

Review of Effectiveness of Essex Pension Fund Board and Investment Steering Committee (ISC)

1. Process

- 1.1 This review is being undertaken jointly by the Independent Governance and Administration Adviser to the Pension Fund Board and the Governance Team Manager. The conclusions are based on the professional experience of those individuals, taking into consideration:
- feedback received through questionnaires completed by Board members, ISC members, officers and advisers;
 - observations and experiences in relation to the Board;
 - information available on good practice, particularly in relation to other LGPS funds.

2. Questionnaires

- 2.1 Questionnaires were sent to the members of the Essex Pension Fund Board and the ISC, together with the officers and advisers responsible for providing support to each body. Respondents had the option to respond electronically or in hard copy. Those involved with both the Board and the ISC were invited to complete a separate questionnaire for each.
- 2.2 The questionnaires were structured in relation to the key areas of the good governance framework approach developed by Hymans Robertson, being:
- Objectives & goals
 - Strategy and policy
 - Knowledge, skills and training
 - Information and advice
 - Effective decision making
 - Identifying, managing and mitigating risks
 - Supervising and monitoring
 - Accountability
 - Communications
 - Business Planning
 - Pensions Board Format
- 2.3 Completed questionnaires were received from:
- Board – 6 members/representatives and 6 officers/advisers
 - ISC – 3 members/representatives and 4 officers/advisers.

3. Responses

- 3.1 An analysis of yes and no answers against each question, together with the text of the questions and details of all respondents' comments, is attached as Appendix A to this report. On the whole the results are extremely positive with most people agreeing across the range of areas that the Board and the

ISC are both effective. A number of main themes can be identified within the comments, as set out below. These provide interesting areas for further discussion and recommendations, and this is covered later in the report.

Essex Pension Fund Board

- 3.2 Some concern was expressed regarding the sheer volume of business and whether sufficient time was allowed to consider fully all the relevant issues. There was some support for increasing the number of meetings.
- 3.3 There was support for the Board's commitment to providing training opportunities for Members, ensuring that they acquire the detailed knowledge necessary to undertake their role effectively. It was suggested that the Board's effectiveness could be improved by holding off-site away day / strategy meetings.
- 3.4 There was some evidence that not all Members understand the role of the ISC and some feel 'cut off' from its proceedings.
- 3.5 There was support for broadening the categories of representation, including an increase in the numbers of ECC Members and Unitary Authority representatives and the addition of representatives of Admitted Bodies and retired members

ISC

- 3.6 In general, comments were very positive, suggesting a stable, knowledgeable membership which receives robust and appropriate advice from officers and advisers.
- 3.7 Some concern was expressed that the membership may give rise to a perception amongst employers that decisions are reached from too narrow a base, particularly bearing in mind the limited voting rights. It was suggested that Scheme Members could have greater representation, and that County Council representation could be broadened by the appointment of Members who do not also hold other positions of importance (although the knowledge and experience of the current representatives was praised).
- 3.8 It was suggested that there was room for improvement with regard to communication, including greater stakeholder involvement.
- 3.9 The frequency of meetings was found to be generally satisfactory, with the exception of the last year where additional meetings would have been welcomed. There was support for the annual strategy meeting and it was suggested that a whole day should be set aside for this, with the location away from County Hall.

Comments in relation to both the Pension Board and the ISC suggest that the Chairman is performing his role effectively and that his experience is acknowledged and welcomed.

3.10 Statutory Guidance

- 3.11 The Department for Communities and Local Government (CLG) plays a leading role in providing guidance on the governance of LGPS funds. Statutory guidance was issued by them in November 2008 on some key areas. The key points in relation to this are shown below, with the full guidance attached as Appendix B. Each LGPS fund is required to publish their adherence (or otherwise) in relation to these points and this is included within the Fund's annual report and accounts.

CLG Governance Principles

Part II/A - Structure

- a. The management of the administration of benefits and strategic management of fund assets clearly rests with the main committee established by the appointing council.
- b. That representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) are members of either the main or secondary committee established to underpin the work of the main committee.
- c) That where a secondary committee or panel has been established, the structure ensures effective communication across both levels.
- d) That where a secondary committee or panel has been established, at least one seat on the main committee is allocated for a member from the secondary committee or panel.

Part II/B - Committee Membership and Representation

- a) That all key stakeholders are afforded the opportunity to be represented within the main or secondary committee structure. These include :-
 - **employing authorities (including non-scheme employers, eg, admitted bodies);**
 - **scheme members (including deferred and pensioner scheme members),**
 - where appropriate, independent professional observers, and
 - expert advisors (on an ad-hoc basis).
- b) That where lay members sit on a main or secondary committee, they are treated equally in terms of access to papers and meetings, training and are given full opportunity to contribute to the decision making process, with or without voting rights.

Part II/C - Selection and role of lay members

- a) That committee or panel members are made fully aware of the status, role and function they are required to perform on either a main or secondary committee.

b) That at the start of any meeting, committee members are invited to declare any financial or pecuniary interest related to specific matters on the agenda

Part II/D – Voting

a) The policy of individual administering authorities on voting rights is clear and transparent, including the justification for not extending voting rights to each body or group represented on main LGPS committees.

Part II/E – Training/Facility time/Expenses

a) That in relation to the way in which statutory and related decisions are taken by the administering authority, there is a clear policy on training, facility time and reimbursement of expenses in respect of members involved in the decision-making process.

b) That where such a policy exists, it applies equally to all members of committees, sub-committees, advisory panels or any other form of secondary forum.

c) That the administering authority considers the adoption of annual training plans for committee members and maintains a log of all such training undertaken.

Part II/F – Meetings (frequency/quorum)

a) That an administering authority's main committee or committees meet at least quarterly.

b) That an administering authority's secondary committee or panel meet at least twice a year and is synchronised with the dates when the main committee sits.

c) That an administering authority who does not include lay members in their formal governance arrangements, must provide a forum outside of those arrangements by which the interests of key stakeholders can be represented

Part II/G - Access

a) That subject to any rules in the council's constitution, all members of main and secondary committees or panels have equal access to committee papers, documents and advice that falls to be considered at meetings of the main committee.

Part II/H – Scope

a) That administering authorities have taken steps to bring wider scheme issues within the scope of their governance arrangements

Part II/I – Publicity

a) That administering authorities have published details of their governance arrangements in such a way that stakeholders with an interest in the way in which the scheme is governed, can express an interest in wanting to be part of those arrangements.

- 3.12 While these are best practice principles, it is important for Essex Pension Fund to comply or have a robust justification for non-compliance. As it is, Essex Pension Fund is already fully compliant in relation to most of the CLG principles, which places it well ahead of many other LGPS funds. Recent informal feedback from CLG has shown that, although good progress has been made by funds in recent years to improve governance arrangements, very few funds are fully compliant in all areas. In relation to most principles, between 70%-90% of funds are compliant.
- 3.13 The key areas of non-compliance for Essex Pension Fund are in relation to representation of non local authorities (e.g. admission bodies) and deferred/pensioner scheme members (this is highlighted in bold in the principles above). This is also an issue for many other funds, with the most recent data showing 32% of funds are fully compliant (28 funds) and 64% are partially compliant (57 funds, which will include Essex Pension Fund). This issue is considered further later.

4. Conclusions

- 4.1 It is our view that the finding from the completed questionnaires, together with the established compliance with CLG's governance principles, correctly reflect that the Board and ISC are effective in understanding and undertaking their respective roles.
- 4.2 As with any review, there will always be some areas of recommended improvement. Some key points that we think merit consideration (and which reflect the comments made as part of the questionnaire responses) include:

Wider representation

- 4.3 We do believe it is important to engage with all stakeholders appropriately and, in accordance with CLG's Governance Principles, we would recommend expanding the representation on the Pension Board to cover the full range of stakeholders. The following areas are not currently represented on the Board:
- one Deferred/Pensioner Representative, plus
 - one or two other Employer Representatives to represent other scheduled bodies, schools, colleges, academies, town /parish councils and admitted bodies.

We would therefore recommend that any change in membership structure include representatives of these groups.

- 4.4 It would also be worthwhile for the Board to consider whether it wishes to encourage bodies which nominate more than one representative to include amongst their nominees those who do not already hold other positions of responsibility within the organisation concerned. As members are common to the Board and the ISC, this would contribute towards increasing awareness of the Pension Fund and help to ensure that the considerable knowledge and experience that exists in the current memberships can be passed to others. It may also help to address the issue of availability to attend meetings and training events which can cause difficulty for members with multiple commitments. This is particularly important given the Board's commitment to

achieving a knowledgeable, stable membership and the comments made in the questionnaire about the low number of ISC meetings held during the past year.

- 4.5 We recommend that the ISC consider whether its membership could or should be broadened and also whether it is either possible or desirable to extend the current voting rights.

Workload/Capacity

- 4.6 There is a need for the Pension Board to address issues concerning the volume of business and the time allowed for detailed consideration of weighty issues. At its last meeting the Board agreed that more detailed debate about ongoing work in relation to the Hutton review could be picked up by a sub-group. We would recommend extending this principle, as required, to allow consideration of other areas, for example, reviewing discretionary policies, sharing scheme member communications, etc. Consideration would need to be given, however, to the resources implications of this in terms of additional officer support.
- 4.7 We would recommend that the Pension Board hold an annual away day each Autumn to discuss strategy, review objectives and feed into the annual business plan. In addition, the ISC should consider setting aside a whole day for each of its two annual strategy meetings and holding both at venues outside County Hall.
- 4.8 We welcome the support expressed by respondents for the Board's commitment to training and development and recommend that the momentum in relation to this be maintained, including more focussed training on roles and responsibilities of individuals and the Board.

Investment Steering Committee

- 4.9 Given comments expressed by questionnaire respondents, we recommend that the Pension Board consider whether any changes are needed to the way in which it currently receives reports from the ISC and whether Board members should be offered training regarding the Committee's role.
- 4.10 Again in the light of comments, we recommend that the ISC give consideration to its role in communication, how this is currently undertaken and whether there is scope to improve stakeholder involvement.

Other Issues

- 4.11 Some other areas that came out of the questionnaire responses that we believe merit consideration, but are considered less critical include:
- Encouraging use of supplementary educational aids to reports, such as PowerPoint presentations to assist in understanding
 - Ensuring that the Pension Fund Handbook is kept up to date and referred to by Board members as a useful aide memoire.
 - Looking for ways to ensure that those members with less knowledge are encouraged to challenge and ask questions if they are at all uncertain.

- Regular pre-meetings with the Chairman to allow officers and advisers to ensure the Chairman appreciates the key issues prior to commencing the meeting.
- Try to avoid moving meeting dates if at all possible (some issues last year with ISC dates).

5. Recommendations to the Essex Pension Fund Board

- 5.1 That the representation on the Board be expanded to cover the full range of stakeholders, with any change in membership structure to include the following representatives:
 - One Deferred /Pensioner Representative
 - One or two other Employer Representatives to represent other scheduled bodies, schools, colleges, academies, town/parish councils and admitted bodies;
- 5.2 That the Board consider encouraging bodies which nominate more than one representative to include amongst their nominees those who do not already hold other positions of responsibility within the organisation;
- 5.3 That the Board extend the remit of its existing sub-group to include the consideration of other detailed issues, as necessary;
- 5.4 That the Board hold an annual away day/strategy meeting each Autumn;
- 5.5 That the momentum in relation to training and development be maintained, including more focussed training on roles and responsibilities of individuals and the Board;
- 5.6 That the Board consider whether any changes are needed to the way in which it currently receives reports from the ISC and whether Board members should be offered training regarding the Committee's role; and
- 5.7 That the Board consider and comment upon the general issues identified in paragraph 4.11 of the Review report.

6. Recommendations to the Investment Steering Committee

- 6.1 That the Committee consider whether its membership could or should be broadened and also whether it is either possible or desirable to extend the current voting rights;
- 6.2 That the Committee set aside a whole day for each of its annual strategy meetings, with both to be held at a venue other than County Hall;
- 6.3 That consideration be given to the role of the ISC with regard to communication, how this is currently undertaken and whether there is scope to improve stakeholder involvement; and

- 6.4 That the Committee consider and comment upon the general issues identified in paragraph 4.11 of the Review report.

We look forward to discussing these recommendations with the Board on 9 March.

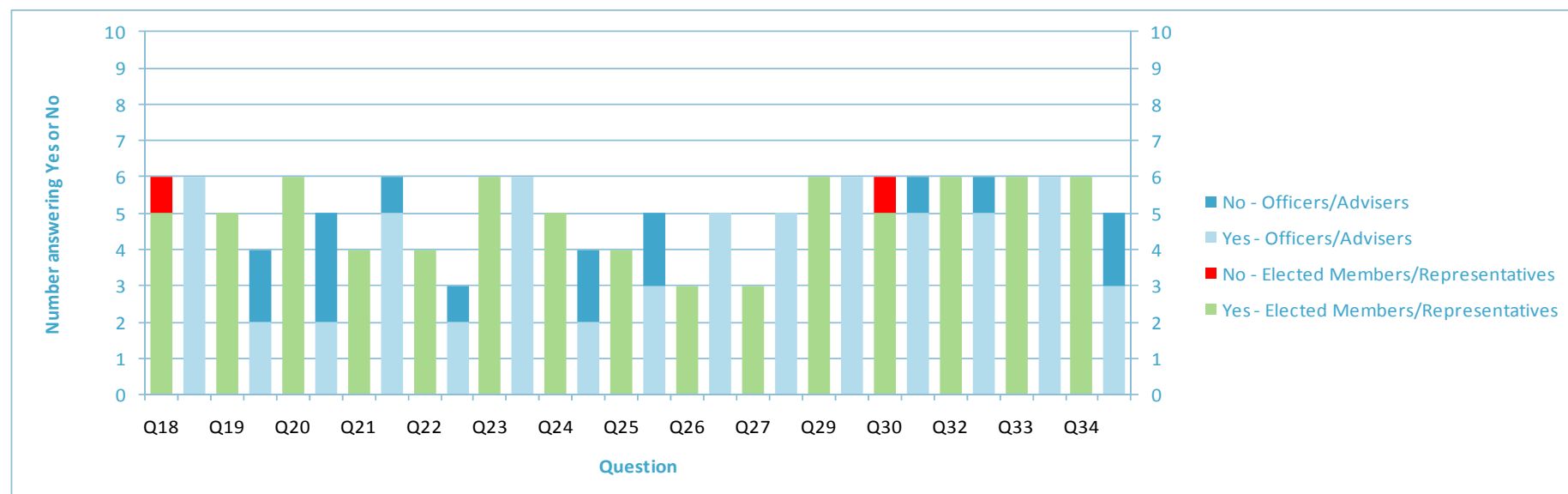
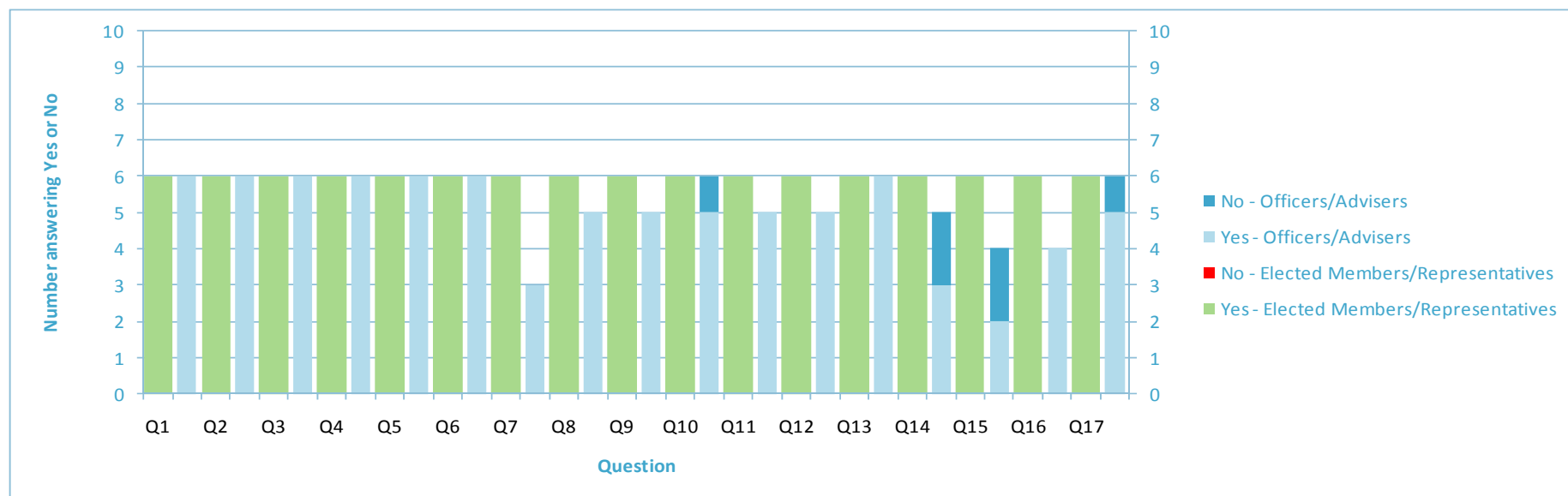
Report by:

Karen McWilliam, Independent Governance and Administration Adviser

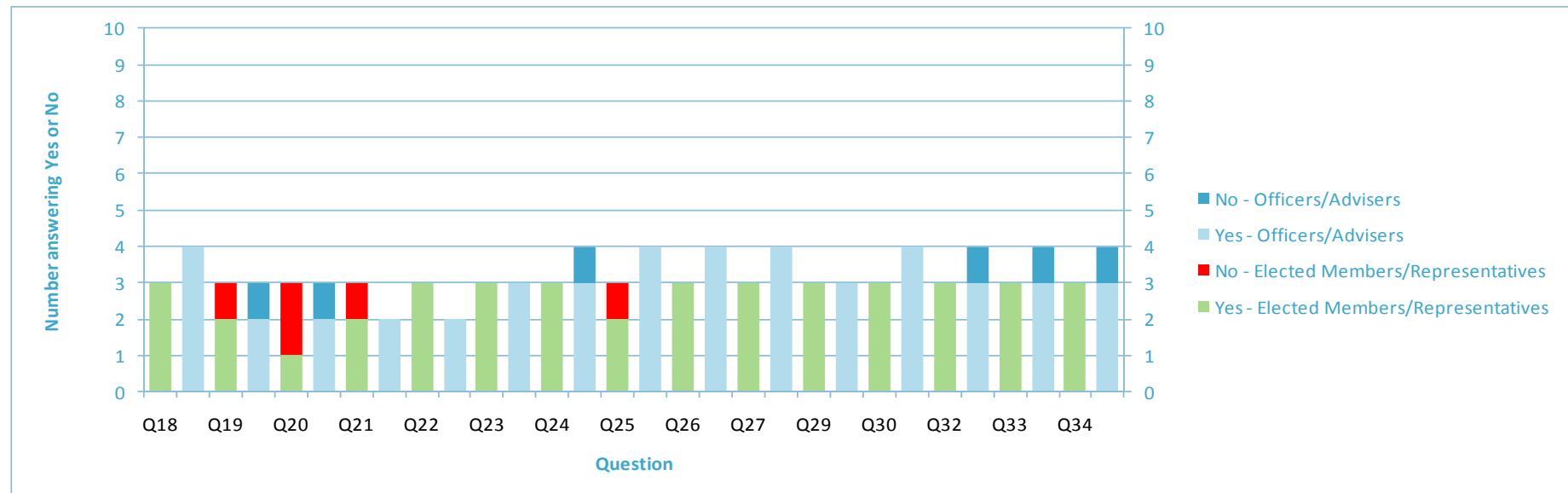
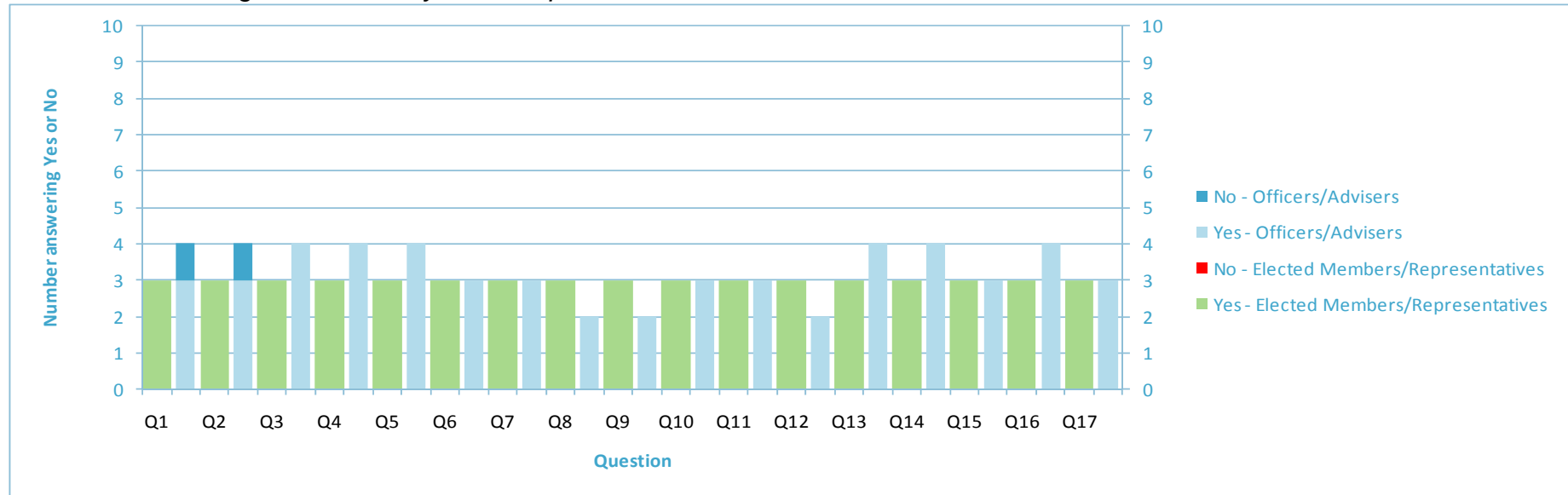
Judith Dignum, Governance Team Manager

Date - 01 March 2011

Pension Fund Board – yes/no responses



Investment Steering Committee – yes/no responses



Respondents' Comments

The following are the comments in relation to each question. These should be read in the context of the numbers of yes and no answers above.

Pension Fund Board

	Question	Comments/Answers
Q1	Are you aware of the Fund's agreed objectives?	Some still have to be agreed. I also feel we have too many to keep a real focus on.
Q2	Do you feel the business of the Board is linked to these objectives?	Yes and no. We are still in the developmental stage and still putting a framework in place. The test will be when that framework is in place to see if it then links business to the objectives.
Q3	Do you feel you have a general awareness of the Fund's strategies (e.g. funding, communications, governance)?	But could usefully use an aide memoir summarising 1,2 and 3.
Q4	Do you feel the Board has sufficient opportunity to feed into these strategies when they are created or reviewed?	<ul style="list-style-type: none"> • I do have a concern that the volume of business that it has been presented with and the short duration of meetings may have made it difficult for it to be properly debated. However hopefully this should be more manageable in the future. • However, these opportunities are not always taken up. • There is limited time given to discussion of issues at Pension Board meetings.
Q5	Does the Board have the right skills (as a collective board) to manage the	<ul style="list-style-type: none"> • I think we must continue to focus on training for Board Members

	Question	Comments/Answers
	pension arrangements?	<ul style="list-style-type: none"> • I believe the mix is right, although I do not have access to other members' CVs. • I think that the Board has the right skills in terms of being able to understand the issues when they are properly presented and take decisions as to the way to deal with those issues. However they often need specific technical knowledge which they do not have. • Yes - but it currently relies on some key Board individuals rather than the broader membership. This will evolve as training continues and Members new to this area gather experience. • As a collective, however if members are absent from the board meetings this can cause gaps in knowledge and understanding.
Q6	Do you feel you receive enough training on issues to enable you to carry out your duties?	<ul style="list-style-type: none"> • I think we are getting there. The training session in Edinburgh organised by Baillie Gifford was a valuable initiative • I have been very impressed with the training, it is a lot to learn and would welcome more, perhaps accredited in some way, this would perhaps help address 5. • Time is always a problem. I sometimes feel underprepared. • Additional training has always been offered
Q7	Do you feel you receive sufficient information in reports and any complementary information (e.g. officer comments and presentations) to make	The variety of information presentation, and extra elements, eg powerpoints, help reinforce, and indeed visualise points.

	Question	Comments/Answers
	decisions?	
Q8	Does the Board get the right support from the officers?	In the time allowed, maybe use of sub group would give more interaction and aid day to day understanding.
Q9	Does the Board get advice from officers in a form that can be understood?	<ul style="list-style-type: none"> • On the whole, if not understood, members seek and get clarification. • Going on verbal feedback they do.
Q10	Do the right officers attend for each agenda item?	<ul style="list-style-type: none"> • As far as I can tell! • For example : How do the Board know that the proposals before them or their decisions are legally sound unless there is a legal officer in attendance, familiar with both specific legislation and the law generally or unless there is assurance by legal that there are no(?) adverse legal implications
Q11	Does the Board get the right support from the advisers (actuary, independent governance and administration adviser, etc)?	<ul style="list-style-type: none"> • Normally I think the support is good but at times the succinctness could be improved • Only if they are all in attendance or, as a less desirable alternative, have been consulted in advance. • However, they need to utilise this more. • I think there is slight question mark in terms of specialist pensions legal advice

	Question	Comments/Answers
Q12	Does the Board get advice from advisers in a form that can be understood?	<ul style="list-style-type: none"> • They always seem to accept the reports given without much questioning but I suspect that some of the technical detail is not questioned because the Chairman does appear to understand and accept the detail and others may not wish to display a lack of understanding. Emperor's new clothes syndrome! • The majority of the time, yes.
Q13	Do the right advisers attend for each agenda item?	We certainly try to ensure this but see answers to 10 and 11.
Q14	Does the Board scrutinise issues enough?	<ul style="list-style-type: none"> • Mostly, perhaps there is not enough challenge, this may reflect the highly specialised nature of issues raised, and board members may not feel intellectually equipped to scrutinise successfully. • Overall, yes but my perception is that many of the members do seem to rely quite heavily on the chairman who is very knowledgeable and well prepared.
Q15	Do you feel fully involved in the decision making?	<ul style="list-style-type: none"> • But I am the Chairman. • But my role is not to be involved in the decision. • Key decisions sometimes appear to have been taken prior to the meeting.
Q16	Do you understand the key risks facing the Fund?	Probably not as clearly as I should but I think that the risk register will help with this when properly bedded in.

	Question	Comments/Answers
Q17	Do you think the Board (collectively) appreciate and understand the key risks facing the Fund?	<ul style="list-style-type: none"> • I think we are getting there. • Some newer members may not appreciate the finer points – but that will change as their experience grows
Q18	Do you think the Board receives sufficient information to enable it to understand and monitor how the Fund is being run?	<ul style="list-style-type: none"> • There may be an information gap here, in that I am not clear exactly how the Investment Committee functions and makes decisions. Is the board in a position to influence investment decisions? I am not sure. • Certainly with all of the new monitoring information that we will be reporting
Q19	Does the Board receive adequate reports from the Investment Steering Committee?	<ul style="list-style-type: none"> • See above, perhaps I have missed something, but I don't feel engaged with the ISC process. • I am not involved in the isc so cannot comment. • Although I do not think the Board would want to get bogged down in investment matters, my perception is that there is little scrutiny of the ISC by the Board. This may be related to the present make-up of the Board which has a large number of members who also sit on the ISC.
Q20	Does the Board have the right representation?	<ul style="list-style-type: none"> • We are due to review this. We must certainly look at attendance levels for individuals and whether to expand the membership by say 2 to give ECC another one and say the Unitaries one each. The Police Authority may not exist in the future. • I thinks so, and the balance is right.

	Question	Comments/Answers
		<ul style="list-style-type: none"> • Should have representation from admitted bodies. • Employee/Member representation is essential. What about a retired Member as well ? There may be potential for wider employer representation. • Appropriate voting representation is on the board. • However, this needs to incorporate smaller employers and different member types. • The Board seems too heavily weighted in favour of the County Council. As the Chairman also chairs the ISC and the members of the ISC also sit on the Board there does not appear to be any accountability in this area. • I feel a little uncomfortable that so many members of the ISC also sit on the Board. The ISC reports into the Board but could be perceived to be largely reporting in to itself?
Q21	Do you feel the Board adequately considers the interests of various parties such as pension members, the employers and council tax payer?	<ul style="list-style-type: none"> • Very heavily weighted to large tax raising employers so considers interests of employers/council tax payers but not contractors, members or employees. • Current legislation doesn't allow it
Q22	Do you understand your role and responsibilities as a Board member?	<ul style="list-style-type: none"> • Could do with a refresher course. • Yes - I understand my role & responsibilities as an Officer • Not sure that Board members fully appreciate conflicts of interest and separation of their roles as Council members and Board members.

	Question	Comments/Answers
Q23	Do you feel the quality and methods of communication with you in relation to Board business are appropriate and satisfactory?	
Q24	Do you feel Board business is communicated in an appropriate and satisfactory manner with other interested parties?	<ul style="list-style-type: none"> • I don't know. Perhaps notification of communications back to my host authority would allow me to have that knowledge. • But see below. • Yes, but there's always scope for wider work here. • Not sure that scheme members are fully aware of the Board and its role. • The Board members should have some responsibility for communicating Board business to the stakeholders they represent, however this should probably be backed up with other stakeholder communications such as our website and newsletters.
Q25	Do you feel there is sufficient engagement with stakeholders (e.g. employers and scheme members) directly from the fund and/or via the representatives on the Board?	<ul style="list-style-type: none"> • While the Fund attempts to engage with some stakeholders (employers via newsletter, forums and roadshows) and LGPS members via newsletters) I am not aware of any engagement by Board representatives. I think that we should make resources available for this. • But, more co ordination over all areas is required. • Don't know? • Stakeholders should be more involved – there are too many misconceptions

	Question	Comments/Answers
		<p>around Fund amongst some involved</p> <ul style="list-style-type: none"> I have no knowledge of what communication takes place via Board members. With regards communications from the fund, I feel that this is sufficient to meet legal requirements but there is scope for further development and improvement
Q26	Do you feel the Board has adequate opportunity to feed into the development of the annual Business Plan?	
Q27	Do you feel the Board has appropriate opportunity to feed into the progress on the annual Business Plan?	At every meeting.
Q28	In chairing the meetings, what does the Chairman do really well? What could the Chairman improve on?	<ul style="list-style-type: none"> Really well? Did the Chairman pen this question? The Chairing is good and businesslike. The Chairman is very experienced, and knowledgeable in this field, it would be difficult to identify any areas for improvement. He is very clear and authoritative. The chair has always been very good. Ensures that the meetings are kept fairly short. Give more time for debate, moving at the pace of the less experienced if necessary, where other time constraints do not prevent it. Have a greater involvement in setting and shaping the agenda. Chairman is strong on knowledge of subject & background. Maybe this is

	Question	Comments/Answers
		<p>disconcerting for Members who are new to the subject ?</p> <ul style="list-style-type: none"> • The chairman always explains background issues to items that are discussed. • He ensures he understands the agenda items in advance and drives the meetings forward in a positive manner. • Manages the meeting and ensures business is completed whilst giving time for discussion • Prepares well for meetings, controls the meetings well, shares his knowledge with other members during meetings
Q29	Are the meetings well organised?	He does everything well !!!
Q30	Are meetings often enough?	<ul style="list-style-type: none"> • I think they could be more frequent in order to help manage the information load and also to keep pace with developments, investment decisions, business plan monitoring etc. Obviously this needs to be balanced against increased meetings costs. • For the Investment Team, four Board meetings a year + six ISCs is stretching. We need to look at this. • However, with pensions being high profile at the moment this may need to increase.
Q31	How many meetings have you attended in the last 12 months?	<ul style="list-style-type: none"> • Most of both the Board and ISC

	Question	Comments/Answers
		<ul style="list-style-type: none"> • All of them • Approx 3 • 2 • 3 -31/3/10, 25/8/10 and 15/12/10. • March 2010, August, 2010, December 2010. • All • Three times I think • ? • 3
Q32	Are the lengths of the meetings right?	<ul style="list-style-type: none"> • About right. • The length of meeting should match the quantity of business that must be done in order to avoid compromising quality.
Q33	Are the locations of the meetings right?	
Q34	Do we spend enough time on each agenda item?	<ul style="list-style-type: none"> • Mostly, as I said earlier perhaps more scrutiny of certain items should occur and this would increase item times. Perhaps extra meetings/workshops to deal with specific issues should be considered.

	Question	Comments/Answers
		<ul style="list-style-type: none"> • Some of the more complex items could do with more time. The time allocated to the Board is too constraining. • Not always • Generally yes but sometimes feel more time is needed for some items
Q35	Do you have any suggestions on how the Board could become more effective?	<ul style="list-style-type: none"> • Improved training and involvement in awayday/offsite strategy meetings • I have answered in the positive to all the questions, however as a new member most of the answers, would probably need to have that fact mentioned. • A pre-agenda meeting with the Chairman to prioritise business and agree a suitable quantity of business for the time that is going to be allowed for the Board would help • This is a difficult one. Sometimes it almost feels like the pre Board training diminishes the appetite for the subsequent Board meeting. • More scope for improving effectiveness will come through the Board in due course. • Sub groups and interaction with officers would assist with knowledge. • Pressure for change in legislation ie running of funds and national organisation • I think that the Board is still in its relative infancy but a lot of good things have been put in place to help the members undertake their roles. I think the Board will continue to improve its effectiveness with the help of the support officers and advisers.

Investment Steering Committee

	Question	Comments/Answers
Q1	Are you aware of the Fund's agreed objectives and how you would have access to these?	<ul style="list-style-type: none"> • At present there are investment objectives set out in the Business Plan and different ones set out in the SIP. They need to be brought into line. • I receive copies of all papers presented to the committee and in some cases have been involved in their preparation. • Statement of Investment Principles
Q2	Do you feel the business of the Committee is linked to these objectives?	Yes to those in the SIP. Less so to the investment communication objective in the Business Plan
Q3	Do you feel you have a general awareness of the Fund's investment strategy?	Complete as again I am involved in its development
Q4	Do you feel the Committee has sufficient opportunity to feed into this strategy when it is created or reviewed?	Any changes are discussed in detail and it's an evolutionary process
Q5	Does the Committee have the right skills (as a collective committee to manage the pension arrangements?)	<ul style="list-style-type: none"> • They have a good general level of understanding and importantly get specialist advice and specific training to deal with those matters where they don't have the skills. • Broad and appropriate skills from Members and long skills and experience from

	Question	Comments/Answers
		<p>advisers</p> <ul style="list-style-type: none"> • Yes. The ISC is strong in this regard, given its stability of membership, experience and non partisan approach. Anecdotal evidence from networking with my peers at other LGPS Funds suggested Essex to be in a good position here. • The committee has significant financial experience, meets regularly and has had good consistency of membership
Q6	Do you feel you receive enough training on issues to enable you to carry out your duties?	<ul style="list-style-type: none"> • Officers are always offering opportunities to add to training. I also make my own arrangements to update knowledge and skills • n/a as adviser.
Q7	Do you feel you receive sufficient information in reports and any complementary information (e.g. officer comments and presentations) to make decisions?	<ul style="list-style-type: none"> • High standard of written and one to one discussion takes place routinely • Reporting is very robust in terms of monitoring of performance and managers. Areas such as fees and transaction costs are being addressed. Committee has advance papers on all significant considerations.
Q8	Does the Committee get the right support from the officers?	<ul style="list-style-type: none"> • I have been impressed by the quality of support though always concerned about the small resource given the financial scale of the Pension Plan • Probably not appropriate for adviser to answer, but my feeling is the committee receives very robust support
Q9	Does the Board get advice from officers	<ul style="list-style-type: none"> • Reports are well formatted and often discussed in draft

	Question	Comments/Answers
	in a form that can be understood?	<ul style="list-style-type: none"> Probably not appropriate for adviser to answer, but my feeling is the committee receives very robust advice and reporting
Q10	Do the right officers attend for each agenda item?	
Q11	Does the Committee get the right support from the advisers (actuary, independent governance and administration adviser, etc)?	<ul style="list-style-type: none"> As an adviser I give freely of my time when requested There may be room for more information around pension provision in general terms, the economic context, and the legal framework as these areas develop. n/a for adviser to answer
Q12	Does the Committee get advice from advisers in a form that can be understood?	<ul style="list-style-type: none"> Most advice from myself takes the form of verbal or electronic discussion. The Team of Officers and advisers has a strong working relationship n/a for adviser to answer If matters are complex advisers will explain in layman's terms
Q13	Do the right advisers attend for each agenda item?	we believe so
Q14	Does the Committee scrutinise issues enough?	<ul style="list-style-type: none"> This year, 2010/11, the time devoted to the ISC has probably not been sufficient to say that the Committee has scrutinised issues enough. However officers and advisers have stepped up.

	Question	Comments/Answers
		<ul style="list-style-type: none"> Where time constraints effect the process additional arrangements are put in place for officers and advisers to seek additional support
Q15	Do you feel fully involved in the decision making?	
Q16	Do you understand the investment related key risks facing the Fund?	Most of the strategic effort is devoted to managing risk. Seeking investment returns with lower volatility and less correlation
Q17	Do you think the Board (collectively) appreciate and understand the key risks facing the Fund?	<ul style="list-style-type: none"> Meeting the liabilities of the Scheme, at the most stable and appropriate funding rate whilst minimising risk is the funding objective Allocating the current risk budget is effective. Review of the continued appropriateness and future evolution is under way
Q18	Do you think the Committee receives sufficient information to enable it to understand and monitor how the Fund is being run?	<ul style="list-style-type: none"> All meetings of the ISC have this as a key item of every agenda Very robust and high level O&A reporting with backing detail if required
Q19	Does the Committee have the right representation?	<ul style="list-style-type: none"> The fact that all the ISC voting members are ECC councillors creates an opportunity for employer criticism of the investment strategy/decisions. However the strategy is a matter for the Fund/Admin authority. I am not sure that Cabinet members or those with important duty can spare sufficient time Of officers and advisers YES, but I have no involvement in the selection of Members. However the stability and background experience of those that I have

	Question	Comments/Answers
		<p>been involved with has generally been appropriate.</p> <ul style="list-style-type: none"> • Scope for wider Employee / Pensioner involvement plus wider Employer representation ? • The committee has significant financial experience, meets regularly and has had good consistency of membership • More member representation to improve understanding and value to members of Fund and Pension
Q20	Employee and employer representatives do not have voting rights on the ISC (but they do on the Pension Fund Board). Do you think they should have voting rights on the ISC, and why or why not?	<ul style="list-style-type: none"> • Any representative person should have the right to have their view recorded. At meetings of the ISC the Chair always seeks views from each member present as well as advisers and officers. • Given the Board's arrangements, this is now an anomaly. • Appropriate voting representation is on the Board. • The ISC delivers the instructions of the Board, to which it is accountable. • Personal agenda of a vocal few with thin understanding of issues, not representing total body - communication is key • Providing they have the knowledge and experience to enable them to understand issues
Q21	Do you feel the Committee adequately considers the interests of various parties such as pension members, the	<ul style="list-style-type: none"> • A bit major(ECC) employer/tax payer centric. Don't think they consider pension members or smaller employers at all. However given the current funding position

	Question	Comments/Answers
	employers and council tax payer?	<p>it is probably OK.</p> <ul style="list-style-type: none"> • The members conditions are generally not negotiable at the strategic level and the ISC does not cover pensions admin. The interests of the employer to meet the pensions promise and the tax payer are always under review in the SIP and the Funding Statement policies. • The order of priorities is scheme members, employers and council tax payers a poor third. • Key objectives are to pay member benefits and maximise return within reasonable risk - which are in those parties interests. Day to day decisions are measured against investment beliefs which link back to these objectives. Current review of investment strategy and risk budgeting will address
Q22	Do you understand your role and responsibilities as a Committee member?	<ul style="list-style-type: none"> • As an adviser absolutely • Yes - as an Officer. • n/a as adviser
Q23	Do you feel you feel the quality and methods of communication with you in relation to Committee business are appropriate and satisfactory?	I try to make worthwhile comments and to be brief in busy agendas. I contribute considerably in the thinking preparation and discussion in the briefing meetings and in the development of papers for ISC discussion
Q24	Do you feel Committee business is communicated in an appropriate and satisfactory manner with other	<ul style="list-style-type: none"> • We need to get our act together with publication of minutes and publicising meetings. If we don't want members of the public to attend we should structure

	Question	Comments/Answers
	interested parties?	<p>our committees accordingly.</p> <ul style="list-style-type: none"> • My experience of this is generally limited to the Annual Meeting with Employers at which there is frank and full discussion of the Plan events of the year • I think we're satisfactory - there's room for improvement.
Q25	Do you feel there is sufficient engagement with stakeholders (e.g. employers and scheme members) directly from the fund and/or via the representatives on the Committee?	<ul style="list-style-type: none"> • There is none related to Investments other than at Employer Forum or in regard to specific publications - SIP but this is probably appropriate. However we should assist the observers to feed back to those they represent. • With many thousands of members and large numbers of employers 1 to 1 is not possible, but with a strong Web site and very informative printed annual report and meeting I believe the Stakeholders needs are substantially met. Again I have no contact with Plan membership admin • As Board. • (But not council tax payers) • Annual employers forum • No, stakeholders should be more involved and as such would be better informed and able to make decisions on a more informed basis
Q26	Do you feel the Committee has adequate opportunity to feed into the development of the annual Business Plan in relation to investment matters?	<ul style="list-style-type: none"> • The BP is approved by the PB but all of the ISC are on the PB. • With much outside change and very large and complex Pension Fund, much of the activity is left to the officers.

	Question	Comments/Answers
		<ul style="list-style-type: none"> • Excellent. • Annual review sets business plan which is agreed at specific meeting with ISC
Q27	Do you feel the Committee has appropriate opportunity to feed into the progress on the annual Business Plan in relation to investment matters?	<ul style="list-style-type: none"> • The current year has been particularly challenging, scheduling meetings and implementing, changes to the Investment arrangement. In recent years the work load on the officers and advisers has increased substantially, with many extra meetings and much more electronic communication. • Annual review sets business plan which is agreed at specific meeting with ISC
Q28	In chairing the meetings, what does the Chairman do really well? What could the Chairman improve on?	<ul style="list-style-type: none"> • Good at timekeeping, keeping control of discussion. He is probably a bit overpowering because he is probably more knowledgeable about many investment matters than the majority of members and should perhaps hold back in voicing his opinion until others have had a chance to think for themselves. • All members officers and advisers are encouraged to make their views known. The Chair keeps the business moving in a timely way without being pushy. With a Financial Services experience and background, he expresses strongly held views. • Delivers a business-like approach by his knowledgeable leadership. I'm not sure I could suggest anything needing improvement. • Meetings are organised and chaired well, at the margin more invitation for views from other members • Focuses on agenda, whilst giving members time to discuss issues

	Question	Comments/Answers
Q29	Are the meetings well organised?	The Draft agenda is worked up with the Chair and advisers. The meetings work very well.
Q30	Are meetings often enough?	<ul style="list-style-type: none"> • 2010/11 has been a bit sparse. • Usually, again recently meeting dates have been changed more often. An Annual Away Day to discuss new issues and Strategy is essential to get away from very busy agendas in "routine" ISC meetings. • You could always have more meetings to cover every aspect of business – however with constraints and other commitments it works
Q31	How many meetings have you attended in the last 12 months?	<ul style="list-style-type: none"> • 4 - 25/2/10, 1/4/10, 10/6/10 and 13/10/10. • Six ISC Meetings, and at least 6 Officer and Adviser meetings. • All except October 2010. • Attendance is recorded in the Minutes of the meeting. • About 10 pensions-related. • 2
Q32	Are the lengths of the meetings right?	<ul style="list-style-type: none"> • The strategy meeting needs to be a full day. • Not always, they are busy and often include outsider provider presentations.

	Question	Comments/Answers
		<ul style="list-style-type: none"> • Need a curfew after 2 hours.
Q33	Are the locations of the meetings right?	<ul style="list-style-type: none"> • The strategy meeting should be away from County Hall • Fine
Q34	Do we spend enough time on each agenda item?	There is still rather too much time spent reviewing what has happened. It has to be done but making more time to discuss the future would be good.
Q35	Do you have any suggestions on how the Committee could become more effective?	<ul style="list-style-type: none"> • Reduce involvement of members who hold other important roles. However are there sufficient other members with appropriate backgrounds? • Some greater delegation to the key senior officers, within carefully defined rules would allow more thinking time about the longer term issues. • More scope for improving effectiveness will come through the Board in due course.

Department for Communities and Local Government

**LOCAL GOVERNMENT PENSION SCHEME
GOVERNANCE COMPLIANCE STATEMENTS
STATUTORY GUIDANCE – NOVEMBER 2008**

PART I

INTRODUCTION

1. This guidance is issued to all administering authorities in England and Wales with statutory responsibilities under the Local Government Pension Scheme (“LGPS”) and other interested parties listed at Annex B. It deals with the compliance standards against which LGPS administering authorities are to measure their governance arrangements.
2. The guidance includes a combination of descriptive text explaining the rationale of each compliance principle, and also a description of the relevant statutory provision of The Local Government Pension Scheme (Administration) Regulations 2008 (“the 2008 regulations”) (Regulation 31 refers), and its predecessor, regulation 73A of The Local Government Pension Scheme Regulations 1997 (as amended), that requires LGPS administering authorities to measure their governance arrangements against the standards set out in this statutory guidance. Where compliance does not meet the published standard, there is a requirement under Regulation 31(3)(c) to give, in their governance compliance statement, the reasons for not complying.
3. The Secretary of State will keep the content of the guidance under review in the light of administering authorities and other interested parties’ experience of applying the best practice standards. The guidance will be updated as necessary to reflect this and subsequent legislative changes.

BACKGROUND

4. The LGPS is a common scheme throughout England and Wales, administered by 89 individual pension funds, which includes the Environment Agency. In the context of the UK public pensions sector, it is atypical in being funded with assets in excess of £100bn. Viewed in aggregate, the LGPS is the largest funded occupational pension scheme in the UK.
5. As a statutory public service scheme, the LGPS has a different legal status compared with trust based schemes in the private sector. Matters of governance in the LGPS therefore need to be considered on their own merits and with a proper regard to the legal status of the scheme. This includes how and where it fits in with the local democratic process through local government law and locally elected councillors who have the final responsibility for its stewardship and management. The LGPS is also different in the respect that unlike most private sector schemes where the accrued benefits payable to members are always subject to the risk of scheme under-performance or even failure, the accrued benefits paid by local authorities are

established and payable according to statute and underpinned from local authority revenue and not the pension funds themselves. In simple terms, the pension funds exist to defray the pension costs incurred by the local authority. On this basis, it is the local authority itself, and local council tax payers, who bear the financial and investment risks of the scheme.

6. The word “trustee” is often used in a very general sense to mean somebody who acts on behalf of other people but in pensions law it has a more specific meaning. Most occupational pension schemes, primarily in the private sector, are established under trust law. Under a trust, named people (trustees) hold property on behalf of other people (beneficiaries). Trustees owe a duty of care to their beneficiaries and are required to act in their best interests, particularly in terms of their investment decisions. Although those entrusted to make statutory decisions under the LGPS are, in many ways, required to act in the same way as trustees in terms of their duty of care, they are subject to a different legal framework, which derives from public law. In particular, local authority councillors are subject to all the normal duties and responsibilities that come with their office. But they are not trustees in the strict legal sense of that word.

7. Trustees of private sector schemes ensure better scheme security, prevent employer-led actions which could undermine a scheme’s solvency and seek to ensure that investment and other decisions are both prudent and fair. While the public law framework applying to LGPS schemes will require similar standards of behaviour and practice by members of pension committees, who in this respect also fulfil a fiduciary role, a key distinction to be made is that LGPS benefits are established and paid under statute. Administering authorities are therefore subject to a statutory obligation that they are required to meet, irrespective of their scheme’s investment performance or general funding position. As such, scheme members in the LGPS are not subject to the same type of benefit risk as those in trust-based pension schemes. The entitlements and benefits payable to scheme members in trust based schemes are, potentially at least, more volatile and dependent ultimately on the effectiveness and stewardship of their trustees working as they must under the constraints of the employers’ overall covenant standing behind the scheme. This perceived risk to security was the main motivation for the inclusion of the member-nominated trustee provisions in the Pensions Act 1995 as a result of which the principle that scheme beneficiaries should be part of the decision making process became established. But even member nominated trustees must act in the interest of the beneficiaries and must not take decisions out of self-interest or because they have in mind a particular agenda. The Pensions Act 2004 simply extends that status.

8. On the one hand, elected councillors have legal responsibilities for the prudent and effective stewardship of LGPS funds and in more general terms, have a clear fiduciary duty in the performance of their functions. However, it is equally clear that the beneficiaries of the scheme have an interest in the beneficial title to the assets and the legal right to require that the assets are held and managed on their behalf in accordance with the governing legal instrument, in this case, the LGPS regulations. In this respect, elected councillors have a duty of care that goes beyond the strict fiduciary duty to employers and tax payers. Although there is no one single model in operation throughout the 89 LGPS fund authorities in England and Wales, most funds are managed by a formal committee representing the political balance of that

particular authority. Under section 101 of the Local Government Act 1972, a local authority can delegate their pension investment functions to the Council, committees, sub-committees or officers, but there are a small number of LGPS fund authorities which are not local authorities and therefore have their own, distinct arrangements.

9. It is also relevant to note that under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No 2853) and The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (Welsh SI 2001 No 2291), statutory decisions taken under schemes made under sections 7, 12 or 24 of the Superannuation Act 1972, are not the responsibility of the executive arrangements introduced by the Local Government Act 2000. This means, for example, that the executive cannot make decisions in relation to discretions to be exercised under the LGPS, or make decisions relating to the investment of the pension fund and related matters. These functions have continued to be subject to the same legislative framework as they were before the passing of the Local Government Act 2000, including delegations under section 101 of the Local Government Act 1972. Such delegations vary from local authority to local authority depending on local circumstances. However, the Secretary of State has advised that where such decisions were delegated to committees or to officers, then those delegations should continue. (see paragraphs 5.10 and 5.11 of the Statutory Guidance to English Local Authorities – New Council Constitutions : Guidance Pack Volume 1)

10. Under section 102 of the Local Government Act 1972, it is for the appointing council to decide upon the number of members of a committee and their terms of office. They may include committee members who are not members of the appointing council and such members may be given voting rights by virtue of section 13 of the Local Government and Housing Act 1989. On this basis, it is open to pension committees to include representatives from district councils, scheme members and other lay member representatives, with or without voting rights, provided that they are eligible to be committee members (eligibility rules are set out in section 15 of the Local Government and Housing Act 1989).

STATUTORY BACKGROUND

11. In response to proposals issued by the former Office of the Deputy Prime Minister, the Local Government Pension Scheme Regulations 1997 were amended to require LGPS administering authorities to publish details of their governance and stewardship arrangements by 1 April 2006. The purpose of this first step was to gauge progress made in improving the breadth of representation on LGPS committees in general and to assess what action, if any, should be taken to ensure that all committees operate consistently at best practice standards. On 30 June 2007, the 1997 regulations were further amended to require administering authorities to report the extent of compliance against a set of best practice principles to be published by CLG, and where an authority has chosen not to comply, to state the reasons why. The first such statement must be published by 1st August 2008.

12. With effect from 1 April 2008, the responsibility to review and, where necessary, revise their governance compliance statements published under Regulation 73A of

The Local Government Pension Scheme Regulations 1997, is set out in Regulation 31 of the 2008 regulations :-

“Pension funds : governance compliance statement

31—(1) This regulation applies to the written statement prepared and published by an administering authority under regulation 73A of the 1997 Regulations (1).

(1) The authority must—

- (a) keep the statement under review;
- (b) make such revisions as are appropriate following a material change in respect of any of the matters mentioned in paragraph (3); and
- (c) if revisions are made—
 - (i) publish the statement as revised, and
 - (ii) send a copy of it to the Secretary of State.

(2) The matters are—

- (a) whether the authority delegates its function, or part of its function, in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the authority;
- (b) if it does so—
 - (i) the terms, structure and operational procedures of the delegation,
 - (ii) the frequency of any committee or sub-committee meetings,
 - (iii) whether such a committee or sub-committee includes representatives of employing authorities (including authorities which are not Scheme employers) or members, and, if so, whether those representatives have voting rights;
- (c) the extent to which a delegation, or the absence of a delegation, complies with guidance given by the Secretary of State and, to the extent it does not so comply, the reasons for not complying.

(3) In reviewing and making revisions to the statement, the authority must consult such persons as it considers appropriate.

It is important to note that the scope of this statutory guidance is restricted, by virtue of regulation 31(3)(c) above, to issues concerning the extent to which the way in which an authority has chosen to delegate its functions complies with the best practice principles set out below. Although outside the scope of regulation 31(3)(c), we think it is good practice for LGPS fund authorities as part of their governance and stewardship arrangements, to have robust risk management processes and policies to manage conflicts of interest in place. However, these are separate and specialist topics and so are not covered in depth here. We intend to work with CIPFA and other relevant parties on these topics to develop supplementary general advice and guidance notes on these important governance matters for LGPS funds.

PURPOSE

13. The purpose of this guidance is two fold. Firstly, Part II of the guidance provides a detailed description of each of the best practice principles against which compliance is

to be measured (with each of the principles being set out in **bold** type) and secondly, it includes guidance on how the compliance statement in Part II should be completed.

TERMINOLGY

14. Throughout this paper, the distinction is made between those committees or sub-committees that have been formally constituted under 101 of the Local Government Act 1972 (“main committees”) and other committees or panels that have been established outside of that provision (“secondary committees”). Unless reference is made to “elected members”, the word “member” where it appears in the text is used to denote any member of a main or secondary committee, whether elected or not.

POSITION OF NON-LOCAL AUTHORITY ADMINISTERING AUTHORITIES

15. Regulation 73A of the Local Government Pension Scheme Regulations 1997 and this guidance made under powers granted by Regulation 73A(1)(c) of those regulations apply equally to all LGPS administering authorities in England and Wales. It is recognised, however, that a small number of administering authorities are not constituted as local authorities and are not therefore subject to the legal framework imposed on local authorities and their committees by local government legislation. In these cases, the authorities concerned are still required to measure the extent to which they comply with the principles set out in Part II of this guidance and where they are unable to comply, for example, because of their special position, to explain this when giving reasons for being unable to comply.

SUGGESTED READING

16. Although not a formal part of this guidance, it is recommended that administering authorities and other stakeholders should be aware of the contents of the following documents :-

- a) Good Governance Standards for Public Services (Office for Public Management (Alan Langlands – January 2005)
- b) Code of Corporate Governance in Local Government (CIPFA/SOLACE – 2007)
- c) Institutional Investment in the UK – A Review (HM Treasury – March 2001)
- d) Local Government Pension Scheme : Pension Fund Decision Making – Guidance Note (CIPFA Pensions Panel – 2006)
- e) Guidance for Chief Finance Officers : Principles for Investment Decision Making in the Local Government Pension Scheme in the UK (CIPFA Pensions Panel – 2001)
- f) Regulatory Code of Practice no 7 : Trustee Knowledge and Understanding. The Pensions Regulator, May 2006)
- g) Institutional Investment in the UK – Six years on (NAPF, November 2007)

h) Updating the Myners principles : a consultation (HM Treasury, DWP, The Pensions Regulator, March 2008)

PART II - THE PRINCIPLES

Part II/A - Structure

17. Elected members have legal responsibilities for the prudent and effective stewardship of LGPS pension funds and, in more general terms, have a clear fiduciary duty to participating employers; local tax payers and scheme beneficiaries, in the performance of their functions. Although there is no one single model in operation throughout the 89 fund authorities in England and Wales, most funds are managed by a formal committee representing the political balance of that particular authority. Under section 101 of the Local Government Act 1972, a local authority can delegate their statutory functions to the Council, committees, sub-committees or to officers, but there are a small number of fund authorities which are not local authorities and therefore have their own, distinct arrangements (see para 15 above).

18. The formal committee structures operated by individual pension fund authorities reflect local circumstances and priorities and it is not the remit of this guidance to prescribe a “one size fits all” approach. The evidence collected by Communities and Local Government in 2006 indicated that the overwhelming majority of these committees operate efficiently and effectively despite the variations in their constitution, composition and working practices. The intention is not therefore to level out these differences but instead to ensure that these different structures reflect the best practice principles described below :-

a. The management of the administration of benefits and strategic management of fund assets clearly rests with the main committee established by the appointing council.

b. That representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) are members of either the main or secondary committee established to underpin the work of the main committee.

c) That where a secondary committee or panel has been established, the structure ensures effective communication across both levels.

d) That where a secondary committee or panel has been established, at least one seat on the main committee is allocated for a member from the secondary committee or panel.

Part II/B - Committee Membership and Representation

19. Under section 102 of the Local Government Act 1972, it is for the appointing council to decide upon the number of members of a committee and their terms of office. They may include committee members who are not members of the appointing

council and such members may be given voting rights (see Part II/C) by virtue of section 13 of the Local Government and Housing Act 1989. On this basis, it is open to pension committees to include representatives from district councils, scheme member and other lay member representatives, with or without voting rights, provided that they are eligible to be committee members (eligibility rules are set out in section 15 of the Local Government and Housing Act 1989)

20. The number of stakeholders affected by the local management of the pension scheme and governance of pension funds is vast and it is accepted that it would be impractical to expect individual committee structures to encompass every group or sector that has an interest in the decisions that fall to be made under the scheme's regulations. The following principles are therefore intended to ensure that the composition of committees, both formal and secondary, offers all key stakeholders the opportunity to be represented. For example, deferred and pensioner scheme members clearly have an interest in the performance of pension committees but it would be impractical in many cases to expect them to have direct representation on a committee. Instead, there is no reason why a representative of active scheme members couldn't also act on behalf of deferred and pensioner scheme members. Similarly, a single seat in the committee structure could be offered to somebody to represent the education sector as a whole, rather than having individual representatives for FE Colleges, Universities, academies, etc.

21. An independent professional observer could also be invited to participate in the governance arrangement to enhance the experience, continuity, knowledge, impartiality and performance of committees or panels. Such an appointment could improve the public perception that high standards of governance are a reality and not just an aspiration. Moreover, the independent observer would be ideally placed to carry out independent assessments of compliance against the Myners' principles, both in terms of the 2004 follow up report and the latest NAPF consultation on next steps, together with other benchmarks that the fund authority's performance is measured against. The management of risk is a cornerstone of good governance and a further role for the independent observer would be to offer a practical approach to address and control risk, their potential effects and what should be done to mitigate them and whether the costs of doing so are proportionate. It is accepted, however, that certain fund authorities may have devised, or wish to devise, other ways of ensuring the effective scrutiny of their decision-making and performance and it should therefore be borne in mind that the appointment of an independent observer is not to be taken as an absolute requirement in this guidance, provided that authorities are satisfied that their alternative arrangement would match the sort of standards rehearsed in the NAPF's follow-up report on the Myners' principles (recommendation 7) and the government's response to it published in March 2008.

a) That all key stakeholders are afforded the opportunity to be represented within the main or secondary committee structure. These include :-

- i) employing authorities (including non-scheme employers, eg, admitted bodies);**
- ii) scheme members (including deferred and pensioner scheme members),**
- iii) where appropriate, independent professional observers, and**

iv) expert advisors (on an ad-hoc basis).

b) That where lay members sit on a main or secondary committee, they are treated equally in terms of access to papers and meetings, training and are given full opportunity to contribute to the decision making process, with or without voting rights.

Part II/C - Selection and role of lay members

22. It is important to emphasise that it is no part of the fund authority's remit to administer the selection process for lay members sitting on main or secondary committees or to ensure their attendance at meetings, unless they wish to do so. Their role is to determine what sectors or groups are to be invited to sit on LGPS committees or panels and to make places available. Effective representation is a two way process involving the fund authorities providing the opportunity and the representative bodies initiating and taking forward the selection process under the general oversight of the fund authority.

23. Members of a main decision-making LGPS committee are in a similar position as trustees in the private sector. Trustees owe a duty of care to their beneficiaries and are required to act in their best interests at all times, particularly in terms of their investment decisions. They are not there to represent their own local, political or private interest. On a main committee in the LGPS, the fiduciary duty to employers, taxpayers and scheme beneficiaries must always be put before the interests of individuals, individual groups or sectors represented on the committee, whereas on secondary committees or panels that are not subject to the requirements of the Local Government Act 1972, private interests can be reflected in proceedings.

a) That committee or panel members are made fully aware of the status, role and function they are required to perform on either a main or secondary committee.

b) That at the start of any meeting, committee members are invited to declare any financial or pecuniary interest related to specific matters on the agenda

Part II/D – Voting

24. Although the 2006 survey conducted by Communities and Local Government revealed that formal votes taken by LGPS committees were rare, it is important to set out the legal basis on which voting rights are, or may be prescribed to elected and lay members.

Elected members of the administering authority

a) All elected members sitting on LGPS committees have voting rights as a matter of course. Regulation 5(1)(d) of the Local Government (Committee and Political Groups) Regulations 1990 (SI No 1553/1990) provides that voting rights will be given to a person appointed to a sub committee of a committee established under the Superannuation Act 1972 who is a member of the authority which appointed the committee.

Elected members of authorities other than the administering authority and lay members

b) Under sections (13)(1)(a) and (2)(a) of the Local Government and Housing Act 1989, a person who is a member of a committee appointed by an authority under the Superannuation Act 1972 but who is not a member of that authority, shall be treated as a non-voting member of that committee. However, the provisions of section 13(3) and (4) of the 1989 Act allow an administering authority discretion as to whether or not a member of a committee is treated as a voting or non-voting member.

Lay members of advisory panels, etc

c) Because they are not formally constituted committees, secondary committees or panels on which lay members sit are not subject to the restrictions imposed by the Local Government Act 1972 on voting rights. In these circumstances, there is nothing to prevent voting rights being conferred by the administering authority on all lay members sitting on panels or informal committees outside the main decision making committee.

25. The way in which an administering authority decides to exercise its discretion and confer voting rights on lay members is not a matter for which the Secretary of State, under his regulations making powers under the Superannuation Act 1972, has any remit. The issue of whether voting rights should be conferred on district council or scheme member representatives, for example, is a matter for individual administering authorities to consider and determine in the light of the appointing council's constitution. Regulation 73A(1)(b)(iii) of the 1997 Regulations already requires an administering authority to include in their statement details of the extent to which voting rights have been conferred on certain representatives, but does not extend to the need to give reasons where this is not the case.

a) The policy of individual administering authorities on voting rights is clear and transparent, including the justification for not extending voting rights to each body or group represented on main LGPS committees.

Part II/E – Training/Facility time/Expenses

26. In 2001, the Government accepted the ten investment principles recommended by Paul Myners in his report, "Institutional Investment in the UK". The first of those principles, "Effective Decision Making", called for decisions to be made only by persons or organisations with the skills, information and resources necessary to take them effectively. Furthermore, where trustees - or in the case of the LGPS, members of formal committees - take investment decisions, that they have sufficient expertise to be able to evaluate critically any advice they take.

27. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (as amended) already requires administering authorities to report the extent of compliance with this principle. But on the wider issue of governance, it is

equally important that they report on the extent to which training facilities, etc, are extended to lay members sitting on either main or secondary LGPS committees.

28. If all stakeholders represented on LGPS committees or panels are to satisfy the high standards set out in the Myners' set of investment principles, it follows that equal opportunity for training, and hence facility time, should be afforded to all lay members. They too should have access to the resources that would enable them to evaluate the expert advice commissioned by the main investment committee and to comment accordingly. But the way that is achieved at local level is not a matter for national prescription, in particular, the policy adopted by individual administering authority or local authority on the reimbursement of expenses incurred by committee or panel members. On this basis, the best practice standard which administering authorities are required to measure themselves focuses on the extent to which they have a clear and transparent policy on training, facility time and reimbursement of expenses and whether this policy differs according to the type of member, for example, elected member or scheme member representative.

a) That in relation to the way in which statutory and related decisions are taken by the administering authority, there is a clear policy on training, facility time and reimbursement of expenses in respect of members involved in the decision-making process.

b) That where such a policy exists, it applies equally to all members of committees, sub-committees, advisory panels or any other form of secondary forum.

c) That the administering authority considers the adoption of annual training plans for committee members and maintains a log of all such training undertaken.

Part II/F – Meetings (frequency/quorum)

29. From the evidence collected in 2006 by Communities and Local Government, it is clear that the majority of administering authorities who have introduced a multi-level committee structure operate different reporting/meeting cycles for each committee or panel. In the case of main, formal committees, these tend to meet, on average, at least quarterly, though there are a few examples where meetings are held less often. As a general rule, it is expected that main committees should meet no less than quarterly. Although it is important that any secondary committees or panels should also meet on a regular and consistent basis, it is accepted that there should be no compulsion or expectation that there should be an equal number of main and secondary committee meetings. But as a matter of best practice, it is expected that secondary meetings should be held at least bi-annually.

30. Although the overwhelming majority of administering authorities operate effective representation policies, the evidence collected in 2006 by Communities and Local Government revealed a small handful of authorities who restrict membership of their committee's to elected members only. In legal terms, this is permissible, but in terms of best practice, it falls well short of the Government's aims of improving the democratisation of LGPS committees. In those cases where stakeholders, in particular, scheme members, are not represented, it is expected that administering

authorities will provide alternative means for scheme employers, scheme members, pensioner members, for example, to be involved in the decision-making process. This may take the form of employer road-shows or AGMs where access is open to all and where questions can be addressed to members of the main committee. It must be emphasised, however, that road shows or AGMs are not seen as viable alternatives to the participation of scheme member representatives within an authority's governance arrangement. They are, in effect, to be seen as a matter of last resort in the hopefully unlikely situation where an authority has decided to exclude scheme member representatives from either their main or sub-committee.

- a) **That an administering authority's main committee or committees meet at least quarterly.**
- b) **That an administering authority's secondary committee or panel meet at least twice a year and is synchronised with the dates when the main committee sits.**
- c) **That an administering authority who does not include lay members in their formal governance arrangements, must provide a forum outside of those arrangements by which the interests of key stakeholders can be represented**

Part II/G - Access

31. The people to whom the appointing council entrust with taking investment, and other statutory decisions, is a matter for that council to consider and determine. However, it is important that others, outside that formal decision-making process but involved in some capacity in the general governance arrangement, have equal access to committee papers and other documents relied on by the main committee in taking its decisions.

32. The fact that voting rights are not conferred on individual lay members should not put them on any less footing than those members who serve on the main committee with full voting rights. Secondary panels or committees have a clear role to underpin and influence the work of the main committee and can only do so where there is equal access.

- a) **That subject to any rules in the councils constitution, all members of main and secondary committees or panels have equal access to committee papers, documents and advice that falls to be considered at meetings of the main committee.**

Part II/H – Scope

33. Traditionally, LGPS committees have focussed on the management and investment of the funds under their supervision, with questions arising from the main scheme dealt with by officers with delegated authority under the council's constitution. In recent times, however, and reflecting the trend towards de-centralisation, administering authorities have become responsible for formulating a significant number of policy decisions on issues like abatement, compensation and the exercise of discretions under the scheme's regulations. These are key decisions which should

be subject to the rigorous supervision and oversight of the main committee. And with the prospect of some form of cost sharing arrangement to be in place by March 2009, it is clear that there are other key scheme issues, outside the investment field, that main committees may need to address in the future. Given the not insignificant costs involved in running funds, LGPS committees and panels need to receive regular reports on their scheme administration to ensure that best practice standards are targeted and met and furthermore, to satisfy themselves and to justify to their stakeholders that the fund is being run on an effective basis. This would involve reviewing the committee's governance arrangements and the effective use of its advisers to ensure sound decision making. Here, the use of an independent professional observer, free of conflicts of interest, would enable a wholly objective approach to be taken to the stewardship of the fund.

34. All this points to LGPS committees perhaps becoming more multi-disciplined than they have been in the past, with a consequential impact on, for example, membership and training. For example, if decisions are to be taken by LGPS committees that could impact on the cost-sharing mechanism, it is reasonable to expect scheme member representatives to be present on those decision making committees, given that those decisions could have a direct impact on the position of scheme members under the scheme.

35. Although the future may see LGPS committees having a broader role than at present, individual administering authorities may adopt different strategies to meet these new demands. The more traditional approach might be to extend the scope of existing investment committees to include general scheme and other administrative issues. But already, there is evidence to suggest that some administering authorities have opted instead to establish new sub committees to deal solely with the administration and communication of members' benefits or other scheme issues. The purpose of this guidance is not to prescribe the way in which administering authorities develop and adapt to scheme developments. Instead, the intention is to increase the awareness that administering authorities and their committees must be flexible and willing to change to reflect scheme changes and wider pensions issues.

a) That administering authorities have taken steps to bring wider scheme issues within the scope of their governance arrangements

Part II/I – Publicity

36. A key component in improving the democratisation of LGPS governance arrangements is to increase the awareness that opportunities exist for scheme member representatives and LGPS employers, for example, to become part of these arrangements. But the onus for increasing awareness should not rest entirely with the administering authority. It is just as much the role of scheme member representatives and scheme employers to keep abreast of developments in this field and to play an active part in the selection and appointment of committee or panel members. This is best left to local choice and discretion. However, administering authorities are reminded that under Regulation 76B(1)(e) of the 1997 Regulations, the latest version of their Governance Compliance Statement must be included in their Pension Fund Annual Report.

a) That administering authorities have published details of their governance arrangements in such a way that stakeholders with an interest in the way in which the scheme is governed, can express an interest in wanting to be part of those arrangements.