

Scheme Advisory Board

Options for separation of host authority and pension fund

Proposal for assistance

Introduction

The LGPS Scheme Advisory Board (The Board) is established under the Public Service Pensions Act 2013 to advise the Secretary of State for Communities and Local Government on the development of the Local Government Pension Scheme.

In support of its work plan for 2015-16, the Board is inviting proposals from interested parties to assist it in developing options with regard to the increased separation of LGPS pension funds and their host authorities for consideration prior to potentially making recommendations to the Secretary of State.

The work

The work required is to develop the options set out in the annex to these instructions in the form of a report to be presented to the Board.

For each option the successful organisation will be required to produce a comprehensive review to include a detailed description of:

1. The end position together with the steps required to reach that position
2. The impact (positive and negative) on the accountability of the scheme manager to
 - Scheme members
 - Scheme employers
 - Local taxpayers
3. The impact (positive and negative) on
 - Compliance with the IORP and in particular articles 8 and 18
 - Conflicts of interest between the scheme manager and the host authority
4. The impact (positive and negative) on financial transparency, in particular
 - Production of comprehensive and clear accounts
 - Dedication of resources
 - Management and administration costs
 - Investment costs
5. The ease or complication of the legislative requirements to implement the option, in particular the need for new or amended
 - Primary legislation
 - Secondary legislation
 - Statutory guidance
 - Third party (e.g. CIPFA) codes of practice/guidance

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6. The impact (positive and negative) on management costs and funding or investment costs including:-
 - Set up costs
 - Ongoing costs

7. The impact (positive and negative) on service delivery to stakeholders including
 - Scheme members
 - Scheme employers
 - Third parties (e.g. TPR, HMRC)

Budget

The Board is working within a fixed budget to be agreed by the Department with a wide and varied work plan to complete. Bidders should be aware that the value of bids will be an important element in the selection of the successful organisation.

Proposals

Proposals from interested parties should consist of the elements below with each element restricted to no more than 1 side of A4. Further information may be provided as annexes however standard marketing material should not be included. Proposals should be returned no later than 17.00 on Thursday 2nd July 2015 to liam.robson@local.gov.uk copied to jeff.houston@local.gov.uk.

Important - Where the bidder is (or in the case of a joint bid one or more of the bidders are) an organisation represented in the Scheme Advisory Board in any capacity the bidder must include in its submission:-

- A declaration of the nature and extent of the representation

- A statement detailing how it will effectively manage the potential conflict of interest arising from the delivery of this work to the Board

Elements required

1. **Introduction** - set out the approach you would take to the work and your objectives, in particular how you would work with members of the Board and how you would manage confidentiality issues.

2. **Your pitch** - set out what sets you apart from others who may bid for this work in particular the experience and expertise you bring.

3. **Fee structure** - state the cost of the work either as a fixed fee or as a daily rate. If the latter specify the number of days included in your bid.

4. **Expertise of team** - set out the names, job titles and experience of members of your organisation who would be involved in delivering this work. Also specify a named lead member for the team who would be responsible for the co-ordination and delivery of the work.

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5. **Input from Board organisations and other stakeholders** - set out the input you will require from organisations involved in the scheme and state if that input will be in the form of face to face meetings or written material.
6. **Timescale** - potential bidders should set out the timescale required to complete the work together with important milestones with a view to making a presentation to the 21st September Board meeting

Board secretariat
16th June 2015

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ANNEX 1 Options for reform

The Current Position

Whilst the LGPS in England and Wales is one scheme, it is comprised of 88 different administering authorities. The size of the funds varies widely, as do the arrangements for its management. In some instances, pensions operations are integrated within the HR and Finance functions of the relevant administering authority; in others, discrete pensions units have been created to take on the task.

Each Administering Authority (as defined in Part 1 of Schedule 3 of the LGPS Regulations 2013) is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund for the LGPS.

The majority of Administering Authorities are local authorities and therefore operate in accordance with local government law requirements. However some Administering Authorities are not local authorities such as the Environment Agency, the London Pensions Fund Authority and the South Yorkshire Pensions Authority. Such bodies operate in accordance with their own legal constitutions.

There are diverse approaches to how each LGPS Fund operates. In some instances, two or more Administering Authorities may share their administration function, for example through a shared service arrangement, or in other ways. However, where this happens each local authority still retains its own individual Administering Authority status and therefore legal responsibility for its own Fund.

In practice decisions about pensions are delegated by the Administering Authority in accordance with Section 101 of the 1972 Act to:

- Committees or sub-committees made up of councillors from all the political groups and will be politically balanced; or
- Officers.

The delegation of pension functions varies from Administering Authority to Administering Authority depending on local circumstances. The Regulations require an Administering Authority's governance compliance statement to set out whether the Authority delegates its functions and the detail of the delegation given. In addition there are specific legal requirements (as well as precedent through case law and statutory guidance) for the Section 151 officer or the Chief Financial Officer relating to the LGPS. These existing requirements are further elaborated upon in the details under option 1 below (Stronger role for Section 151 Officer).

The following options each seek to improve the governance of pension funds by increasing the degree of separation between the scheme manager function (the management and administration of the scheme and the local fund) and the host authority.

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Option 1 - Stronger role for Section 151 Officer within a distinct entity of the host authority

Primary recommendations

- Separation of financial statements and audit arrangements
- Pension fund-specific annual governance statement
- Specific delegations or require a senior officer to lead the function
- Group the responsibility for all LGPS related activities within one function.

Brief description of option

Separate accounts

At present, regulations require that LGPS fund financial statements be incorporated with the financial statements of the administering authority. This option proposes amending the Accounts and Audit Regulations to require LGPS administering authorities prepare the pension fund financial statements as a discrete financial report outside of the host authorities' accounts.

This option would necessitate the setting of separate budgets for all pension fund related activities together with separate audit arrangements for the pension fund.

Pension fund-specific annual governance statement

Regulation 4(3) of the Accounts and Audit Regulations 2011 requires that a local authority produce an annual governance statement (AGS) to accompany its financial statements, which reports on the effectiveness of its systems of internal control. This option proposes a requirement for a separate AGS for the pension fund.

Specific delegations or separate senior officer role

This option envisages either

1. Use of delegation to move some or all pension fund-related finance responsibilities from the section 151 officer to another, whilst maintaining the required oversight and control or
2. Requiring the host authority to create a dedicated senior officer position to take on all responsibilities for pension fund-related responsibilities

Either of the above officers would then be responsible for the separate dedicated unit described below.

One function led by a senior officer

Under this option each host authority would be required to group all LGPS related activities within one discrete organisational unit. Currently the arrangement of how LGPS activities are managed is determined by individual administering authorities. The result is a variety of outcomes ranging from the diverse to the distinct.

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Option 2 - Joint Committee of two or more administering authorities

Primary recommendations

- Delegation of full scheme manager function and all decision making to a section 102(5) joint committee
- Employment of staff and contractual issues dealt with through lead authority or wholly owned company
- Ownership of assets unchanged
- Consideration be given to enshrining the structure in legislation in the form of a combined authority

Brief description of option: Under this option each of the LGPS administering authorities involved would delegate the function of scheme manager in its entirety to a joint committee under Section 102(5) of the Local Government Act 1972 (Part 2 paragraph 5).

The joint committee will then be responsible for all decisions relating to the management and administration of the scheme including asset allocation, manager selection, administering authority discretions, provision of administration services, appointment of advisors and procurement of related services (e.g. actuarial, legal and custodial).

The constitution of the joint committee would need to be contained in a formal agreement entered into by the authorities. The joint committee as constituted would not be a separate legal entity therefore it cannot own assets, have liabilities, raise taxes, enter into contracts or employ staff. The ownership of assets (administering authority) and responsibility for meeting liabilities (employers) would not change.

Employment of staff, entering into contacts and other operational matters would be delivered via a lead authority using a LG Act 1972 Section 113 agreement or an arrangement under the Good and Services Act 1970. Alternatively the authorities could create a jointly owned and controlled company to perform this function.

Giving the structure a legal identity

Consideration in this option will need to be given to giving the joint committee a legal identity (therefore avoiding the need for a lead authority or jointly owned company) by the creation of a combined authority similar to those in place for transport and planning. Such a combined authority would also be able to employ the necessary staff, enter into contracts and deliver all aspects of the function by utilising existing local government legislation.

The combined authority would become the scheme manager responsible for the management and administration of the scheme in relation to the group of employers assigned to it. The assets and liabilities of existing scheme manager/s would need to be transferred to the combined authority base.

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Option 3 - LGPS complete separation of the pension fund from the host authority

Primary recommendations

- DCLG or Treasury to create single purpose Pensions Bodies
- Remove decision making from elected members

DCLG or Treasury to create Pensions Authorities

This option proposes that a government department creates pension bodies to take over the role of scheme managers within the LGPS. Unlike option 2 (combined authorities) these bodies would not be local authorities but could still exist in the public sector.

They would be designed to comply fully with the IORP (articles 8 and 18) in the same manner as private sector trust based pension institutions are obliged to. The bodies would have Boards that include employer and member representation with the same or similar make up as pension institutions in the private sector.

Existing administering authority staff wholly or mainly dedicated to LGPS scheme manager activities would transfer to the new bodies which would have constitutions making them to be responsible for

1. Administering the pension scheme in the most efficient and cost effective way possible
2. Collecting the required contributions from employers and members
3. Ensuring assets are invested in the best interests of members and beneficiaries, and in the event of a conflict of interest the institution must ensure that investments are made in the sole interest of members and beneficiaries
4. Paying benefits as and when they fall due

The option also seeks to ensure clear separation of pension fund monies from those of the host authority.

All of the assets and liabilities of the administering authority with regard to its function as an LGPS scheme manager would transfer to the new body

Remove decision making from elected members

This option seeks to remove the potential for conflict of interest between the host authority (sponsor) and the pension fund (institution) by removing the fund and placing it in a separate body with its own duties and interests that are solely aligned with those of the beneficiaries. Elected members of a current host authority may well be on the board of the new body but as employer representatives with no more or less say in the direction of investment policy than any other board member.

The option aims to remove any possibility of the host authority from taking decisions on investments which prefer its interests over the interests of the members of the LGPS or other employers in the fund.