

POLICY BRIEFING NOTE:

LGPS ‘fit for the future’ consultation: Good Governance



Susan Black
Head of Governance, Administration & Projects (GAP)



Ian Colvin
Senior GAP Consultant

The investment proposals in the Government’s [Fit for the future consultation](#), launched after the Chancellor’s Mansion House speech in November, have captured all the headlines. However, the consultation also saw a significant step forward on governance reform in the LGPS, almost four years after the Scheme Advisory Board made their ‘Good Governance’ recommendations to LGPS Ministers. In this briefing note, we share our initial responses to the questions on governance contained in the consultation.

The Good Governance project and the Government’s proposals

Many people who’ve been involved in the LGPS in England and Wales for a number of years will be very familiar with the Scheme Advisory Board’s (SAB) Good Governance project. This was launched in 2019 to consider how local LGPS governance could be improved, with Hymans Robertson appointed to work with scheme stakeholders and report to the SAB on our findings. Following detailed work undertaken [from 2019 to 2021](#), the SAB’s [final report](#) and [action plan](#) were submitted to then local government minister Luke Hall MP in February 2021.

The Government has now consulted on making changes to the scheme’s governance as part of the [‘Fit for the future’ consultation](#). The proposals themselves are largely in line with the 2021 recommendations of the SAB, and include the following:

- **Governance and training strategy** – that each administering authority should have a governance and training strategy, including a conflicts of interest policy [paras 91 to 94].
- **Senior LGPS officer** – that each administering authority should have a senior LGPS officer, with specific roles and responsibilities relating to the pensions function [paras 95 to 97].
- **Pension administration strategy** – that each administering authority must have a pension administration strategy [paras 98 to 100].

- **Annual reports** – that funds will no longer be required to include the full texts of their policy documents within the annual report [paras 101 to 103].
- **Biennial governance review** – that each administering authority would be required to participate in an independent governance review every two years, with the SAB to develop a peer support offer [paras 104 to 107].
- **Knowledge and skills requirements** – that pensions committee members, senior LGPS officers and other officers must have knowledge and understanding of the LGPS to undertake their roles [paras 108 to 112].
- **Independent adviser** – the Government has set out that it wishes to ensure that pensions committees have access to professional and independent expertise, and has asked for comments on a proposal that each pension committee must have an independent person as adviser on investment strategy, governance and administration [para 113 to 116].

In some places the details are quite light, and further detail will be needed to fully understand and comment on how the changes are intended to work in practice. This is particularly so for some of the significant proposals, such as the proposals for biennial governance reviews and for each fund to have an independent adviser. We hope a more detailed consultation on some of these aspects will follow in due course, including draft regulations and guidance where relevant.

Governance questions – our draft responses

Below, we set out our draft responses to the questions concerning the Good Governance proposals.

Question 18: Do you agree with the overall approach to governance, which builds on the SAB's Good Governance recommendations?

We welcome the Government's consultation on these proposals and are supportive of the Government taking steps to implement the SAB's Good Governance recommendations following our work with the SAB on this in 2020 and 2021.

In the SAB's 2021 report which we facilitated, we had set out why we considered many of the proposals to be valuable following our research in the scheme. Whilst many LGPS funds have now taken steps to implement some of the changes voluntarily, we believe it's helpful that the Government is taking steps to implement the recommendations so there is greater consistency across the scheme.

In particular, we're supportive of the proposal that the Government works with the SAB on developing and issuing new statutory guidance on governance. Guidance will help to achieve consistency across the LGPS and will give greater clarity on the Government's expectations for how the new requirements should be implemented. We would encourage there to be a broad consultation on the guidance to ensure that the range of views across the LGPS community can be considered for the final version.

One matter that will need careful consideration as the Government progresses with the governance changes will be the timing of its implementation. Some of the new requirements will take time to consider at the local level and then put in place – for example, the creation of the new senior LGPS officer role may require local structures to be amended and there may need to be external recruitment to fill the role. It would be helpful if, in the response to this consultation, the Government's anticipated timings for regulations, guidance and eventual compliance could be set out.

As the Government refines its plans on governance, including in developing the guidance and regulations, we would be very happy to provide any support we can, including meeting with the Department, to share what we learned from our work on the Good Governance project.

Question 19: Do you agree that administering authorities should be required to prepare and publish a governance and training strategy, including a conflict of interest policy?

We agree that funds should publish a governance strategy, a training strategy and a conflict of interest policy although we're not persuaded that these should all form part of the same document. For reasons of practicality, ease of reference and flexibility to update we feel these should be standalone documents, although there is no reason why they can't reference or link to each other where relevant.

The current governance compliance statement guidance dates back to December 2008 and predates investment pools and local pension boards. We would welcome new guidance for funds in this area.

The members of most pension committees will be covered by the host local authority's elected member code of conduct, which sets out standards and includes a register of interest. We agree that an additional policy should be in place to cover the specific potential conflicts that arise from the fact that administering authorities are the bodies legally responsible for running LGPS funds and employers within those funds. We would welcome guidance on this topic which covered areas such as contribution setting, re-charging for local authority services, local investment and the situation of many administering authorities being both part owners and clients of an investment pool.

Question 20: Do you agree with the proposals regarding the appointment of a senior LGPS officer?

Yes. As a key part of SAB's Good Governance report, we believe a requirement for a senior LGPS officer in each LGPS fund would be a welcome development, and would potentially have several benefits:

- **Sufficient recognition of the LGPS function** – whilst the pensions provision within a council is not a frontline service, it is an important part of the local government system, and there are potentially significant financial and reputational risks of weak governance at the local level. A senior LGPS officer should help to ensure that LGPS issues are given appropriate consideration and prominence within the local authority, and that LGPS issues are duly represented.
- **Sufficient senior resource** – the LGPS has become increasingly complex in recent years and the creation of a senior LGPS officer position should help ensure that there is sufficient senior resource supporting the wider pensions team. In some authorities the existence of a senior LGPS officer will also free capacity for the s.151 officer, where pensions issues can be highly time-consuming. We would not however expect the introduction of a senior LGPS officer to change the overall responsibilities of the s.151 officer.
- **Consistency across the scheme** – local authorities can differ from each other significantly in size, culture, functions and resource, and these differences can lead to differences in how the LGPS function is delivered. Having a requirement for there to be a senior LGPS officer in each fund will ensure that, in spite of the differences in the local landscape, there is a designated officer in each administering authority who has responsibility for the LGPS.

We welcome the Government setting out in the consultation that it would be expected that the LGPS role would be the main priority for the senior officer. We believe this means that the LGPS senior officer could not be the authority's s.151 officer, given that role will cover many different areas of the council's finances, and believe it would be helpful if the Government could confirm that this is their view.

We also welcome the list of activities that the Government say they would expect the senior officer to be responsible for. As the Government has set out, it plans to issue updated statutory guidance on governance. We assume the Government plans to build on this list in the statutory guidance and believe this would be helpful in achieving consistency across the scheme in respect of the areas of responsibility that the LGPS senior officer is expected to have.

There is an area where additional clarity could be provided. Paragraph 95 of the consultation states that the LGPS senior officer would have 'overall delegated responsibility for the management, strategy and administration of the fund'. This phrase is potentially confusing as it could suggest the LGPS senior officer should be formally delegated the LGPS function under s.101 of the Local Government Act 1972. In an LGPS context, it's typically the pensions committee that is delegated the overall responsibility for the LGPS under the 1972 Act. We assume that the Government does not intend that the LGPS senior officer would supplant the role of the pensions committee, and instead it's envisaged that the LGPS senior officer's responsibility for the LGPS would be subject to any existing delegations that the authority has in place. In other words, in most funds the performance and work of the LGPS senior officer would be subject to scrutiny and oversight from the pensions committee. It would be helpful if the Government could confirm this.

The statement that the LGPS senior officer "should be involved in the local authority's budget-setting process" could be clarified. We take this to mean that the LGPS senior officer should be involved in the budget relating to the LGPS fund which is consistent with the intention of the Good Governance project. It is true that the pension fund budget is a sub-set of the local authority's budget but, as written, the phrase could be interpreted as meaning that the senior LGPS officer must be someone who has involvement for the budget of the wider authority.

Question 21: Do you agree that administering authorities should be required to prepare and publish an administration strategy?

While the publication of an administration strategy is technically optional, we're unaware of any LGPS fund that does not publish one. That said, we believed that there is value in requiring funds to produce an administration strategy and for guidance to be published on the matters to be included in that strategy. In producing that guidance there should be consultation with both LGPS practitioners and employers.

The guidance should allow for consistent standards governing what administering authorities expect of scheme employers, and on the quality and timeliness of scheme data. It would also be useful to provide the scope for administering authorities to recover additional costs from poorly performing employers in a more effective way.

We also suggest exploring the extent to which the contents of the administration strategy can be legally binding on scheme employers.

Question 22: Do you agree with the proposal to change the way in which strategies on governance and training, funding, administration and investments are published?

Yes. Whilst it's important that all stakeholders in the LGPS can easily access a fund's policy documents, we agree that it's not helpful for the full texts of these often-lengthy documents to be included in the annual report. We support the suggestion that the Government work with the SAB to consider this further and update guidance.

Question 23: Do you agree with the proposals regarding biennial independent governance reviews? What are your views on the format and assessment criteria?

We support the principle of an independent governance review, since this provides an objective assessment of how well funds are meeting the required standards of governance. It's important that the process is designed in such a way as to focus on enhancing governance, sharing best practice and supporting funds. It would be unproductive to focus on crude league tables and a 'name and shame' type approach.

The consultation appears to conflate two ideas of the Good Governance review: the biennial review and peer support. We feel that these two areas are quite different. The biennial review should be focused on ensuring that LGPS funds are meeting their statutory requirements by assessing evidence produced by the fund. Our understanding of the LGA's peer support process is that it provides a framework for local authorities to share best practice in a range of functions by working with experienced elected members and officers from other authorities. We would be interested to see how these two different functions could be merged together.

Without more detail it is difficult to comment further. We would hope to see a further consultation on any legislation and/or guidance that sets out details of how the review will be administered. One practical challenge of a biennial review of all LGPS funds is the resource it would require. With 86 administering authorities in England and Wales, there will be 43 independent reviews per year; meaning a review will need to be carried out every 6 working days. Such an enterprise would need to be properly resourced.

Question 24: Do you agree with the proposal to require pension committee members to have appropriate knowledge and understanding?

Yes. Pensions committees have overall responsibility for decisions in the LGPS and it's vital for the effective governance of the scheme that they have an appropriate level of knowledge and understanding of the scheme's rules. Most LGPS funds will already place high value on the training of their committee members to ensure that committees are capable of providing valuable scrutiny and oversight of the running of the fund. However, formalising this through a statutory requirement will ensure that the Government's expectations are clear and help to support greater consistency across the scheme.

As the consultation notes, local pension board members have had a requirement to have knowledge and understanding of the scheme since the establishment of local pension boards in April 2015 and we believe it is important to address the anomaly that the same requirement does not yet apply to pensions committees.

Question 25: Do you agree with the proposal to require AAs to set out in their governance and training strategy how they will ensure that the new requirements on knowledge and understanding are met?

We agree with this proposal. While most LGPS funds already have training strategies, the proposal that LGPS committee members must have appropriate knowledge and skills (see Q24) provides an opportunity to bring together various training requirements such as The Pension Regulator's General Code of Practice, CIPFA's knowledge and skills framework and MiFID II into consistent guidance.

Question 26: What are your views on whether to require administering authorities to appoint an independent person as adviser or member of the pension committee, or other ways to achieve the aim?

Whilst we support the Government's consideration to how LGPS governance can be developed and how administering authorities can obtain greater support on the scheme's complex investments, governance and administration landscape, we are uncertain whether a requirement for an independent adviser is the right approach.

The consultation appears to envisage that the independent adviser would be an individual pensions professional who would support the pensions committee on investment strategy, governance and administration. We have reservations as to whether there are a sufficient number of individuals who have the skills and expertise to deliver this support to the 86 administering authorities in LGPS England and Wales and, importantly, that there would be a sufficient number for a competitive and healthy market to exist. It's not clear to us why the person best suited to provide investment advice would also be best suited to provide governance or administration advice.

Given each of these areas are very complex in their own right, an independent adviser would need significant research capacity to adequately fulfil this function. Whilst we note that, within private sector pensions, there is a well-developed market for independent trustees who could potentially enter the LGPS market, the LGPS has many key differences from private sector pension schemes and it may take a number of years before such firms have sufficient LGPS expertise and capacity to effectively support committees in the way envisaged. Individuals would need to understand the complex statutory and regulatory foundations of the LGPS, the local government environment and the different characteristics of scheme versus private sector arrangements (e.g. differing objectives (ie long-term sustainability vs insurance buy-out), asset allocations, timeframe (ie the LGPS is open to accrual and new staff joining), covenant strength, multi-employer arrangement, etc).

It appears that the Government may believe that there is a need for an independent adviser at the fund level in order to ensure that administering authorities have sufficient investment expertise to be able to challenge pools on investments matters and to provide committees with support on setting the investment strategy. This appears to be a recognition that the proposal that pools provide partner funds with the principal advice on strategic asset allocation would leave an important gap in the LGPS's governance. We are unsure whether the addition of a complex new element in the LGPS governance landscape, with an undeveloped and untested market, would be better than the current position, where authorities can take their own decisions on who to obtain their investment advice from.

On balance, we believe that LGPS funds should be able to procure advice from a range of advisors according to their needs and in line with any regulatory and professional requirements.

What's next?

The consultation closes on 16 January 2025 and we would encourage all funds to submit a response given the wide-ranging impacts of some of the changes being proposed. For consideration as part of your own consultation response, over the next few weeks we will continue to share our thought-pieces and question responses.

If you have any questions, or would like to discuss, please [get in touch](#).

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T 020 7082 6000 | www.hymans.co.uk

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