is a challenging timescale.</p> <p>What would be the consequence if an administering authority failed to meet this requirement?</p> <p>What would be the implications if a fund had not completed its appointment process by 1 April 2015?</p>
106 (1b)	<p>Establishment:</p> <p>Further guidance as to the role and scope of the Board would be helpful given the existence of local authority pension committees which already monitor compliance with legislation and processes. We understand the role to be one of oversight rather than developing policy or decision making. It would also be helpful to understand expectations regarding who the Board should report to; the LA pensions committee, the Administering Authority, the Audit Committee, the Pensions Regulator?</p> <p>It would also be helpful to clarify whether the scope of the Board extends to oversight of scheme employers in the Fund when considering pensions matters and particularly compliance especially given the increasing fragmentation of the employer base.</p> <p>Following from this, clarification is required as to whether a responsibility of the administering authority could be delegated to the Board under the</p>

	regulations.
106 (2-4)	<p>Establishment: Combined Boards</p> <p>It would be preferable if the regulations enable a single, dual function body to carry out the functions of both the section 101 Committee and the Board, but only if the criteria and conditions required to getting SoS approval, and the process by which the SoS will make an informed decision, are set out at a minimum in guidance. Without clarification of the circumstances in which this will be permitted it will be difficult for an administering authority to consider the option fully, therefore making the option irrelevant.</p>
106 (5)	<p>Establishment:</p> <p>We prefer option 2, conferring wide discretion on administering authorities to establish the Board.</p> <p>The LG Act 1972 may be too restrictive to establish the Board especially given the membership restriction under these regulations. Specifically there could be issues around political proportionality, councillor and employee members.</p> <p>The regulations should only require the administering authority to ensure public access to the Term of Reference, Board papers and meetings. All other decisions about the Board constitution, including term of office, payment of expenses, sub-committees, voting rights and frequency of meetings should be at the discretion of the administering authority.</p> <p>Under this approach, administering authorities would be able to use parts of the LG Act 1972 they think are appropriate, by cross referencing to it in the Board's Terms of Reference.</p>
106 (6)	<p>Pension Board costs:</p> <p>The costs associated with the Board will be met by the local fund. However, it should be noted that it will increase costs at a time when funds and scheme employers are under pressure to reduce costs.</p>
107 (2a)	<p>Membership:</p> <p>It would be helpful to understand the justification of why a member of a local authority cannot be appointed as an employer or employee representative as this exclusion is not provided for in the PSPA 2013.</p> <p>In addition a member of a local authority needs to be defined. Does it refer to councillors from the administering authorities or all councils from county to town and parish councils? Do the members just refer to those from the local authorities in the local fund?</p>
107 (2b)	<p>Relevant experience:</p> <p>Guidance is required as to what "relevant experience and capacity" means in order that appointments are not decided on an arbitrary and subjective basis. It is too narrow a criterion and could have the unintended consequence of ruling out suitable candidates especially in terms of "experience". Although not making decisions, members will need to acquire a significant level of knowledge if they are responsible for ensuring processes are appropriate and effective, thus they should have the</p>

	“capacity” and commitment to acquire the level of knowledge to fully execute the role.
108 (1)	<p>Conflicts of Interest:</p> <p>The wording of conflicts of interest needs clarity. Our understanding is that if the Board is not a decision making body then the members cannot prejudice or influence decisions but can only comment and make recommendations about processes. Therefore, even though employer officers and members will have conflicts, they can still be appointed as “other” members. In local government including pension committees, conflicts are effectively managed. There is no reason why this should not be the case for the Board.</p> <p>It would be helpful if the guidance clarified whether being part of an employer is not a conflict in the same way as being a scheme member is not a conflict.</p> <p>Can existing S101 committee members be appointed to the Board especially those that do not have voting rights?</p> <p>It would also be helpful to provide guidance on who should advise the Board as administering authority officers advising pension committees are inherently conflicted.</p>
109	<p>Guidance:</p> <p>It is imperative guidance is provided in advance of the boards being established.</p>
111 (4)	<p>Scheme Advisory Board:</p> <p>The nomination process to sub-committees of the Advisory Board must be transparent to ensure all interested parties can participate in the nomination and appointment process.</p>
113 (2)	<p>Scheme Advisory Board – Funding:</p> <p>There must be a requirement for the Board to give total transparency on costs and forward business plans to ensure fairness to funds that will be meeting the costs.</p> <p>2(b) the regulation should refer to equality across all funds when determining fee base</p>

In addition to the regulations we have the following comments:

1. Liability Insurance for Board members:

Can you confirm that the Board members would be covered by the administering authorities’ insurance policy?

2. Officer conflicts:

Has any consideration been given to whether it is good practice for the same officers to support both the Pension Committee and the Pension Board?

3. Joint Pension Boards:

It would be preferable if the regulations did permit joint Pension Boards to be established where it can be demonstrated there is joint working arrangements and decision making in place. This would ensure no ambiguity as to whether joint boards can be established and it would be consistent with the government's objective of having greater collaboration within the LGPS funds.

4. Employer/employee forums:

The regulations should not stipulate the frequency or format of employer or employee forums. Such events should be at the discretion of the scheme manager to ensure they are held when appropriate and as often as needed. In addition, the increasing fragmentation of the employer base often requires forums to be tailored to employer groups or groups of staff within employers.

For example, over the last year the Fund has held a number of employer and employee forums tailored specifically to the new scheme and we hold new employer training forums for academies. Pension clinics for individual members are well attended.

The Fund holds Investment Forums for employers to discuss investment and funding issues with finance managers, specifically to help with budgeting for pension costs.

Our experience is that employee forums are often poorly attended.

5. Equality Duty

It is not clear what the perceived gap is to make this a specific requirement as it should be expected that LGPS Board is able to make recommendations on all aspects of the scheme. The local authority already has a duty to comply with all aspects of the Equalities Acts but this is embedded in existing processes which can be demonstrated but monitoring compliance would require an audit review at additional costs – which we are not clear is what is intended.

6. Knowledge and Understanding framework

The regulations require Board members to have knowledge and capacity to undertake that role but there is no such requirement placed on the Administering Authority Pension Committee members except that the Knowledge and Skills Framework published by CIPFA is recommended. It would be helpful to have a common requirement placed on both the Administering Authority and Pension Board and is indeed more critical for the former.

Yours sincerely,



for Tony Bartlett
Head of Business Finance and Pensions