

CYNGOR SIR POWYS COUNTY COUNCIL

Pensions and Investment Committee
26th June 2020

REPORT BY: **Head of Finance**

SUBJECT: **Governance and Administration Update**

REPORT FOR: **Information**

1 Introduction

- 1.1 This report has been produced to provide Committee with an update on the LGPS governance and administration matters and the potential impact of these on the Powys Pension Fund.
- 1.2 It is provided in addition to and supplements, where appropriate, the executive summary presented by the Powys Pension Board Chair and will provide updates on:
 - Scheme Advisory Board (SAB) and the Local Government Association (LGA)
 - The Pension Regulator (TPR)
 - Update on the Fund's risk register
 - Updates on the Fund's breaches register

2 Fund Governance

2.1 SAB/LGA Update

- 2.2 **COVID-19.** LGA have produced several resources for administrators, employers and scheme members via a dedicated Frequently Asked Questions website page, available here:

<http://lgpsregs.org/news/covid-19-news-2020.php>

From 1 to 15 May 2020, the SAB undertook a survey to understand how the governance of the LGPS has been affected by COVID-19. 83 administering authorities responded (including Powys). The SAB has published the results of the [COVID19 governance survey](#) on the Board's website. The Powys responses was in line with the majority of responses received.

2.3 Regulations on virtual meetings published

On 3 April 2020, the Scheme Advisory Board updated their website to confirm that the regulations enabling councils to hold electronic and

digital meetings using virtual locations such as internet locations, web addresses or conference call telephone numbers would come into force on 4 April 2020. See the [Scheme Advisory Board's coronavirus webpage](#) for a link to the regulations.

- 2.4 A virtual meeting of the chairs of the SAB and its two committees was held on 6 April 2020.

The following points were agreed:

- Hymans Robertson's work on Phase three of the Good Governance project should proceed on a limited basis. It was agreed that the Hymans team should continue to prepare papers for the SAB's consideration based on discussions already undertaken with the implementation group. They should avoid engaging with members of the implementation group, or local government in general at this time.
- The follow-up Local Pension Board survey should not be circulated at the current time.

- 2.5 The SAB also met virtually on 5 May 2020. Key highlights include:

- discussions with MHCLG continue on the McCloud remedy. An LGPS consultation is expected late June 2020.
- an outline of the measures that have been taken to assist the scheme during COVID-19 together with the impact on SAB projects and workloads, were noted.
- various COVID-19 life assurance schemes have been launched across the UK. Most of the schemes include local government social care staff working on the frontline. Representations have been made to MHCLG about the possibility of extending the scheme to other frontline local government staff.
- the next virtual SAB meeting will be held on 10 July 2020. Meanwhile, virtual meetings with the Chairs of both the Board and investment and cost management committees will take place to deal with any urgent business.

2.5 **McCloud** – On 4 March 2020, the [McCloud page](#) of the Scheme Advisory Board's website was updated with a communication for LGPS administering authorities and employers. An LGPS consultation is expected late June 2020.

McCloud subgroup meetings

The SAB has set up two working groups to work with MHCLG in developing and implementing the LGPS McCloud remedy. Three subgroups have been created made up of representatives from employers, administering authorities, pension administration software suppliers, unions, actuarial firms, NILGOSC and the LGA.

Data collection Subgroup: the data collection subgroup held their first virtual meeting on 22 April 2020. In order to implement the McCloud

remedy, most administering authorities will need to gather service information from 1 April 2014 (2015 in Scotland) for members in scope of protection from employers. The group will produce a data collection template for employers and payroll providers to use to supply that information. This exercise is likely to propose significant pension administration challenges.

Communications Subgroup: the communications subgroup met on 24 April 2020. The group agreed that their priority is to produce communications for members that explain the scheme changes and make it clear that they do not need to make a legal claim, they will get the protection they are entitled to automatically.

Software: the software subgroup will consider what system changes are needed to implement the remedy. The first meeting was held on 19 May 2020. The sub-group agreed that:

- software suppliers would produce a process map for implementing the changes, including timings for each stage.
- following the publication of the draft regulations the LGA will arrange a meeting with GAD, MHCLG and the software suppliers to discuss the proposed changes.

2.6 **COVID-19 practitioner group**

To help measure and manage the impact of the COVID-19 on the Scheme's administration, the SAB has set up a COVID-19 practitioner group. The terms of reference include:

- considering queries raised by LGPS administering authorities associated with the impact of the COVID-19 pandemic on pensions administration
- assisting LGA/SAB staff in the delivery of online resources for administrators and employers, as well as scheme members
- advising on further information that could usefully be collected via online surveys
- advising the SAB secretariat on matters that should be referred to MHCLG
- considering and responding to proposals submitted to the group by either the LGA or SAB
- providing a representative (normally the Chair) to participate in weekly practitioner calls with the LGA, SAB, MHCLG and representatives from Scotland and Northern Ireland.

2.7 **Supreme Court Judgment on LGPS boycotts**

In June 2017 the [High Court published its judgment](#) in a judicial review case concerning the statutory guidance issued to accompany the LGPS (Management and Investment of Funds) Regulations 2016. The case was brought by Palestine Solidarity Campaign Ltd and an LGPS member. It ruled that the section within the guidance stating that

administering authorities should not pursue policies that are contrary to UK foreign policy or UK defence policy was unlawful.

The statutory guidance was reissued in 2017 with the relevant statements removed; however, MHCLG appealed the High Court decision. In June 2018, [the Court of Appeal disagreed with the original ruling by the High Court](#). This allowed the case to move to the Supreme Court. Meanwhile, [the statutory guidance remained published](#) with the relevant statements removed.

In April 2020 [the Supreme Court ruled](#) that the legislation does not permit the Secretary of State to impose the government's view on foreign and defence policy, on LGPS administering authorities.

[SAB have issued a statement](#) on its website and will publish a summary of the full judgment in due course.

- 2.8 **2019 LGPS annual scheme report.** On 22 May 2020, Councillor Phillips (Chair of SAB) launched the 2019 LGPS England and Wales annual scheme report. Highlights from the report include:

- total membership increased from 5.8 million in 2018 to 5.9 million in 2019, a rise of 0.6 percent.
- total assets increased to £291 billion, a change of 5.9 percent.
- local authority returns on investment over 2018/2019 was 6.6 percent. This was reflective of the market conditions during the year and set against the UK Return of 6.4 percent.
- the Scheme maintained a positive cash-flow position overall, including investment income.
- over 1.7 million pensioners were paid over the year.

- 2.9 **TPR publish COVID-19 guidance for employers**

The Pensions Regulator has issued [guidance for employers](#) on automatic enrolment, maintaining pension contributions and the coronavirus job retention scheme.

- 2.10 **TPR publish guidance on reporting duties and enforcement activity during COVID-19 pandemic**

TPR have issued [guidance on reporting duties and enforcement activity](#) confirming that they can adopt a more flexible approach to what they expect to reported in a number of areas and when enforcement action would be appropriate under the current circumstances. These easements will remain until 30 June 2020. Their website also confirms that they will review whether more specific flexibilities or restrictions are required during the following weeks - and whether the date should be extended

2.11 TPR COVID-19: member communications and transfer warning

TPR has [updated its guidance](#) for avoiding pension scams. The guidance confirms that they cannot prevent a member pursuing their statutory right to transfer and cannot permit administering authorities to prevent a transfer to which a statutory right applies. However, where administering authorities show evidence that the transfer doesn't meet legal requirements, TPR will consider this when deciding whether to act due to the non-payment of a transfer. The wording reflects the legal position on statutory transfers.

3 Risk Register

- 3.1 The latest Risk register is enclosed for Committee's review. The following changes have been made:

PEN003 – Updated to reflect intended cashflow review in 2020.

PEN012 – Updated to make reference to potential increased risk to data security due to home working.

PEN023/024 Wording updated to reflect the triennial valuation 2019

PEN030 – Updated to include reference Wales Pension Partnership

PEN035 – Added to reference exceptional circumstances (pandemic, fire etc)

4 Breaches Register

- 4.1 The latest version of the breaches register is attached, for information.

No new recordable or reportable breaches have been added since the last meeting. There has been a small increase in the number of unpaid frozen refunds. Work is continuing on actively locating these members and some payments have now been made.

5 Recommendation

- 5.1 To note the contents of this report.

Recommendation:	Reason for Recommendation:
<ul style="list-style-type: none">To note the update and raise any points of discussion or concerns to ensure that the Fund continues to focus on high standards of governance.	As per report
Person(s) To Action Decision:	Pension Fund Manager
Date By When Decision To Be Actioned:	
Immediately	

Relevant Policy (ies):	N/A		
Within Policy:	N/A	Within Budget:	N/A
Contact Officer Name:	Tel:	Fax:	Email:
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Relevant Portfolio Member(s):	Cllr Aled Davies
Relevant Local Member(s):	N/A