



**Agenda Item**

<b>Subject</b>	<b>Local Government Pension Scheme – Good Governance Review</b>	<b>Status</b>	For Publication
<b>Report to</b>	Authority Local Pensions Board	<b>Date</b>	12 September 2019 17 October 2019
<b>Report of</b>	Fund Director		
<b>Equality Impact Assessment</b>	Not Required	Attached	No
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**1 Purpose of the Report**

- 1.1 To receive the conclusions of the Good Governance Review carried out on behalf of the Scheme Advisory Board and consider whether any specific actions are required in light of the conclusions of the review.

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**2 Recommendations**

- 2.1 Members of the Authority and Pension Board are recommended to:
- a. **Note the contents of the Good Governance Review;**
- 2.2 Members of the Authority are, in addition recommended to:
- a. **Approve the limited initial actions proposed pending the Scheme Advisory Board’s final proposals;**
  - b. **Consider whether the implications highlighted in relation to knowledge and skills for members of the Authority should be raised with the District Councils in their consideration of appointments to the Authority.**

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**3 Link to Corporate Objectives**

- 3.1 This report links to the delivery of the following corporate objectives:

## **Effective and Transparent Governance**

To uphold effective governance showing prudence and propriety at all times.

The proposals set out in the Good Governance Review are intended to strengthen governance across the Local Government Pension Scheme. While SYPA is unique within LGPS the good practice set out in the review provides a benchmark against which we can measure the effectiveness of our arrangements.

### **4 Implications for the Corporate Risk Register**

- 4.1 At this stage there are no direct implications for the Corporate Risk Register. However, the direction of travel outlined in some proposals supports the emphasis placed on ensuring that members engage fully with learning and development opportunities which is a key mitigating factor in terms of risks which are identified within the risk register relating to the decision making process.

### **5 Background and Options**

- 5.1 On 31 July 2019 the LGPS Scheme Advisory Board published the final report on the work carried out by Hymans Robertson on Good Governance within the scheme. This work originated in a project to examine governance models within LGPS in order to address the conflicts of interest which exist between the role of administering authority/scheme manager and the host council. While clearly such conflicts do not apply to SYPA because of our unique arrangements the work is of considerable interest because our broad governance model provides one of the options which was considered as part of this work.
- 5.2 The work involved a range of detailed interviews and surveys and officers contributed to both interviews and survey responses. Hymans Robertson's final report is attached as Appendix A and is available in the on-line reading room.
- 5.3 Some will view the report as a lost opportunity to establish a more independent governance model for LGPS allowing greater representation for key stakeholders and providing a clear solution to address the conflicts of interest which are apparent in the current arrangements. However, such an approach was never likely as the diversity in current arrangements and in the scale of the 88 LGPS funds in England and Wales makes arriving at a single model which is cost effective extremely difficult. Therefore, while the idea of imposing the model of separate Pensions Authorities across LGPS may be superficially attractive to be delivered sensibly it would require a range of other changes, probably including fund mergers, which means that it would be extremely difficult to implement even if agreement could be reached on such a move given the significant vested interests supporting the status quo.
- 5.4 Consequently the fairly pragmatic approach advocated in the report is probably as much as an exercise of this sort which did not originate as a means of implementing a government direction (and thus is different to investment pooling), could achieve. The recommendations also seek to avoid making changes to the LGPS regulations, presumably on the basis that the chances of finding legislative time for this would be unlikely on any reasonable timescale.
- 5.5 In essence what the Review proposes is a form of enhanced "status quo", supported by updated and strengthened guidance and some form of ring fence around the operational activities of a pension fund where they form part of the host Council and a

requirement for the Pensions Committee to be involved in budget setting for these functions. Arrangements such as these are already in place in the best run administering authorities, and are not particularly relevant to SYPA given it is an organisation in its own right, although clearly strengthened guidance in some of these areas may have an implication for us which will need to be considered in due course.

5.6 The proposals set out in the review and their implications for SYPA are set out below:

<b>Proposal</b>	<b>Proposed Actions</b>	<b>Comment and Implications for SYPA</b>
<p>An “<i>outcomes based</i>” approach to LGPS governance rather than a prescribed governance structure</p>	<p>Scheme Advisory Board to consult on:</p> <ul style="list-style-type: none"> <li>• Desirable features and attributes of LGPS governance arrangements</li> <li>• The outcomes governance arrangements should be expected to deliver; and</li> <li>• How each administering authority might evidence that its own governance model displays the required attributes.</li> </ul> <p>Once identified and agreed through consultation the desirable features and expected outcomes should be set out in statutory MHCLG guidance (replacing the 2008 CLG guidance)</p>	<p>Clearly the implications will depend on both the identified desirable features and outcomes.</p> <p>However, key elements are likely to include the representation of stakeholders. In SYPA’s case scheme members are represented by the Trade Unions, however there is no representation of employers apart from the District Councils. The guidance may also reflect on the matter of voting rights for non-councillors where practice is currently very varied.</p> <p>In general an approach which starts with the desired outcome is more likely to achieve something, and the approach of engaging with the LGPS community to define the outcomes will achieve a greater degree of ownership of the resulting framework.</p>

<b>Proposal</b>	<b>Proposed Actions</b>	<b>Comment and Implications for SYPA</b>
<p>Enhanced training requirements for s151 officers and s101 committee members (in SYPA's case Authority members). This is to include all s151 officers not just those currently with administering authorities</p>	<p>CIPFA to develop a CPD module for s151 practitioners in the LGPS</p> <p>Scheme Advisory Board/ MHCLG statutory guidance to require training for Pension Committee (Authority) members should be on a par with the requirement for Local Pension Boards.</p>	<p>Given the somewhat different arrangements for SYPA the requirements in relation to the s151 officer are perhaps less relevant although nonetheless welcome.</p> <p>The requirement in relation to Authority members addresses a current significant anomaly. However, placing a requirement is not the same as providing members with the time and space required to undertake the relevant learning and development activity. The steps already taken to provide internal seminars, agree minimum requirements (LGA Fundamentals and the Regulator's Toolkit) as well as providing in advance a list of suitable external events currently provide a suitable organisational response.</p>

Proposal	Proposed Actions	Comment and Implications for SYPA
<p>Update relevant guidance and provide better signposting.</p> <p>It would also be helpful to provide greater clarity to officers and elected members on their statutory and fiduciary obligations.</p> <p>As well as signposting there should be clarity on the status of future guidance (e.g. statutory and therefore compulsory or best practice)</p>	<p>CIPFA to review and update guidance for s151s in respect of LGPS governance.</p> <p>MHCLG to review and update the statutory guidance on governance. In particular this should put greater emphasis on non-investment aspects of governance such as administration.</p> <p>Scheme Advisory Board should consider commissioning legal input to give greater clarity on statutory and fiduciary responsibilities of s151 officers and elected members.</p> <p>SAB or MHCLG to provide greater clarity on the status of current and future guidance.</p>	<p>While the CIPFA guidance is helpful in many ways its applicability to SYPA's situation is limited. There is therefore a risk that if this becomes the benchmark for these elements of governance arrangements that SYPA will find itself either "marked down" or having to make change to its organisation which it otherwise would not wish to make.</p> <p>The current guidance on all these areas is considerably out of date and therefore new guidance would be welcomed. However, it would be worth starting with a re-examination of elements of the regulations from first principles in order to avoid simply adding more and more requirements in an already complex area.</p>

5.7 It is evident from the above that there are a number of areas where the proposed framework is unlikely to fit for SYPA (or the Environment Agency and London Pension Fund Authority) and it seems sensible to raise this with the Scheme Advisory Board now and work with these other unique Administering Authorities in order to ensure that the final guidance when produced accommodates not just the "standard" administering authority that forms part of a council but the various other arrangements that are in place across the scheme. Particular areas where there is the potential for there to be a mismatch would appear to be:

- The underlying assumption that the s151 officer will always be the "Head of" the Pension Fund. This is not the case in the three stand-alone administering authorities and in SYPA and the LPFA the "Head of" the Pension Fund is the Head of Paid Service with the s151 officer role having an important but somewhat more limited remit. While not reflected in the statutory roles of individuals a similar de facto situation exists in a number of the larger LGPS funds.

- The addition of further assurance processes in relation to resource levels. As an organisations in its own right SYPA is restricted by its own self-discipline in this regard using the limits set in the Medium Term Financial Strategy. Thus this form of additional assurance seems unnecessary.
- As indicated above there is a danger that for an Administering Authority which is an organisation in its own right the enhanced Governance Compliance Statement will duplicate to a significant extent the Annual Governance Statement, in a way which is not currently the case. A few LGPS funds produce their own Annual Governance Statements and it is something external auditors have previously seen as good practice, so it might be possible to bring processes together to reduce duplication and avoid an additional regulatory burden.

5.8 In addition to this it is proposed that the Fund Director take steps to put the following in place both as a demonstration of best practice and also in preparation for the eventual introduction of the proposed new framework:

- a) Additional benchmarking of the Administration Service in terms of both cost and performance in order to provide data to support an assessment of the adequacy of resources in this area.
- b) The development of a formal conflicts of interest policy covering members and officers of the Authority. This will probably provide more detailed guidance for members and officers on the specific issues arising in the context of the Pensions Authority and cannot supersede the relevant codes of conduct.
- c) An overall assessment of the effectiveness of the Authority’s governance from an independent source. This initial work is probably best carried out by an organisation or individual who has significant knowledge and experience of LGPS and the issues which the Good Governance Review is seeking to address.
- d) In relation to the proposal to include a knowledge and skills requirement for Authority members in the regulations, members are asked to consider whether and how this should be raised with the District Councils in relation to their processes for appointing members to the Authority.

## 6 **Implications**

6.1 The proposals outlined in this report have the following implications:

Financial	<p>Work in relation to additional benchmarking of administration was already factored into the corporate strategy and the resources for this are therefore provided in the budget. Any assessment of the effectiveness of governance will have a cost which will need to be met, in the first instance from the Corporate Strategy Reserve, and built into the budget in future years.</p> <p>A resource gap has already been identified within the organisation in terms of “governance risk and compliance”, and the requirements likely to flow from the Good Governance review will serve to increase this. Officers intend, subject to member approval, to address this within the budget process for 2020/21.</p>
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Human Resources	There are no immediate implications.
ICT	None
Legal	None
Procurement	None

**George Graham**

**Fund Director**

<b>Background Papers</b>	
<b>Document</b>	<b>Place of Inspection</b>