



## Pension Board

### General Update

**Date:** 20 October 2020

**Key decision:** No.

**Class:** Part 1.

**Ward(s) affected:** None specifically

**Contributors:** Director of Corporate Resources

### Outline:

This paper updates the Board on a number of standing items on the agenda as part of its oversight responsibilities, and on several general matters to have arisen since the last meeting.

### Recommendations:

The Board is asked to:

1. Review and note the current Register of Conflicts of Interest;
2. Delegate to the Chair the drafting of the Pension Board Annual Report 2019/20, for inclusion in the Pension Fund Annual Report, ahead of the statutory December deadline;
3. Review the Board's training record and advise of any amendments;
4. Complete and return to officers a Learning Needs Analysis by the end of November 2020; and
5. Note the remainder of the report.

### Timeline of engagement and decision-making

- This report is an ongoing update paper prepared for the Pension Board to enable them to fulfil their terms of reference.

### REASONS FOR URGENCY AND LATENESS

**Lateness:** This report was not available for the original dispatch due to staff resourcing issues.

**Urgency:** The general update includes a number of standing items that the Board must consider at

each meeting in order to fulfil its terms of reference, as well as other sector and Fund updates relevant to the role of the Board.

Where a report is received less than 5 clear days before the date of the meeting at which the matter is being considered, then under the Local Government Act 1972 Section 100(b),(4) the Chair of the Committee can take the matter as a matter of urgency if he is satisfied that there are special circumstances requiring it to be treated as a matter of urgency. These special circumstances have to be specified in the minutes of the meeting.

## **1. Summary**

- 1.1. This report presents updates on a number of general pension related issues of relevance to the Fund, including updates on the London CIV (LCIV), upcoming regulatory change, updates from the Scheme Advisory Board, and consideration of Board members knowledge and skills.

## **2. Recommendations**

- 2.1. The Board is recommended to:
  - 2.1.1. Review and note the current Register of Conflicts of Interest;
  - 2.1.2. Delegate to the Chair the drafting of the Pension Board Annual Report 2019/20, for inclusion in the Pension Fund Annual Report, ahead of the statutory December deadline;
  - 2.1.3. Review the Board's training record and advise of any amendments;
  - 2.1.4. Complete and return to officers a Learning Needs Analysis by the end of November 2020; and
  - 2.1.5. Note the remainder of the report.

## **3. Policy Context**

- 3.1. The overriding policy context for the Pension Board are the pension regulations and legislation that governs the Local Government Pension Scheme (LGPS) and the guidance on the creation and operation of local pension boards issued by the LGPS Scheme Advisory Board.

## **4. Register of Conflict of Interests**

- 4.1. The up-to-date Register of Conflict of Interests is attached to this report at Appendix 1. Members are asked to review and note the register.

## **5. Breaches of the Law Log**

- 5.1. The Board has adopted the Pension Regulator's template for recording breaches of the law; at present there are no breaches in relation to the Fund that have been reported for further investigation.
- 5.2. The compliance review as reported in May 2019 identified the need to create a

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Breaches Policy to clearly set out the requirements of those responsible for reporting breaches. The administering authority has added this as an action point, due for completion by Q2 2021, within its action plan presented elsewhere in this agenda.

## 6. Risk Register

- 6.1. The latest risk register is considered elsewhere in this agenda. Going forward, the risk register will be presented at each meeting for the Board's review.

## 7. Pooling Update

- 7.1. A number of key personnel changes have been made at the London Collective Investment Vehicle (LCIV) over the past twelve months, including the appointment of a permanent Chief Investment Officer and Head of Responsible Investment, as part of the pool's attempts to improve engagement with London boroughs and the development of mandates that meet the requirements of shareholders.
- 7.2. Following the governance progress review of 2019/20, a series of changes were agreed by the LCIV Board in March 2020 and the Shareholder Committee in April 2020, which include:
- Amendments to the Shareholder Committee Terms of Reference to make provision for the Trade Union Observer to have voting rights, as well as clarifying arrangements for appointing Committee members;
  - Proposals for a Disputes and Deadlock Procedure;
  - Enhanced arrangements to engage client funds in fund mandate development including 'Seed Investor Groups' (SIGs);
  - The creation of a Responsible Investment Reference Group (RIRG) and Cost Transparency Working Group (CTWG); and
  - Publication of Shareholder Committee papers and minutes, and Board minutes on the Client Portal on a "confidential to shareholders not for wider publication or distribution" basis.
- 7.3. In addition, from April 2020 LCIV has been running a new monthly series of 'Business Update' sessions which concentrate on recent developments and current priorities to give shareholders a better idea of how it is progressing as an organisation. The next meeting is due to take place on 16 October 2020.
- 7.4. As at 28 August 2020 the total value of funds under the direct management of LCIV was £9.5bn, up from £7.6bn at 31 March 2020. There is no change for Lewisham, which has no funds directly under management with LCIV, although LCIV do charge a levy for the reduced costs on Lewisham's passive BlackRock equity and bond mandate.
- 7.5. Lewisham has, however, since April 2020 been taking part in the SIG for a new renewable infrastructure fund. LCIV have now completed a procurement exercise to appoint an independent organisation to assist them with the manager selection exercise for the mandate, with an expected fund launch in Q1 2021. Further information on the Fund's investment strategy and proposed investment into this mandate is presented elsewhere in this agenda.

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## 8. Internal Audit

- 8.1. The 2019/20 internal audit of the Pension Fund was somewhat delayed due to the outbreak of Covid-19 at the start of the year, and ultimately concluded at the end of July 2020; the audit received a substantial assurance rating, with two medium recommendations. The first relates to financial reconciliations undertaken by officers, with a recommendation that they be undertaken in a timelier manner with clearer evidence of review, and the second relates to the risk register, noting that it had not been reviewed by the Pensions Investment Committee since June 2018 and should be updated at least annually. The latter recommendation is addressed elsewhere in this agenda.

## 9. Updates from the Scheme Advisory Board

- 9.1. In November 2019 the Scheme Advisory Board (SAB) published the Phase II report of its Good Governance project, working in conjunction with Hymans Robertson to consider how best to accommodate LGPS functions within the democratically accountable local authority framework, in a way that ensures that potential conflicts of interest between the pensions function of administering authorities and their host local authority are addressed and managed appropriately; this report is appended at Appendix 2.
- 9.2. As part of Phase II, the Board commissioned two working groups to take forward the proposals from Phase I. Group one, the 'Standards and Outcomes Workstream', was asked to focus on specifying clearly the outcomes and standards that the SAB wishes to see achieved by funds under the proposed approach, and how these outcomes should be evidenced. Group two, the 'Compliance and Improvement Workstream', was asked to focus on establishing the compliance regime that will be required to independently assess funds against this framework.
- 9.3. Among the proposals put forward by the two workstreams, which it is expected will eventually be refined and enacted via new statutory governance guidance, was the requirement for funds to produce an enhanced annual governance compliance statement setting out details of how each fund has addressed key areas of fund governance, to be signed by the authority's s151 officer.
- 9.4. It is proposed that Phase III of the project will see MHCLG drafting the required changes to the statutory guidance and the SAB working with the LGPS National Framework to establish a new Independent Governance Review provider framework. The project was expected to continue in early 2020; however, at the Board's May 2020 meeting it was decided to stand down the Phase III Implementation Group until further notice, to allow local government officers to focus on priority matters during the coronavirus outbreak.
- 9.5. In April 2020 the SAB went live with its new cost transparency compliance system, delivered by Byhiras, to which all UK LGPS funds have been on-boarded. The system streamlines the collection of data on fees and expenses disclosed by asset managers to LGPS pension funds, and enables the reporting and comparison of investment costs. The platform is designed to ensure that managers comply with the voluntary LGPS Code of Transparency; over 130 asset managers have signed up to Code, representing an estimated 80% of LGPS assets under management.
- 9.6. The system makes use of standardised templates that managers complete and upload to the portal for their client LGPS funds; it will track when templates are due to funds and inform the SAB if they are late or missing. The SAB is prevented from accessing template level data by the system design and the user permission framework. It can only use the system for compliance reporting as well as the viewing of average and

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total cost data for the scheme annual report on a combined national LGPS level. Byhiras is contractually prohibited from using, transferring or sharing in any way the physically separate LGPS data.

- 9.7. Of the Fund's eight fund managers, six are signatories to the Code and of those only two provided their cost template via the new portal for the year ending 31 March 2020 (with another providing the completed template via email); officers are working with the SAB to follow up with those managers that did not make use of the portal.
- 9.8. In late April 2020 the Supreme Court issued a judgement on LGPS boycotts in the case of R (on the application of Palestine Solidarity Campaign Ltd and another) Appellants) v Secretary of State for Housing, Communities and Local Government (Respondent), taking the position that the Government has the power to direct authorities on the approach they take to investment decisions but not the investments they make. This was in response to guidance issued in 2016 by the Government which purported to prohibit the adoption of investment policies that are contrary to UK foreign policy or UK defence; the Supreme Court ruled that in this instance, the Government had exceeded their powers.
- 9.9. Having sought legal counsel, the SAB issued a statement concluding that the fundamental duties and responsibilities of authorities are not altered by the judgement, and that in particular authorities remain responsible for investment decisions; divestment has always been possible on financial grounds, but if the authority wishes to consider non-financial factors in its investment decisions it may do so, taking into account the potential financial impact and the views of members. As a result, such consideration may legally result in boycotts or disinvestment should the authority decide to take such action.

## **10. Pension Fund Annual Report**

- 10.1. The Local Government Pension Scheme Regulations 2013 require an administering authority of a Pension Fund to prepare an annual report which summarises the performance, management and administration of the Fund. It consolidates information from the accounts and a number of published statutory statements, including the Investment Strategy Statement and Funding Strategy Statement, into one document. The authority must publish the annual report on or before 1 December following the financial year end.
- 10.2. Included within that document should be a short report from the Pension Board summarising the role of the Board, its activities in the year, and any training its members have undertaken.
- 10.3. The 2019/20 annual report will be taken to the Pensions Investment Committee on 30 November 2020 for approval for publication. Due to the timing of this Board meeting, it has not been possible to prepare a draft document for the Board's input. Officers ask that members delegate the drafting of the Pension Board report to the Chair, to be included in the overall Pension Fund annual report published before the December deadline.

## **11. Knowledge and Skills, Learning Needs and Training**

- 11.1. There is a statutory requirement for members of the Pension Board to have a level of knowledge and understanding of the law relating to pensions sufficient for them to exercise their role. Members should also be conversant with the rules of the scheme, and any document recording policy about the administration of the scheme, and it is the responsibility of the individual Board members to ensure they have the appropriate

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degree of knowledge and understanding. The Board's Knowledge and Training Policy, as it currently stands, is attached at Appendix 3 for reference (please note the policy is due to be updated, as per the administering authority's action plan, by Q1 2021, and to be reviewed by the Board at the same time, per its work programme).

- 11.2. External training opportunities, workshops and conferences will be recommended by officers for members' attention at every meeting to assist with their obligations under the Knowledge and Training Policy. Appendix 4 lists a number of upcoming events; should members find any of the sessions of interest, or have identified and attended any other training or events, please keep the Principal Accountant informed so that the training log can be updated. Any training or events attended that are relevant to members' roles and duties for the Board should be recorded on the log as a record of members' commitment to undertake the required learning.
- 11.3. The latest member training log is attached at Appendix 5, which covers the period from April 2019 to date. All training for the financial year ending 31 March 2020 will be reported in the Fund's Annual Report, whilst training/events attended within the current financial year, from April 2020 to date, will be uploaded to the Fund's website on a quarterly basis. Officers ask that members review the training log and notify the Principal Accountant of any inaccuracies or omissions as soon as possible, particularly for 2019/20 so that they can be included in the Annual Report.
- 11.4. Officers continue to recommend that members complete the Pension Regulator's Public Service Toolkit, a self-learning modular resource which includes courses on areas that Board members are expected to be conversant with (the web link is included in the Knowledge and Training Policy).
- 11.5. A further tool to assist members identify their particular strengths and gaps in knowledge is the 'Learning Needs Analysis' template, issued by the Pensions Regulator and attached at Appendix 6. Officers recommend and ask that members complete the learning needs analysis, rating their skills to identify training needs which can be improved via the links to the Regulator's Pensions Education Portal, and return them to the Principal Accountant by 30 November 2020 (the Regulator's Code of Practice requires that training is informed by members' completed learning needs analyses).
- 11.6. Members are reminded that there is a small budget in place for training; please contact the Principal Accountant for further information should you wish to attend a fee-paying event.

## **12. Financial implications**

- 12.1. There are no direct financial implications arising from this report.

## **13. Legal implications**

- 13.1. The London Borough of Lewisham Pension Fund is governed by the Public Service Pensions Act 2013 and administered in accordance with the Local Government Pension Scheme Regulations 2013 and other secondary legislation (together the "Regulations"). Section 5 of the Public Service Pensions Act 2013 and Regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended) makes provision for the establishment of a Pension Board, with responsibility for assisting the scheme manager in relation to:
  - Securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension

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scheme that is connected with it;

- Securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator; and
- Such other matters as the scheme regulations may specify.

13.2. Members must comply with the requirements of the relevant legislation in fulfilling their roles on the Board.

## **14. Equalities implications**

14.1. There are no direct equalities implications arising from this report.

## **15. Climate change and environmental implications**

15.1. There are no direct climate or environmental implications arising from this report.

## **16. Crime and disorder implications**

16.1. There are no direct crime and disorder implications arising from this report.

## **17. Health and wellbeing implications**

17.1. There are no direct health and wellbeing implications arising from this report.

## **18. Background papers**

18.1. The following papers are appended to this report:

- *Register of Conflicts of Interest (October 2020)*
- *SAB Good Governance in the LGPS Phase II Report*
- *Knowledge and Training Policy*
- *Training and Events Programme (October 2020)*
- *Training Log*
- *Learning Needs Analysis (TEMPLATE)*

## **19. Report author and contact**

19.1. David Austin, Director of Corporate Resources.

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