

**Local Government Pension Scheme England and Wales**  
**Scheme Advisory Board (SAB)**

**Local Government Pensions Team, Ministry of Housing,  
Communities and Local Government (MHCLG)**

Response via email to [lgpensions@communities.gov.uk](mailto:lgpensions@communities.gov.uk).

09 January 2026

**Local Government Pension Scheme in England and Wales:  
closed consultation on draft guidance**

This response is submitted on behalf of the Local Government Pension Scheme (LGPS) Advisory Board (England and Wales) which is a body set up under Section 7 of the Public Service Pensions Act 2013 and the LGPS Regulations 110-113.

The Board's purpose is to:

- Provide advice to the Secretary of State and to administering authorities (AA) on "the desirability of changes to the scheme" and "in relation to the effective and efficient administration and management" of the LGPS
- Provide a framework to encourage best practice, increase transparency and coordinate technical and standards issues across the sector

Membership of the Board includes equal number of voting members representing employers and employees. Non-voting members and advisors also support the Board. There are around 18,000 employers participating in the Scheme and therefore on the Board and its sub-committees there are representatives of some of the larger employer groups (further/higher education institutions and academy schools).

Secretariat services are provided by the Local Government Association and separate Advisory Boards have been established for the LGPS in Scotland and in Northern Ireland.

Yours sincerely,  
**Councillor Roger Phillips**  
**Chair of the Board**

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# **Local Government Pension Scheme England and Wales**

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## **Overall response regarding the implementation challenge**

1. In line with its statutory role, the Board has continued to engage with MHCLG via the formal consultations and in regular informal meetings to try to get the best successful implementation of the government's objectives. We will be sending detailed comments on the guidance back to officials by the deadline of 12 January 2026 but are publishing this document in the meantime, for transparency to Board and Committee members and administering authorities, this summary of the main points we will be making.

2. Once the final guidance is issued, we will continue working with AA, pools and MHCLG to have a smooth implementation period and keep new arrangements under review in case any further fine-tuning is needed.

3. The Board appreciates that after many years of policy drift in relation to LGPS, the government is keen to make changes as quickly as possible. However, changes are being made at the same time across almost every aspect of the scheme (covering member benefits, fund governance and pooling arrangements). At the same time as funds are trying to address significant administrative challenges such as McCloud implementation, anticipating other member benefit changes with two consultations issued in 2025, preparations for dashboards and the need to recruit and retain a highly skilled and dedicated workforce.

4. In this context, we would like to warn that we foresee some scheme risks in terms of:

- a) Insufficient attention to thinking through the process and timescale for transition, including the most effective sequencing of the different changes that AAs are being asked to implement,
- b) So many changes happening at the same time creates a risk that each is given the necessary attention for the most effective delivery of it
- c) It also seems that the detailed policy intent in some areas is still unclear or ambiguous and the rushed delivery of regulations to meet the 1 April timetable and statutory guidance with a timetable spanning the Christmas period exacerbating this.

5. There is a risk in this to MHCLG, that its policy may be implemented poorly, too hastily or in ways that diverge from its underlying intention. At the same time. there are risks to AAs, including sub-optimal implementation and the possibility of enforcement action by The Pensions Regulator (TPR) or MHCLG should they inadvertently misunderstand what is being asked of them.

6. To enhance the clarity and usability of the guidance, the Board recommends that it includes explicit and consistent cross-references to the relevant regulations. This will help ensure that users can easily understand the regulatory context underpinning the guidance. For example, within the investment strategy section, it would be beneficial to reference [draft Regulation 11\(1\)\(b\)](#) in Chapter 3, which sets out the requirements for high-level investment objectives.

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7. The Board would therefore welcome the opportunity to work with MHCLG on a detailed, deliverable “roadmap” that brings together the multiple strands of change required locally, while recognising the need for an iterative approach within LGPS, providing space for discovery, testing, and refinement to ensure new ways of working are effectively embedded.

## **Fund governance guidance**

### **General comments**

8. The secretariat acknowledges that drafting is still underway in some areas of the governance guidance and due to a tight timescale to issue the guidance to administering authorities, some feedback from the Board’s working groups was not able to be properly considered by MHCLG before the guidance was shared more widely. Therefore, the Board acknowledges that in some areas this guidance requires further work, specifically:

- Guidance for a Governance Strategy, Training Strategy and Conflicts of interest, as introduced by new regulation 55A which are not currently covered in the draft guidance issued.
- Further work with the TPR on guidance as how to deal with reporting breaches specifically for LGPS. While [existing guidance](#) on assessing breaches for materiality is helpful, the Board suggested further guidance from TPR in [our response](#) to the TPR consultation on the enforcement strategy.

9. On the matter of conflict of interest the Board notes that guidance on conflicts of interest are covered in the pooling guidance paragraphs 6.17 to 6.19, however would note that there are other conflicts of interest the AAs Conflict of Interest policy should address, such as conflicts between the AAs interest and scheme employers in relation to contribution rate setting and conflicts in local investment between the interests of the fund and the interests of the AA (e.g. as housing authority, collector of business rates etc).

### **Knowledge and understanding**

10. The guidance needs further work to further develop and distinguish between operational knowledge and strategic/oversight knowledge for each role in scope of the guidance, including clarification whether the role of the independent person should be included in the guidance.

11. The secretariat intends to work with MHCLG to provide more information and unpack each of the key areas of knowledge and understanding and what further Board guidance may be needed.

12. Under monitoring and reporting, we suggest that MHCLG consider what further guidance could be provided to assist AA experiencing consistent non-compliance in

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engaging with its training policy and how requirements should be reported for key decisions.

### **Senior LGPS officer**

13. We believe that there are a number of key items which currently do not feature in the list of responsibilities of the senior LGPS officer. Whilst the Board acknowledges that the list is not exhaustive these are omissions which we believe are critical to the role to be included in this guidance:

- a) Responsibility for robust monitoring and review of employer risk, participation in the fund and importance of clear, timely communications with employers
- b) More explicit references to responsibility for workforce and safeguarding the fund from being impacted by policies implemented by the AA
- c) Administration governance, business planning and contract management
- d) Responsibility for key performance indicators (KPIs) and ensuring high-quality service to scheme members
- e) Relationship with independent person: the guidance should clarify what “direct relationship” means (e.g., is there an expectation of regular meetings separate from the formal committee meetings?)

### **Independent person (IP)**

14. The Board has a number of queries and comments in relation to the drafting of this section of the guidance.

- a) Capacity and conflicts: The guidance should consider limits on number of appointments with different AAs that an individual could undertake and what the attendance requirements are
- b) Contract length: Three-year contracts may be too short; the guidance should provide more flexibility
- c) Role clarity: The guidance should further define the scope of the role, appointment process, reporting lines, and whether advice should be professional (which would require the IP to have liability insurance) or non-professional
- d) Further consideration is needed on whether the IP role is supporting, as opposed to being a member of the committee
- e) Concurrent appointments to new roles and significant change in structure with both IP and senior LGPS officer being made within 6 months is a significant risk
- f) We would welcome clarity on whether the IP needs to be one person or could be filled by different individuals who collectively meet the specification (the Board would prefer that it is one person)
- g) Either more clarity or permission to experiment should be given in relation to how this role interacts with other roles (new and existing) within the fund

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- h) We agree that having been appointed to a National Framework is a suitable way to ensure that individuals have the required expertise, to ensure remuneration is appropriate, consistent and to help make the appointment process more efficient. However, the timescales involved in setting up such a framework and then funds using it to call-off to find their own IP would make the 1 October 2026 deadline virtually impossible to achieve.

### **Independent Governance Review (IGR)**

15. The Board would like to see more clarity on the intended process after preparation of an IGR with a 'red rating' including what TPR understands its powers to be. In the absence of specific guidance from TPR on breach reporting, we will advise AAs to apply the general considerations on breach reporting to apply to the requirements in this guidance.

16. We also feel that the 'red/amber/green' ratings need to be rethought. It does not seem appropriate that full compliance is only rated 'amber' which has connotations of warning/concern. Also, the "red" category contains outcomes that will require intervention and those that do not. For consistency, cases where the assessor recommends intervention should be clearly identified. For similar reasons of consistency and transparency, MHCLG should also be required to draw up an intervention policy.

17. There appear to be gaps in the criteria. While paragraphs 5.16-5.39 are modelled on the [TPR General Code](#), certain areas, covered in the Code, regulations or otherwise, that we would have expected the guidance to address are not included. These areas include, for example:

- Member representation,
- Equality Diversity and Inclusion (EDI),
- Participation in pooling governance,
- Relations with TPR and procedure for breach reporting,
- Administration governance,
- Contract management,
- Knowledge and understanding,
- Links to internal and external audit,
- Monitoring of key performance indicators i.e. service level agreements to monitor pool and administration arrangements.

18. There are also missing links to other requirements of the regulations which ought to be checked in the IGR (e.g., production and delivery of the fund's communications policy).

19. The IGR period for getting all 86 AAs' IGR reviewed within this valuation cycle, already started in April 2025 (so one year has passed already), is unlikely to be deliverable. As well as AAs' own processes, potential suppliers are likely to need time to scale up their existing offer.

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20. We would welcome consideration of whether AAs' can allow their existing governance consultant providers to undertake the new IGR requirements. These are likely to have a good understanding of how the fund operates in practice.

21. The proposed requirements on publication of meeting records needs to be reviewed alongside and be consistent with the general provisions on how local authority decisions are published. These are set out in detail in the [Openness of Local Government Bodies Regulations 2014](#).

### **Board supplementary changes to the Local Government Pension Scheme (Amendment) Regulations 2026 amending regulations**

22. The Board submitted a [response](#) to the [Fit for the Future - technical consultation](#) but since this has been published and the guidance reviewed in further detail, the Board has some further suggestions:

- a) Regulation 53A(5) should be amended to read (changes in red): “(5) If an AA delegates its functions, or part of its functions, under these regulations to a committee or sub-committee of the authority, it must appoint an independent person to attend that committee or sub-committee and support it in relation to its investment strategy, governance and administration functions”. This is so that the IP is not counted as a non-voting member of the committee. Membership of committees is covered in over-riding legislation and AAs own council-wide constitutions and adding in a further non-voting member can have unintended, negative consequences and upset the balance of existing committees.
- b) Regulation 53A should allow the Secretary of State to issue guidance on the role of the independent person, and not just on the appointment process
- c) Regulation 55a (2) b should be amended so that the governance strategy explains the basis on which it will allow the use of substitutes
- d) Regulation 55A (2) setting out what the governance strategy should include a requirement for a terms of reference for the committee and board (which would form part of the AA's constitution where relevant), include a requirement on how the chosen structure and delegation will best deliver the LGPS for the fund's stakeholders, a requirement for a remuneration policy, appointment and removal of members and consequences of non-compliance with the knowledge and understanding requirements in the training policy.

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## **Draft pooling guidance**

### **Asset pool companies & asset management**

23. The guidance (at paragraphs 2.3 and 3.1) sets deadlines of 28 days and 21 days respectively for an AA to transfer assets from one pool to another when it changes the pool that it participates in. The feedback we have received from funds and their advisers is that this timescale is inadequate. It is not clear how these time periods have been chosen and AAs should have regard to their fiduciary duties in doing this properly, rather than being rushed into sub-optimal timing choices due to arbitrary targets set in Whitehall.

24. The guidance on responsible investment needs to be clearer as to what happens in the event of a conflict between what the pool believes is practicable and the administering authorities responsible investment policy. As written, the guidance is capable of being read as meaning that pools can simply set aside responsible investment (RI) policies that they feel are not practicable. It seems that there is not even an obligation on them to inform the AA that they have done so.

25. In the Board's view, the balancing on financial and non-financial factors is a key part of the fiduciary duty. The [advice from Nigel Giffin KC](#) is also clear that this decision sits with the AA. If the pool believes that application of an RI policy is "impracticable" (presumably on cost grounds although this isn't defined) then this is information that needs to be fed back to the AA for it to reassess whether the balance between financial and non-financial considerations is being made appropriately. However, that is a decision for the AA and not the pool, which should always respect the AA's communicated RI policy.

26. The "exceptional circumstances" in which AAs can take investment advice independently of the pool are still unclear. The Board would like further discussion with MHCLG on this and on their understanding of how oversight of fiduciary management services works in the private sector. We are concerned that the way that MHCLG has talked about independent advice has evolved and the policy thinking still seems a bit hazy in relation to this. This uncertainty is creating anxiety for many AAs (for example in [this article](#) in LGC).

### **Local Investment**

27. In paragraph 4.3, the guidance helpfully acknowledges that AAs may accept lower returns for local investment, but the Board would argue that this does need to be based on specific non-financial benefits that the AA has assessed as being worth the trade-off. To be consistent with the fiduciary duty, the AA needs to retain a decision-making role in relation to the balance between returns, risk and any wider benefits that are considered. The correct role for the pool would be to help provide the evidence base for that judgement to be exercised.



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28. The guidance does not say much more about how pools will co-operate with Strategic Authorities (SAs) and what the legal obligation to help SAs to “develop” proposals means in practice. The Board acknowledges that this may be a work in practice, and the way it works in established areas (like Greater Manchester) may be different from how it will work with completely the new SAs that are yet to come into being. However, we feel that in order to manage expectations between AAs, SAs and pools further detail (or examples) need to be given or the uncertainty explicitly acknowledged in the guidance and partners given the licence to be innovative.

### **Pool governance**

29. The Board are disappointed at the very limited role that is set out for member representatives within pooling structures. In the Government response to the Fit for the Future consultation, the position was that it would be for the owners of each Pool to determine the appropriate form of member involvement. In the draft guidance, this position is altered, by giving the steer that “it will not generally be appropriate for the scheme member or employer representatives to have a voting role in pool decision making.” This change is not explained and is an inappropriate extension of the guidance in an area which should be for local determination. It should be for the partner funds, as the Pool owners, to decide their policy in this area.

30. The guidance also sets out that “it is not essential for member or employer representatives to attend meetings themselves.” Again, we believe that this is a matter that is properly for the owners of the Pools to determine. In addition, the governance of most pools includes a range of other committees and boards where attendance and/or voting rights are likely to be appropriate, but the guidance does not have anything to say about this.

31. In the view of the Board, there is space for significant voting roles for member representatives on bodies like shareholder committees (as the members are in effect the beneficial owners of the funds). The guidance doesn’t attempt to go into that level of detail, but as with the previous comment it would be helpful for the guidance, even if it doesn’t want to specify particular roles and leave these for local determination, to give examples or encouragement for AAs and the pool companies to find meaningful roles for member representatives within their particular governance structures.

32. The Board has previously taken advice from Burges Salmon on whether Conflicts of Interest (Col) arise on the requirement for funds to take principal investment advice to from their asset pool company on their investment strategy, due to the asset pool company responsibility for implementing the investment strategy. The advice set out in paragraph 4.5 of the Burges Salmon advice notes areas of potential Col that would need to be managed.

33. The Board notes that guidance on Col are covered in paragraphs 6.17 to 6.19 and welcomes the link to FCA authorisation that requires an effective Col policy, alongside the requirement for asset pool companies to review staff remuneration and performance management policies avoid misaligned incentives but believes the

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guidance should provide clearer guidance on practical steps to enable consistency between Col policies.

### **Directions**

34. As previously shared, the Board has real concerns over the breadth of the powers granted to the SoS in relation to the making of directions to pools. While the current Pensions Minister has offered reassurances during the passage of the Pension Schemes Bill, these powers will remain on the statute book indefinitely and future ministers may not be so respectful of the current non-politically partisan nature of the scheme. We therefore seek clear assurances that the direction making power must not be used to further political aims but should be used consistently with the fiduciary duty of the funds and the pools.

35. In that context it is worth noting that paragraph 7.2 says that the SoS will only intervene when it is “in the best interests of the scheme to do so.” The Board would like to clarify whether MHCLG intends this to mean the scheme as a whole, rather than a specific pool or its partner funds. It is possible that the Minister considers it necessary to require a pool to act in a way that may not be in its own interest but serves the interests of the scheme as a whole. That is not in itself unreasonable but is something that we think it would be clear about and noting the implications of it.

36. The Board believes the process around giving directions to the pool is better and fairer than the process outlined in the ISS guidance for AAs funds. It is not clear if that is deliberate or they are simply at different stages of drafting. We believe the processes for fund and pools should both have procedural fairness and if anything, be applied with greater respect for the margin of discretion that AAs rightly have given their separate and more direct accountability back to scheme members and local scheme employers.

## **Draft Investment Strategy Statement (ISS) guidance**

### **The roles of the AA and the pool**

37. We would like to see a reference to the Code of Transparency in this guidance, as there is the pooling guidance. While the pool is able to use the cost transparency data in relation to decisions over particular managers, the AA does also need this information as part of its consideration of whether the pool is delivering a value for money service to it.

38. The Board believe that the guidance should be clearer on the role of the Independent Person and local pension board (LPB) in deciding the strategy. The LPB role is especially important given that funds' role in the future is going to be less around decisions on investment than governance of the decision-making process that largely happens at the pool level.

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#### **Investment objectives**

39. We would like to see the ISS guidance draw out guidance on priorities and preferences under [draft regulation 11\(1d\)](#). The pooling guidance in paragraph 3.6 draws out that using passive or active management styles would be an AA preference that pools must take account of, but the ISS guidance only refers to this to confirm style of investment management should not be considered as a ‘high-level’ objective and is silent on the matter of priorities and preferences in an ISS.

#### **Responsible Investment (RI)**

40. The Board believes that while it is helpful to have a section on RI, the issue is so important to scheme members and employers, it should also be reflected as an integral part of section 3 on investment objectives (especially given the sometimes-blurry line between financial and non-financial factors in relation to considerations such as climate change).

41. The Board believes that paragraph 5.6 could usefully be unpacked to give more guidance on how financial and non-financial factors are considered. In particular, the extent to which wider societal benefits can be taken into consideration and what kind of weight might be put upon them. It might be helpful here to include references to the legal advice recently obtained by the Board from Nigel Giffin KC, who deals with this in some depth.

42. The Board notes that paragraph 5.9 of the guidance refers to “the pool’s RI approach where they have adopted one.” The pooling guidance makes no reference to pools having an independent RI approach and it is not clear to the Board that it would be appropriate for a pool to have an approach that was not just the aggregation of the partner funds’ approach. Pools having their own, independent RI policy risks creating greater difficulties in achieving consensus amongst all partners. It also raises questions of accountability given the pool is not directly accountable to scheme members or scheme employers.

43. As mentioned above, the Board believes that pools should respect the RI policies set by the AAs, but they do have two important roles in relation to them:

- a) To provide AAs with information about the financial impact of adopting certain RI policies; and
- b) To provide a forum whereby partner funds can discuss and agree common ground in their RI policies where possible.

44. The Board does not believe that pools should be able to set aside an RI policy of an AA on the grounds that they do not consider it to be “practicable” (a term which is not defined in the guidance).

45. The Board believes paragraph 71 of the [government response](#) is more helpful at than the paragraph 5.11 in the guidance in explaining how the pool should work with AAs when setting and implementing responsible investment policy. The consultation response is the preferred approach as it is less prescriptive and encourages collaboration between funds and pools. The wording at 5.11 in the draft guidance lacks clarity on what actions are required and who determines what is “reasonable”

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or “possible.” If pools cannot meet the AA’s objectives, they should explain why and propose options for discussion, rather than simply overriding the AA’s approach.

46. Paragraph 5.15 seems to be inconsistent with what was in the Fit for the Future Government Response, which said that while pools would do the implementation of the stewardship role, e.g. voting, engaging etc, they would do so in line with the investment objectives set by the AA. The draft now says, “Stewardship and engagement should be delivered in line with a pool-wide policy developed by the pool in discussion with partner AAs.” Which means that it is the pool’s policy, and not the AA’s investment objectives which determine how the pool engages. And the pool’s policy will be decided ‘in discussion’ and not necessarily in agreement with, the AAs. Given that the AA remains, in many cases, the legal owner of the assets then they should have the final say on how any voting rights that accompany that ownership is deployed.

### Directions

47. As previously shared, the Board has real concerns over the breadth of the powers being taken by the SoS in relation to the making of directions to AAs. These powers are wider and are much clearer in intent than was the case with the 2016 Regulations. When those regulations were going through Parliament the then Local Government Minister, Marcus Jones, gave this commitment to Parliament:

*"On the backstop provision, the Government have made it absolutely clear that that is to be a backstop power. I would liken it to the current best value provisions that allow the Government to intervene in a local authority should it not be delivering best value for the residents it serves... The intention is to use this backstop provision sparingly and only when it is necessary to step in to protect the interests of both the scheme members and the local taxpayers, who might have to step in and bail out the LGPS if the investments are not made in a way that provides the best return from those funds."*

48. The Board would like to see the regulations and the guidance strengthened to be explicit that:

- a) Directions and intervention would only be used where necessary to protect the interests of members or scheme employers.
- b) The SoS would be clear as to the evidence and analysis he was relying on to reach that view and share that with the fund affected as part of the consultation.
- c) The consultation would give the fund the opportunity to “comply or explain”.
- d) That the reasonableness of a SoS decision to issue a direction would be capable of being tested in court, not simply whether the direction itself had been complied with.
- e) That the consultation would include member representatives and any others with a legitimate interest in the decision.
- f) That any direction would be specific, time-limited and proportionate to the necessity to protect members’ interests.

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49. The board welcomes the requirement at paragraph 8.2 to receive relevant evidence from the bodies listed (including the Board itself) but there are still questions on what report MHCLG envisages in these circumstances.

### **Closing comments**

50. The Board would welcome the chance to collaborate with MHCLG on developing a clear, practical roadmap that brings together all the different strands of change required at the local level.

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