

Avon Pension Fund Response to DCLG Discussion Paper on Governance Arrangements (issued June 2013)

| | Question | Response |
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| 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? | <p>As these governance arrangements arise from PSPA2013, the requirements for the LGPS should be no earlier than those for other public service pension schemes.</p> <p>The LGPS funds have a significant workload through to late 2014 in implementing and bedding in the LGPS 2014 scheme as well as supporting employers through auto-enrolment. Therefore administering authorities should be given a period post this to implement a new pension board. In addition, the setting up of new boards requires changes to the Council's constitution, including due consideration of who can be appointed following an appropriate selection process. This would mean administering authorities should be given to at least April 2016 to implement new governance arrangements.</p> <p>Furthermore the "Call for Evidence" may lead to more fundamental changes to the LGPS and therefore the outcome of this should be considered prior to any changes in governance arrangements are implemented.</p> |
| 2 | How long after new governance regulations are on the statute book should the national scheme advisory board become operational? | With the introduction of the Shadow Board as a precursor, a reasonable handover period after April 2014 should be considered so that the Board is operational as soon as possible after regulations laid. The Board will then be able to start on the work needed to support the introduction of the new government arrangements at the local level and to facilitate the establishing of local pension boards. |
| 3 | Please give details of any such "connected" scheme that you are aware of. | Not aware of any. |
| 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 | We are aware there is a potential issue regarding teachers where the Teachers Scheme can decide that a teacher is not eligible for that scheme but, as a result, may then be eligible for membership of LGPS. Would this make the Teachers Scheme "connected" to LGPS? Circumstances like this need to be rectified as it is ridiculous that teachers are not entered into the |

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| | scheme managers? | <p>Teachers Scheme in all cases.</p> <p><i>For background - “connected”, in relation to a scheme under section 1 and another statutory pension scheme, or a new public body pension scheme and another statutory pension scheme, has the meaning given by section 4(6); (6) For the purposes of this Act, a scheme under section 1 and another statutory pension scheme are connected if and to the extent that the schemes make provision in relation to persons of the same description.</i></p> |
| 5 | What “other matters”, if any, should we include in Scheme regulations to add to the role of local pension boards? | The local pension board is a scrutiny board, not a decision making body. Therefore its remit should be limited to scrutinising the scheme manager’s compliance with the regulations, legislation, codes of practice as set out in the Pensions Act. It should not challenge funding and investment decisions only that the decision-making process complies with scheme regulations, guidance and codes of practice. There is a risk of “drift” or duplication with the scheme manager and its statutory committee if the remit is too broad and not clearly defined. |
| 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? | Yes and most importantly, what constitutes a conflict of interest must be clearly defined in the regulations particularly if the local pension board and statutory committee could be one and the same body or, if the pension board members could be drawn from the statutory committee. |
| 7 | Should Scheme regulations prescribe the type of information that may be “reasonably required”? | Yes this should be stated so that all scheme managers can apply the same minimum requirement. |
| 8 | Although not required by the Act, should Scheme regulations prescribe a minimum number of employer and employee representatives? | Yes for clarity; the minimum should be set at 2 representatives for each on a Local Pension Board. |
| 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? | <p>Given the need for equal employee member and employer representation on the pension board we cannot support the statutory committee and the pension board being combined as a single body.</p> <p>However we are not in favour of establishing another body given the (i) extra resource needed to support it and (ii) the knowledge and training requirements that will be needed to ensure the pension board members can</p> |

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| | | <p>discharge their duties adequately.</p> <p>The suggestion to utilise an existing non-statutory body seems reasonable until applied to the make-up of a multi-employer fund such as ours. There is no one such body that reflects the required membership or could be adapted to enable a fair representation of scheme employers in particular.</p> <p>There could be an argument for the pension board to be drawn from the non-voting members of the statutory committee as they are not decision making members yet have the required knowledge (this would not mean the non-voting members no longer being on the statutory committee).</p> |
| 10 | <p>Apart from what is required under the Act, what other elements of local pension boards should be set out in the new Scheme regulations?</p> | <p>The minimum requirements should only be set out in the regulations as if too prescriptive it will remove local determination to reflect the needs and governance arrangements of the local fund. If the requirements for the pension boards are too onerous the cost of the resources required to support it will outweigh the benefits. The creation of the National Scheme Advisory Board should develop and promote best practice for the whole governance arrangements.</p> <p>The regulations could require a meeting to be held at least once a year. They could also include high level protocols for the appointment process to ensure that all relevant parties are given the opportunity to nominate representatives.</p> |
| 11 | <p>Apart from what is required under the Act, what other elements of local pension boards should be left to local determination?</p> | <p>The local fund should determine the following, all subject to any minimum set out in regulations:</p> <ul style="list-style-type: none"> i. Detailed Terms of reference ii. Frequency of meetings iii. Size of Board iv. Agenda v. Reporting <p>as this will reflect the local resources available to support the Board and the existing governance structure.</p> |
| 12 | <p>Should the new Scheme regulations prevent any incumbent scheme member representative being moved from a statutory</p> | <p>No. An incumbent member of a statutory committee may be a strong candidate to undertake the role. As mentioned earlier there may be a case for nominating non-voting members to the pension board. Existing committee</p> |

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| | committee to the local pension board (if the committee and the board are not one and the same body)? | <p>members will have the knowledge to discharge the duties of the local pension board effectively.</p> <p>However, there is a risk that the creation of the local pension board could result in smaller statutory committees as the pension board will bring an additional layer of scrutiny to what is, if following best practice already, a highly scrutinised local pension fund. This could have the effect of reducing the breadth of stakeholder representation on the statutory committee which would not be the intended consequence of these reforms.</p> |
| 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? | <p>For transparency purposes a report on activity should be publicly available for stakeholders. However, there is already a statutory requirement for LGPS funds to publish a detailed annual report and accounts which explains the fund's compliance with statutory guidance, regulations and codes of practice. Therefore an additional annual report will add little extra value and merely duplicate information. A summary statement could instead be incorporated in the Pension Fund's annual report as the "Statement of the Pensions Board".</p> <p>It could be a requirement that the agenda reports and minutes of the pension board meetings are publicly available to all employers and members (and the National Scheme Advisory Board) and that the minutes include any areas of non-compliance.</p> |
| 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? | No. Other than for the regulations to state that the knowledge and training requirements must reflect the specific circumstances of the LGPS and the "lay" nature of the people who will serve on the board(s). |
| 15 | Should Scheme regulations simply replicate the wording of the Act? If not, what specific areas of work should the new Scheme regulations prescribe? | Yes. The wording should replicate the Act in order to allow the National Scheme Advisory Board to evolve. Too much prescriptive detail gives undue emphasis to what is included in the regulations rather than allow the governance arrangements to evolve as the scheme develops. |
| 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 | Yes as the advisory board will be more informed as to the issues that need to be considered. |

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| | when deemed necessary? | |
| 17 | Are there any specific areas of advice that Scheme regulations should prohibit the scheme advisory board from giving? | The Advisory Board should only give advice on general matters of principle or best practice. They should not be involved in challenging decisions made regarding strategic funding or investment policies. |
| 18 | What options (if any other, please describe) would be your preference for establishing membership of the scheme advisory board? | The membership profile of the shadow board should be carried forward for the initial 3 year period after which it should be reviewed to evaluate whether it equitably reflects the needs of those involved with governance in the LGPS. There should be consideration to some form of staggered change to ensure there is continuity on the Board to avoid having a totally new Board at any time. |
| 19 | Should Scheme regulations require the Secretary of State to approve any recommendation made for the position of Chair? | Yes; if not then by majority of the scheme advisory board. |
| 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? | Tenure is important given the need for a required level of knowledge to discharge the Advisory Board's duties. The tenure needs to be long enough to enable longer term projects to be completed by the same board i.e. more than one term but each member would stand for re-election. However, this should be left to the Advisory Board to agree once it fully understands its remit, scope and the appropriate tenure across diverse representation. Maximum tenure should be expressed in terms of office. |
| 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? | Yes. Attendance is important and statutory pension committees have to disclose attendance records publicly. In addition the governance structure will incur extra costs inevitably to be funded by local funds so it needs to be accountable to these funds. The Chair should be responsible for removing members for poor attendance but all Advisory Board members should have right to ask Secretary of State to intervene in the absence of action by the Chair. |
| 22 | Should Scheme regulations prescribe a | Yes but subject to Q24 below. The Advisory Board should meet at least 4 |

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| | minimum number of meetings in each year? If so, how many? | times a year. If less one could question whether such a Body is required. |
| 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? | Yes. The regulations prescribe equal representation of employers and employees and therefore should prescribe the minimum number for the Advisory Board to be quorate. As the Act requires equal representation, the quorate requirement should also. The percentage to be quorate should be at least 1/3 rd of the board with equal representation i.e. 4 made up of 2 employer representatives and 2 employee representatives (<i>note: the Shadow Board has 6 employer representatives and 6 member representatives and the above assumes this structure will continue</i>). |
| 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? | Yes 20 and 22 could be left to the Advisory Board. The risk of specifying detail even minimum detail in the regulations is that they can become obsolete or unfit for purpose. However, if specific provision is not made in the regulations and left to the Advisory Board itself to determine, then a general provision must be included for the Advisory Board to set out specific details in the Terms of Reference with justification for the decision to ensure transparency and openness of the Advisory Board. |
| 25 | Should the scheme advisory board be funded by a voluntary subscription or mandatory levy on all Scheme pension fund authorities? | It must be funded by a mandatory levy to ensure all funds carry the burden of financing the governance arrangements that are being imposed. It will also provide a budget to fund the board's agenda and workplan. |
| 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? | No view as to legal constitution Liability cover should be provided by the government as the Board is being established through legislation. |