

# Croydon Council

<b>REPORT TO:</b>	<b>Pension Board 19 October 2023</b>
<b>SUBJECT:</b>	<b>Local Government Pension Scheme Advisory Board / The Pensions Regulator Update</b>
<b>LEAD OFFICER:</b>	<b>Matthew Hallett – Acting Head of Pensions and Treasury</b>

## 1. RECOMMENDATION

1.1 The Board are asked to note the contents of this report.

## 2. EXECUTIVE SUMMARY

2.1 This report advises the Board of the matters currently being considered by the Local Government Pension Scheme Advisory Board and The Pensions Regulator which are relevant to the Fund. Any implications for the Fund have been noted and are being addressed in consultation with Fund advisers.

## 3 DETAIL

### 3.1. Local Government Pension Scheme Advisory Board (SAB)

#### **Key Messages from SAB on the [DLUHC Consultation on Investment Issues](#) (Next Steps for Investments in the LGPS)**

On 2 October 2023 the Board [submitted its full response](#) (also attached as Appendix A) to DLUHC's consultation on investment issues which opened on 11th July 2023. This consultation included proposals in a range of areas, including; setting a target date for the migration of all listed assets to pools, a proposed move to fewer pools (with a target size of £50bn), a requirement for funds to have a plan to invest up to 5% of assets to support levelling up in the UK and a proposal for funds/pools to dedicate 10% of assets to private equity investments.

The Board's response was shaped by a working group comprised of elected members, scheme representatives and practitioners from the Board's membership, led by Board Chair, Cllr Roger Phillips.

On 11 July 2023 DLUHC issued a consultation on a number of investment-related proposals for the LGPS. These include imposing a deadline of 31 March 2025 for the transition of listed assets from funds to pools; proposals around increasing LGPS investments in private equity and projects that meet the government's levelling up agenda; details around the implementation of the Competition and Markets Authority Order relating to investment consultants, and a technical change to the 2016 investment regulations. The consultation will run for twelve weeks and closes on 2 October 2023. You can [view the consultation on the gov.uk website](#). DLUHC is asking that respondents [use the online consultation link to respond](#). The Scheme Advisory Board will be responding to the consultation and will publish information about its discussions, as well as a draft response, in due course.

On 9 December 2022, the Chancellor of the Exchequer announced a set of reforms (known as the “Edinburgh Reforms”) to drive growth and competitiveness in the financial services sector. It has been confirmed that the Government will be consulting in early 2023 on issuing new guidance on Local Government Pension Scheme asset pooling. The government will also consult on requiring LGPS funds to ensure they are considering investment opportunities in illiquid assets such as venture and growth capital, as part of a diversified investment strategy.

### **Publication of the 2022 Scheme Valuation Report**

On 10 August 2023 the Scheme Advisory Board published a detailed [report](#) that pulls together data from all of the 2022 local fund valuation reports. The Report aims to provide a rich source of information about a range of vital issues for Scheme members, employers and other stakeholders. It shows that:

- The average funding level has improved from 98% in 2019 to 107% at 2022 (on local funding bases), with all Funds reporting an improvement in their position since 2019
- Average contribution rates to meet future service costs rose from 18.6% of payroll at 2019 to 19.8% of payroll at 2022
- Overall, contribution rates fell – reflecting lower deficit contributions – to 21.1% of payroll at 2022 from 22.9% of payroll at 2019
- Employee contributions increased marginally from 6.5% of pay to 6.6%

The report also examines the main assumptions used by funds in their 2022 valuations, looking at trends around setting of the discount rate, life expectancy and future expectations for inflation and salary increases.

### **Compliance and Reporting Committee's Annual Report working group - Review of 2019 CIPFA 'Preparing the Annual Report' guidance**

On 27 July 2023 the Board reported that the Annual Report working group had been reviewing the 2019 CIPFA 'Preparing the Annual Report' guidance and had identified several areas within the current guidance which now require updating and clarification. A priority has been to streamline the guidance and reduce duplication with other reporting obligations wherever possible.

Another key area of improvement identified was how funds should report and categorise the allocation of assets. This area is covered in DLUHC's recent consultation on LGPS investments, which proposes a requirement for 'a single standard set of data on investments across annual reports and LGPS statistics'. The new guidance will suggest funds follow a 'worked example' template provided by the SAB which aims to improve consistency and better scheme-level reporting of asset allocation in the SAB annual report. Using standard data to report asset classes also aims to make the annual report process simpler for funds and more consistent for readers to directly compare data. The 'worked example' template for the categorisation of assets will shortly be shared by the SAB secretariat team and should be incorporated into reporting as soon as possible whilst the new guidance is being prepared.

From an administrative perspective, the Key Performance Indicators are being reviewed, with various fund officers and software providers invited to provide comment on the current guidance. The aim is better to define them and allow for standardised reporting so that funds can properly benchmark themselves against others. The new guidance aims to be in place ready for the 2023/24 reporting period but there are reporting changes which the Board hope can be implemented on a voluntary basis for 2022/23 annual reports.

### **Update on LGPS Gender Pensions Gap Report (27 July 2023)**

The earlier Gender Pensions Gap [report](#) for LGPS identified a substantial difference between the average level of LGPS pension benefits accrued by male and female scheme members. The difference between men and women as to their accrued benefits in the Local Government Pension Scheme is 34.7% for benefits in the reformed CARE scheme and 46.4% for benefits in the legacy final salary scheme. For benefits in payment the difference was even greater (49%).

While this potentially indicates some progress towards equality, the Board asked the Government Actuary's Department (GAD) to explore these gender gaps in more depth, focussing on:

- Career patterns – in particular, evidence of recent and past part-time working
- Differences relating to employers or categories of employers
- Comparing our analysis with the LGA's 2019 [gender pay gap report](#)

This further [report](#) sets out GAD's findings. Essentially there is no simple answer and there seems to be a complex interaction between the types of work women do, their career patterns (in terms of part-time working and gaps in service) and their ability to progress their careers after having taken on childcare or other caring responsibilities. The report shows, for example, that:

- Part-time working patterns are closely related to gender pension (and pay) gaps for LGPS members. Controlling for differences between men and women in terms of both current and historic part-time working patterns reduces, but does not eliminate, these gender gaps. Possible explanatory factors include length of service and employer differences.

- Pay and pension gender gaps can be attributed to both differences for males and females working for the same employer ('within employer') and differences in the proportions of males and females working at higher or lower paying employers ('between employer') as well as between different categories of employers.

There is as yet no settled approach to data and methodological issues that would allow detailed comparisons to be drawn between gender gaps with different public sector pension schemes. The Board has therefore proposed that GAD put in place a common reporting framework for all of the public sector schemes, potentially working this into the quadrennial scheme valuation process. Similarly, we believe that the relationship between gender pay and pension gaps reporting needs to be addressed to allow for greater transparency and understanding.

The Board has decided to set up a small working group to consider next steps. For example:

- Are there any in-scheme changes that would help address the levels of inequality (e.g. around the ability to buy back service)
- Can we direct employers to best practice in managing the career paths of those who take time off for caring responsibilities
- How do we communicate with members to ensure they are informed about the potential pension implications of the career choices they make
- How can we mainstream this kind of analysis so we can properly evaluate "what works" and how much is left to do.

If you are interested in taking part in the working group, then please [contact the SAB Secretariat](#) directly.

### **Second reading of the Economic Activity of Public Bodies (Overseas Matters) in the House of Commons**

On 3 July 2023 The [Economic Activity of Public Bodies \(Overseas Matters\) Bill](#), also known as the Boycotts, Divestments and Sanctions Bill had its second reading in the House of Commons. The Bill seeks to ban LGPS administering authorities from making investment decisions influenced by political and moral disapproval of foreign state conduct, except where this is required by formal Government legal sanctions, embargoes, and restrictions. In the course of the [debate](#), significant concerns were expressed about the Bill. These centred around its rationale, its practicability and also whether it constituted a significant over-reach of Ministerial authority. The LGA has [published a technical brief](#) on the Bill which includes a section on the Bill's effect on pensions as well as the LGA view on this. The SAB will be providing written evidence on the Bill to the Public Bill Committee which will scrutinise the draft Bill. As far as the Board is aware, there is no evidence that any LGPS fund has instituted inappropriate politically motivated boycott or divestment policies.

## **Publication of the tenth Scheme Annual Report**

On 26 June 2023 the Board published the [tenth Scheme Annual Report](#). The aim of this Report is to provide a single source of information about the status of the LGPS for its members, employers, and other stakeholders. Continually improving key information about the Scheme as a whole is one of the top priorities of the Board. This report aggregates information supplied in the 86 fund annual reports, as of 31 March 2022.

## **Climate risk reporting**

On 15 June 2023 DLUHC confirmed that [implementation of climate reporting obligations would be delayed at least until next year](#). Presuming regulations are forthcoming in time for 1st April 2024, reports covering the period 1 April 2024 - 31 March 2025 would need to be produced by December 2025.

On 23 May 2023 the Board advised that [TPR have published a review](#) of climate-related disclosures by occupational pension schemes. The paper sets out TPR's preliminary observations and feedback to industry, based on their review of a selection of climate-related disclosures published by occupational pension schemes. The review relates to private pension schemes but contains observations which may be useful for LGPS funds ahead of the implementation of climate risk (TCFD) reporting in the LGPS – which is now expected to commence from 1 April 2024, with first reports due in late 2025.

On 22 February 2023 SAB published the results of their survey to gauge the preparedness of pension funds for the changes being considered by Government as follows:

*We received a total of 51 responses to this survey. Approximately 30% of respondents indicated their fund does not have adequate resources to produce a risk report. From those without the adequate resources, 45% indicated they do not have a sufficient project plan in place to deliver a report by the anticipated deadline of December 2024. 25% of respondents do not believe that they have access to sufficient data to populate a risk report and a further 27% of respondents are unsure if they have access to the necessary data. Scope 3 carbon emissions data and carbon emissions data for alternatives and private markets were regularly cited as being extremely difficult to obtain. Although 56% responded that they have a plan in place to produce the data required to an acceptable standard, many funds cited they were dependent on the ability of third parties such as pools and fund managers to source the data and conduct the climate risk analysis.*

*35% of respondents indicated they had conducted a full assessment on what expertise was required for risk analysis. 27% have not and 35% of funds had undertaken some sort of assessment. 69% of respondents indicated they had a plan to source the resources required for the production of the report. While many funds indicated they were awaiting more certainty before carrying out assessments of what was required for the report, some were pressing ahead with plans as soon as possible.*

*The Board is working closely with the Department and administering authorities to better understand the challenge and support them through it. We intend to repeat this survey*

*after the Government Response to last year's consultation is published, and the precise requirements are clearer.*

*Interestingly, the survey also found that 25 funds reported a date of 2050 or sooner for reaching net zero in their asset portfolio, however a substantial number of respondents indicated that risk reporting will not change or will have a limited impact on their asset allocation or choice of investments. Rather they considered it as a means to “show progress” against targets set. Some stated that it provided a focus for engagement both with their asset managers and the underlying companies in order to effect real world change, rather than simply “greening” the portfolio.*

On 18 November 2022 the Board submitted its response to DLUHC's climate risk reporting consultation. The response includes some over-arching observations on the role of pension funds (as well as their limitations), the production of climate risk reports as well as responses to the Department's specific questions on governance, scenario analysis, metrics, and risk management. The Board welcomed the opportunity to engage with the Department's proposals and believes that pension funds should be able to make a positive contribution by supporting the just transition to a sustainable future. The full response [can be found here](#).

On 1 September 2022 The Department for Levelling Up, Housing and Communities (DLUHC) [launched its consultation](#) regarding governance and reporting of climate change risks. The consultation seeks views on proposals to require Local Government Pension Scheme administering authorities in England and Wales to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD). The consultation closed on 24 November 2022.

### **'McCloud' remedy in the LGPS – supplementary issues and scheme regulations consultation**

On 30 May 2023 DLUHC [launched a consultation that seeks views on changes to the Local Government Pension Scheme in England and Wales \(LGPS\)](#). This follows a previous consultation that DLUHC undertook in 2020 on proposals to address discrimination found by the courts in the 'McCloud' case. The Court of Appeal ruled in 2018 that younger members of the judicial and firefighters' pension schemes had been unlawfully discriminated against – known as the McCloud judgement. The Department [published the government response in April 2023 confirming the steps it will be taking to resolve the McCloud age gap discrimination in respect of the LGPS in England and Wales](#).

DLUHC are now seeking views on issues relating to the McCloud remedy. This will cover reconsulting on some areas, and consulting on issues not covered in the first consultation. The department are also seeking views on [draft scheme regulations \(see annex A\)](#) which would implement the remedy. The consultation closes at 11:59pm on 30 June 2023.

On 3 March 2023 [SAB has published guidance](#) to assist administering authorities with McCloud data issues. The guidance sets out what options administering authorities may consider if they are unable to collect the data needed to implement the McCloud remedy. It covers both missing data and data that may be inaccurate. The guidance

should be read in conjunction with the legal advice provided by Eversheds on McCloud data issues which is referenced within the guidance document.

### **2021/22 Annual Reports and Audit issues within the LGPS**

On 30 May 2023 SAB issued the following statement in respect of the impact of completed triennial valuations on the delayed 2021/22 accounts

*Councils may be aware that the delay in finalising accounts for 2021/22 has meant that information from the March 2022 triennial valuations of pension funds has become available before the audit of many accounts has been signed-off. This has led some auditors to request that the accounts are re-done using this more up to date information.*

*Following discussions between stakeholders, last week the National Audit Office (NAO) issued supplementary guidance to auditors ([guidance note SGN 3](#)) and CIPFA issued supplementary guidance to accounts preparers ([CIPFA Bulletin 14 Supplement](#)). Taken together these make it clear that there is no need for the accounts to be re-stated using the triennial valuations, unless the original valuation in the accounts contained material omissions such as not taking account of an existing large-scale restructuring/redundancy programme. Hopefully, this will now prevent the issue of pension valuations adding further to the delays in finalising accounts.*

On 15 February 2023 the Minister for Local Government responded to the letter written to him in August 2022 by SAB on delays in the external audit of local authority accounts, including pension fund accounts. He welcomed the Board's advice and recommendation to consider the separation of main authority accounts and the pension fund accounts and has asked his officials to consider the scope for developing this further.

On 30 November 2022 the Board stated that it is aware that some pension fund audits are likely to be delayed again this year, largely due to issues with auditing the host authority's accounts. There is a statutory duty under regulation 57 of the LGPS Regulations 2013 for administering authorities to publish an annual report 'on or before 1 December'. The Board has [written to the minister](#) with proposals to help improve the timely completion of audit. In the meantime, it urges administering authorities to publish their 2021/22 annual reports based on the best data available to them by the statutory deadline. Ideally, the report would be based on audited data. However, if that is likely to result in a significant delay, the Board asks funds to produce and publish reports based on unaudited data (labelled as draft), and to re-publish an amended annual report with the external auditor's opinion and revised data after audit, where necessary.

On 3 August 2022 the Board Chair, Cllr Phillips, [has written to the Minister](#) outlining issues facing funds as a result of audit issues relating to the main local authority accounts. The letter proposes separating pension fund accounts from main local authority accounts as a potential solution to the problem and asks the Minister to task officials to work with the Board and its committees to consider the benefits and risks of such an approach.

## **DLUHC consultation on changes to the SAB's cost management process (Scheme Cost Assessment – SCA)**

On 23 May 2023 the Board issued the following statement:

*DLUHC has issued the final regulations and published its response to the [consultation](#) on reforming the SAB's own parallel process for reviewing scheme cost. This is the process set out in Regulation 116 of the 2013 Regulations, which runs during the HM Treasury-led quadrennial scheme valuation process. The changes take into account [SAB's response](#) to the consultation and better align the SCA with HMT's reformed cost control mechanism (CCM).*

*It helpfully re-iterates that the SAB process operates prior to the HMT CCM and gives the SAB greater flexibility in the making of recommendations to the Secretary of State where there is a breach. However, it leaves open for further discussion the link with the new "economic check" in the CCM.*

On 6 March 2023 SAB submitted its response to DLUHC's consultation. The SAB scheme cost assessment is the part of the cost management process which operates independently of, and prior to, the HM Treasury directed cost management process. The response is generally supportive of the Department's approach as they have taken on board many of the points made by the Board on how best to re-align the SAB process with the HM Treasury process, which was reformed last year. SAB hope that an opportunity will be found to make the necessary amendments to the 2013 LGPS Regulations ahead of the 2020 scheme valuation process being undertaken. The full response [can be found here](#).

On 30 January 2023 DLUHC launched an 8 weeks consultation on changes to the Scheme Advisory Board's cost management process – the process that operates separately from, but alongside, the quadrennial scheme-level cost management process, which is based upon HM Treasury legislation and directions. The consultation follows the report from the Government Actuary's Department into changes to the HM Treasury cost management process, and the resulting policy and legislative changes set out in HM Treasury's response to that report. It acknowledges the differences between these two processes but proposes measures suggested by SAB in its consultation response to better integrate the SAB process within the statutory HMT mechanism. The consultation closes on 24 March 2023 and [can be found here](#).

## **SAB statement on Freedom of Information Act requests on climate advice and data (30th March 2023)**

“Some funds have raised with the Board the increasing prevalence of requests for information about the responsible investment policies of administering authorities. These may come from interested scheme members or activist groups and can be “round robin” requests that are made to all LGPS funds with a view to collating information across the scheme (and making comparisons between funds' responses).

“As public authorities, there are duties on all administering authorities to be open and transparent about their policies and actions. However, the resources available to deal with requests are not unlimited and there will be occasions where cost, commercial sensitivity or other considerations will outweigh the public interest in releasing



information. [Further guidance](#) on this is available from the Information Commissioner's Office. Support in how to respond to these requests, especially if they become onerous or vexatious, should be sought from the authority's legal and FOI advisers.

"If the new climate reporting duties had been brought in by the Government, as consulted on last year, from 1st April 2023 then that may have helped authorities currently considering the request from Carbon Tracker by putting, or at least having a plan to put, a large amount of information into the public domain which may have helped address some of the requests for information that are being received. Despite the delays in DLUHC concluding that consultation, the Board would recommend that all funds consider having a proactive publication scheme in place for climate data, and their stewardship activities, to minimise the volume of ad hoc requests that they have to field."

### **Changes to pensions taxation**

On 15 March 2023 the Chancellor announced some changes to pensions taxation in the Spring Budget. The Annual Allowance (which is the maximum amount of pensions savings an individual can make each year before incurring a tax charge) will increase from £40,000 to £60,000 from 6 April 2023, with individuals continuing to be able to carry forward unused Annual Allowances from the three previous tax years. Changes were also made to the Lifetime Allowance, the charge for which will be reduced to zero from 6 April 2023, before being fully abolished in a future Finance Bill. Other changes were made to the Money Purchase Annual Allowance and Tapered Annual Allowance. More detail can be found in [the Budget document](#) and [the Pension Tax Limits policy paper](#).

### **DLUHC consultation on changing the revaluation date**

On 10 February 2023 DLUHC issued a consultation on changing the Scheme revaluation date from 1 to 6 April, with effect from 1 April 2023. The proposed change would remove the impact of high inflation on the annual allowance and reduce the number of members incurring a tax charge. The consultation ran for two weeks and closed on 24 February 2023. The consultation can be viewed on the [Scheme consultations page](#).

SAB appear not to have responded to the consultation but the Council has been advised by the LGA of their response as follows:

*We have published [our response](#) to DLUHC's consultation on changing the annual revaluation date in the LGPS. The consultation documents and our response can be viewed on the [scheme consultations page](#) of [www.lgpsregs.org](http://www.lgpsregs.org).*

On 9 March 2023 DLUHC [responded to the consultation](#) on changing the revaluation date. The response confirms that it will be proceeding with the change. [Regulations have been published](#) which take effect on 31 March 2023.

## **3.2 The Pensions Regulator (TPR)**

TPR has a wider remit than the SAB and most of its publications / press releases concern private sector schemes. However, in recent months it has published the

following statements of interest to the LGPS:

### **Equality, Diversity and Inclusion**

On 28 March 2023 TPR published equality, diversity and inclusion (EDI) [guidance for pension scheme governing bodies](#) and [employers](#).

TPR hopes the guidance, developed with an industry working group, will be used by pension scheme governing bodies and sponsoring employers to improve the EDI of their scheme's board.

The guidance suggests that pension schemes have an EDI policy, which covers an agreed definition of EDI, the EDI aims of the governing body and an EDI training plan. Assessments of the governing body's performance should include how well EDI has been, and continues to be, embedded into processes, according to scheme objectives.

### **Pensions Dashboards compliance and enforcement policy**

On 2 March 2023 the Council received the following email from the Local Government Association:

*"DWP have today issued a written ministerial statement announcing delays to the delivery of pensions dashboards. A full version of the statement can be seen [here](#).*

- *In the statement, the government announced its intention to legislate to amend schemes' connection deadlines, to give PDP the time it needs to meet the significant challenges in developing the necessary digital architecture.*
- *While this announcement will come as a disappointment to many, we have to recognise that this is a hugely complex project. We owe it to savers to get this right, even if it means taking longer to deliver.*
- *DWP, PDP, TPR and FCA remain committed to the delivery of pensions dashboards. We are in continuous discussion with PDP, FCA and DWP on the progress of the project and the impact of any issues or delays which arise.*
- *We will continue to work with industry to make dashboards happen – to maintain an open dialogue and work collaboratively to meet any challenges which arise.*
- *TPR will not be taking regulatory action if schemes are unable to meet their deadlines because the technological system is not in place.*
- *We recognise the importance of supporting schemes through this process, and we will continue to provide education to support trustees in meeting their duties. We expect industry to continue preparing for dashboards, in particular by getting to grips with members' data.*
- *We will shortly be updating our guidance in light of the recent announcement, and to provide further clarity on the steps schemes should be taking to continue to prepare.*

On 24 November 2022 TPR invited occupational pension schemes, their administrators, providers, and the wider industry, to respond to its newly published [consultation on dashboards compliance and enforcement](#).

The compliance and enforcement policy sets out TPR's expectations on how schemes should comply with new regulations, and its approach to regulating dashboard obligations. TPR is keen to hear from schemes of all sizes, their administrators and integrated service providers to ensure the new policy is understood by, and meets the needs of, the industry.

While TPR already regulates trustees and workplace pensions, a key part of complying with dashboard obligations will rest with third parties, such as administrators, employers and integrated service providers.

New legislation has been introduced enabling TPR to issue third parties with compliance notices. If they do not comply, they could be fined up to £50,000 (and individuals up to £5,000) for each breach. This is alongside other new powers to fine trustees and managers in the case of non-compliance with dashboard regulations. They include an option to issue penalties of up to £5,000 to individuals and up to £50,000 in other cases for any instance of a single compliance breach.

The consultation will close on 24 February 2023 and TPR expects to publish its final policy in spring 2023, ahead of the first schemes' dashboard deadlines in August 2023.

### **Funding Code of Practice for defined benefit pensions schemes**

On 16 December 2022 TPR published its [draft funding code of practice for defined benefit \(DB\) pensions schemes](#) and a [consultation document](#).

The 14-week consultation sets out that schemes will be expected to set a long-term objective and a journey plan to get there. It is expected that schemes will reduce reliance on their sponsoring employer as they reach maturity. It will require trustees to improve risk management and raise the bar for evidencing supportable risk taking.

The code will support trustees, sponsoring employers and their advisers to manage their pension schemes and will replace the current code, introduced in 2014. It includes key expectations in relation to:

- trustees setting a plan for how they will achieve low dependency on the employer
- setting a journey plan to reach that point
- assessing the employer covenant as a key underpin for the level of risk that is supportable on that journey – considering cash, prospects and contingent assets
- setting their funding assumptions consistently with those plans
- open schemes allowing for future accrual where they can justify their approach
- assessing reasonable affordability when determining the appropriateness of recovery plans

The final regulations and code are currently planned to come into force in October 2023.

## **4. DATA PROTECTION IMPLICATIONS**

PB 19102023

4.1 Will the subject of the report involve the processing of 'personal data'?

No.

Has a data protection impact assessment (DPIA) been completed?

No. This report relates to matters relating to the administration of the LGPS and the Croydon Pension Fund.

**Approved by:** Matthew Hallett on behalf of Jane West, Corporate Director of Resources (Section 151 Officer)

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**CONTACT OFFICER:**

Matthew Hallett – Acting Head of Pensions and Treasury.

**BACKGROUND DOCUMENTS:**

None.

**APPENDICES:**

Appendix A – SAB response to DLUHC consultation on investments

