

PENSIONS COMMITTEE

10 July 2024

Title: Independent Advisors LGPS Update	
Report of the Chief Financial Officer	
Public Report	For Information
Wards Affected: None	Key Decision: No
Report Author: Jesmine Anwar, Pension Fund Accountant	Contact Details: Tel: 020 8227 3763 E-mail: jesmine.anwar@lbbd.gov.uk
Accountable Director: Michael Bate, Interim Director of Financial Services (Deputy S151 Officer)	
Accountable Strategic Leadership Director: Jo Moore, Interim Strategic Director Finance and Investment (S151 Officer)	
Summary This report provides Members with the Independent Advisor's quarterly Local Government Pension Scheme update.	
Recommendations The Committee is recommended to note: <ul style="list-style-type: none">• Investment Consultation and Consultation Outcome 2023• Climate Change Reporting – still awaiting Regulations.• Annual Pension Fund Report – Updated Guidance• LGPS Accounts and Audit	

1. Introduction

1.1 This paper by John Raisin informs and updates the Committee in respect of a number of important issues relating to the LGPS at a national level. The issues covered in this paper are as follows:

- Investment Consultation and Consultation Outcome 2023
- Climate Change Reporting – still awaiting Regulations.
- Annual Pension Fund Report – Updated Guidance

- LGPS Accounts and Audit

2. Investment Consultation and Consultation Outcome 2023

- 2.1 The LGPS Update to the December 2023 Pensions Committee included a commentary on both the Consultation of July 2023 “Local Government Pension Scheme (England and Wales): Next steps on Investments” and the Consultation outcome issued by the Government on 22 November 2023 which stated how the Government intended to proceed. The Consultation outcome response may be accessed at Local Government Pension Scheme (England and Wales): Next steps on investments - government response - GOV.UK (www.gov.uk)
- 2.2 In order, however, for the changes to the LGPS covered in the Consultation outcome to come into effect it is necessary for appropriate changes to be made to the LGPS Regulations and/or new Statutory Guidance to be issued. As at the time the General Election was called, however, no such Regulations or Statutory Guidance had been issued in respect of the following issues covered in the Consultation outcome - Investment Pooling (very clearly the principal issue within the Consultation), a statutory requirement for Pensions Committee Members to undertake Training, Levelling Up, Private Equity, objectives for Investment Consultants, and to correct the definition of investment in the 2016 Investment Regulations. Therefore, most of the proposals, including the most important ones relating to the further development and implementation of Pooling have not (yet) come into effect.
- 2.3 In respect of the proposals relating to reporting on Investment Performance and on Pooling activity/outcomes these have, however, been implemented through the new Statutory Guidance on the Pension Fund Annual Report of March 2024 which is covered in more detail in Section 3 of this LGPS Update.

3. Climate Risk Reporting – still awaiting Regulations.

- 3.1 On 1 September 2022, the Government issued a Consultation on the “Governance and reporting of climate change risks.” In the March 2023 LGPS Update it was reported that it was anticipated that Regulations to introduce Climate Risk reporting into the LGPS would be issued retrospectively, after 1 April 2023, but would apply from 1 April 2023. No such Regulations were, however, issued in April 2023.
- 3.2 In the June 2023 LGPS Update it was reported that on 23 May 2023 the Scheme Advisory Board stated on its website that the implementation of Climate Risk reporting in the LGPS – “is now expected to commence from 1 April 2024, with first reports due in late 2025.”
- 3.3 As at the date when the General Election was called (22 May 2024) no proposed Regulations had been issued to implement Climate Risk reporting. Consequently, there must be a clear question as to whether the implementation of mandatory and consistent Climate Risk reporting by the LGPS will actually

commence (retrospectively) from 1 April 2024 with the first reports due in late 2025.

4. Annual Pension Fund Report – Updated Guidance

- 4.1 On 28 March 2024 updated Statutory Guidance in respect of the preparation of LGPS Fund Annual Reports was issued to replace the previous guidance issued by CIPFA in March 2019. The new Guidance is called “Preparing the Pension Fund Annual Report, Guidance for Local Government Pension Scheme Funds, April 2024.”
- 4.2 This guidance is the first publication to have been reviewed and jointly approved by the Compliance and Reporting Committee (CRC) of the LGPS Scheme Advisory Board (SAB), the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Department for Levelling Up, Housing and Communities (DLUHC). Previously the (now disbanded) CIPFA Pensions Panel was, for many years, responsible for the preparation of Annual Report Guidance.
- 4.3 Paragraph 10 of the new Guidance of 2024 confirms that it has the status in England and Wales of “statutory guidance.” Therefore, in accordance with Regulation 57(3) of the LGPS Regulations 2013 “In preparing and publishing the pension fund annual report” each Administering Authority (in this case the London Borough of Barking and Dagenham) “must have regard” to this Guidance. Paragraph 2 of the new Guidance states “This guidance applies to 2023/24 annual reports and later years.”
- 4.4 However, Paragraph 2 of the new Statutory Guidance goes on to state “For annual reports covering 2023/24, funds should use their best endeavours to comply fully with this guidance, but exercise judgement where, because of changes to the previous content, to do so would require disproportionate effort or cost. Where significant variation from this guidance is considered appropriate, funds should provide an explanation.” A reason for this approach is provided in the report “ANNUAL REPORT GUIDANCE” to the 12 February 2024 meeting of the Scheme Advisory Board Compliance and Reporting Committee (CRC) which states at paragraph 7 that “...it is acknowledged that it may be a challenge for funds to report on all the new requirements for the 2023/24 reporting year, as changes to the recording and reporting of data may take time to implement.”
- 4.5 Also even where an aspect of the General Code does not actually “apply” to LGPS Funds, as is the case in relation to establishing and operating an effective system of governance (ESOG) – see pages 68 to 71, or the Own risk assessment (ORA) pages 61 to 64, there are principles and practices which in reality could, or in some cases should, be adopted by the LGPS.
- 4.6 This new Statutory Guidance clearly and very significantly increases the reporting requirements for LGPS Funds relating to Investments as is clear from a comparison of the contents of the 2019 Statutory Guidance with the 2024 Statutory Guidance. Paragraph 30 of the new Statutory Guidance implements

as a “must” the reporting of “Investment performance net of fees” for “each fund manager or asset class” together with “an appropriate benchmark chosen by the authority...” which implements the proposal regarding reporting returns in the Consultation outcome of 22 November 2023. Paragraphs 35 to 41 set out a broad range of reporting requirements relating to Pooling which implement the proposal in the Consultation outcome to “require greater clarity on the progress of pooling...” Therefore, the requirements of the 2024 Annual Report Guidance will further highlight the extent of Investment Pooling both by each individual LGPS Fund, and across the LGPS in England and Wales as a whole.

- 4.7 Paragraph 42 of the 2024 Statutory Guidance introduces a new requirement whereby “The annual report must also include data...to provide additional information on investment in the UK...” This reflects the Government’s interest in Pension Fund investment in the UK.
- 4.8 The 2024 Statutory Guidance (paragraph 31) enhances the reporting of environmental, social and governance (ESG) activity as it states that LGPS Funds “**should**” provide details of ESG activities. In contrast the 2019 Statutory Guidance merely stated that LGPS Funds “*may also wish to provide details*” of any ESG activities.
- 4.9 The new Statutory Guidance also clearly and very significantly increases the reporting requirements for LGPS Funds relating to **Administration** as is clear from a comparison of the contents of the 2019 Statutory Guidance with the 2024 Statutory Guidance. In particular the new Guidance at Paragraph 55 states that “*Pension Funds **must** report on the outcomes of administration KPIs set out in Annex 1 and **should** provide an appropriate commentary such that readers can understand and put the data into context*”
- 4.10 The KPIs at Annex 1 (which is called Annex A elsewhere in the 2024 Guidance) are extensive and cover Casework, Communication and Engagement, Resources, and Data Quality. To seek to facilitate consistency of KPI reporting across LGPS Funds Definitions and Guidance Notes have also been provided.
- 4.11 Doubtlessly to reflect the delays that have been encountered in recent years by some LGPS Funds in obtaining an **External Audit Opinion** a commentary has been added to address this situation. Paragraph 67 states “*Where the audit opinion has not been issued on or before 1st December, the pension fund administering authority is still under a statutory obligation to publish the annual report by the due date. Funds in this position must publish the annual report without an audit opinion making it clear that this is the case and then re-publish the report when the audit opinion is finally issued.*”
- 4.12 Overall, there can be no doubt that the new Guidance “**Preparing the Pension Fund Annual Report, Guidance for Local Government Pension Scheme Funds, April 2024**” places further demands and resourcing requirements on LGPS Funds across their Investment, Administration, and Accounting functions.

5. LGPS Accounts and Audit

- 5.1 Regulation 53(1) of the LGPS Regulations 2013 (as Amended) requires Administering Authorities (including the London Borough of Barking and Dagenham) to “maintain a pension fund...” The LGPS Update to the March 2023 Pensions Committee meeting included a briefing on Pension Fund Accounts.
- 5.2 This stated that in August 2022 the Chair of the Scheme Advisory Board (SAB) had written to the Minister responsible for the LGPS to urge that the Government separate the Pension Fund Annual Accounts in England from those of their Administering Authority as had already happened in both Scotland and Wales. A principal reason for this was to avoid any delays to the publication of the Pension Fund Accounts arising from delays relating solely to the main Accounts of a Council.
- 5.3 Consequently, in February 2023 the Minister sent a response stating that DLUHC was actively considering the SAB recommendation to completely separate the Pension Fund Annual Accounts of English LGPS Funds. As at March 2024 there had however been no progress in respect of the separating of Pension Fund Accounts from those of their Administering Authority.
- 5.4 On 6 March 2024 SAB again raised this issue by issuing a formal response to the DLUHC Consultation “Addressing the local audit backlog in England.” This Consultation which was issued on 8th February 2024 and closed on 7 March 2024 was concerned with clearing the backlog in the publication of audited accounts of major local bodies in England which in the words of the Consultation “has grown to an unacceptable level.” In its response SAB included the following:
- “...The consistent delays in the completion of the audit of the administering authority’s main accounts has had the effect of delaying the issuing of an audit opinion on the pension fund annual accounts.”
 - “...so long as pension fund accounts remain part of the main local authority accounts, problems unrelated to the issuing of audit opinions on the pension fund will continue to impact on the timely publication of finalised pension fund accounts, along with the pension fund audit opinion.”
- 5.5 “All LGPS pension funds are multi-employer schemes, with a typical single fund having over 200 different employers participating in the LGPS. Over 18,000 separate employers participate in the LGPS, and an increasing feature of the scheme is the extent to which almost two thirds of these employing bodies are commercial companies, not for-profit entities and academy schools/Multi-academy trusts, rather than local authorities. These employing bodies are subject to a wide range of different financial reporting frameworks which all require that LGPS pension liabilities should be recognized.”

- 5.6 Where the pension fund audit has not been signed off simply due to the delay in clearing the administering authority's audit, then the auditor of the scheme employers' accounts will need to do additional work to gain assurance that the pension liability figures that have been provided by the pension fund to the employer can be relied on. Any uncertainty over the value of the pension liabilities may be material to a scheme employer, depending on a range of factors particular to that employer. This is avoidable and unnecessary additional cost for the employer as well as being a significant additional administrative burden for the pension fund in responding to queries and requests for information from the scheme employer's auditor."
- 5.7 "Partly because of this ongoing problem, the Board wrote over a year ago to the then Minister to recommend the separation of the pension fund annual accounts in England from the administering authorities' own accounts, as is already the case for the LGPS in Scotland and Wales."
- 5.8 "We understand that the Minister has agreed in principle to the separation of pension fund accounts and has asked officials to find a suitable legislative vehicle to achieve this. It is a well understood problem and the solution for the LGPS is clear – we are just waiting for it to be delivered."
- 5.9 One proposal in the Consultation DLUHC Consultation "Addressing the local audit backlog in England." that should be of major concern to LGPS Funds, (unless the Government does agree to the separation of Pension Fund Accounts prior to 30 September 2024) is that it proposes that Authorities "... ensure that ... by 30 September 2024 they have published audited accounts for financial years 2015/2016 to 2022/2023. At Question 12 of the Consultation, it is stated that the proposal that all accounts for all financial years up to and including 2022-2023 be published by 30 September 2024 in the view of the Government "will result in modified or disclaimed opinions" (to some Councils' Accounts).
- 5.10 A disclaimed audit opinion (where the External Auditor does not express an opinion on the financial statements because they have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion) would be still mean that Scheme Employers could not rely on the Pension Fund Accounts even if the disclaimed audit opinion related wholly to issues in other parts of the Administering Authorities' overall Accounts. This was made clear in the SAB response to Question 12 of the Consultation which stated "The Board believes that if there were to be wide-spread use of disclaimed audit opinions then this would not resolve the problem for LGPS scheme employers in England. This is because the scheme employer auditors would still not have an audit report they can place assurance on and not avoid having to do further work to validate pension liability estimates provided to them. The best way to deal with this problem and achieve timely completion of pension fund audit is to separate them from the audit of the administering authority, as has been done successfully in Wales and Scotland."
- 5.11 In conclusion, there can be no doubt that until the Accounts of LGPS Funds in England are separated entirely from those of their Administering Authority

there is an ongoing risk that there may be delays and additional work and expenditure for both LGPS Funds and LGPS Employers because of issues with the Administering Authority main Accounts.

- 5.12 As at the time that the General Election was called (22 May 2024) DLUHC had made no announcement regarding the separation of Pension Fund Accounts from those of their Administering Authority.

6. Financial Implications

Implications completed by: David Dickinson, Investment Fund Manager

- 6.1 The Pension Fund is a statutory requirement to provide a defined benefit pension to scheme members. The management of the administration of benefits the Fund is supported and monitored by the Pension Board.

7. Legal Implications

Implications completed by: Dr Paul Feild Senior Governance Solicitor

- 7.1 The Council operates the Local Government Pension Scheme which provides death and retirement benefits for all eligible employees of the Council and organisations which have admitted body status. There is a legal duty fiduciary to administer such funds soundly according to best principles balancing return on investment against risk and creating risk to call on the general fund in the event of deficits. With the returns of investments in Government Stock (Gilts) being very low they cannot be the primary investment. Therefore, to ensure an ability to meet the liability to pay beneficiaries the pension fund is actively managed to seek out the best investments. These investments are carried out by fund managers as set out in the report working with the Council's Officers and Members.

8. Consultation

- 8.1 The Council's Pension Fund governance arrangements involve continuous dialogue and consultation between finance staff and external advisers. The deputy S151 and the Fund's Chair have been informed of the commentary in this report.