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To the Department for Communities and Local Government

LGPS Governance Regulations 2014

Combined Section 101 committee and local pension board – Regulation 106(2)

For clarity, we understand combined boards to be combined pension committee and pension board in the same authority. Joint boards to be where more than one authority joins together to form one pension board/committee.

WMPF agree with commentators that the dual function and separate legal codes governing the two bodies would make the management of them a struggle and while a combined committee and pension board would seem advantageous in the management of resources (two committees can be quite resource heavy) consideration needs to be given to the two different roles of the pension board and the scheme manager, one being the decision maker and one being the advisor. WMPF would keep in mind the reasoning behind the changes and the need to create more accountability, a self-advising decision making body might be considered to go against this. Further it is the Administering Authority who are responsible for the Fund and hold its liabilities, therefore it would seem appropriate to allow them a majority decision on a separate Pensions Committee which they would not achieve on an equally represented Pension Board.

WMPF considers there to be an advantage in keeping the two bodies separate given the specific requirement for proportionality and the membership on the Pension Board, a separate committee which gives the opportunity for other representatives to advise on (and therefore have some element of control over) decisions of the fund would further relationships and foster good working relationships between funds, members and employers.

WMPF believe that this provision may be more suited to smaller funds where the ability to manage two committees is not viable either due to resource or due to the lack of numbers for committee membership but is not something we feel would assist WMPF.

Our consideration of joint pension boards is discussed below.

Establishment of local pension boards Regulation 106(5)

While a S101 requirement for the Board would seem advantageous, it may be considered overly burdensome and restrictive in consideration of the role of the pension board as an advisory and not decision making body.

Local Government Authorities are used to working to the S101 committee style and WMPF would consider the same principles under S101 when considering the terms of reference for the pension board even if this was not included in the final regulations. However, flexibility would be useful which may allow for shorter notice of meetings.

To include the S101 provision would allow for the delegation to be given to other authorities which would assist smaller funds with resourcing should combined/joint pension boards not be provided for in the final Regulations.

The ability to resource a separate Board for a small fund with two employers (especially given the knowledge and understanding requirement for the board members) appears potentially burdensome.

Should the S101 provision apply it would be open to authorities to consider joint committee and shared pension boards. This would be advantageous to smaller neighbouring authorities who may struggle to comply with any imposed requirement to have separate pension committees and pension boards due to a lack of number or resource and where other in-house services are already working as a shared service.

There are also circumstances where more than one Fund is being managed in one Authority. WMPF for example, also manages the Integrated Transport Authority (ITA) Fund and we would welcome the ability to have joint working for both funds. The ITA being able to benefit from the more extensive knowledge offered by a larger group of people.

Given the advisory nature of the Board there may be a need to call a meeting as a matter of urgency to provide advice on a matter considered at Committee where the restrictions of S101 (5 day agenda delivery etc) would make the ability to take the decision unviable, or where a delay in the decision would cause detriment to the Fund.

Those items to be specifically included in a wider discretion will have to come in the remit of the Board which falls to each Authority to determine. It is our understanding that no decision making authority will fall within the Board's remit however greater clarity on their remit and reporting powers is welcomed.

The flexibility offered by option 2 however is preferred and we would instead welcome draft terms of reference from the Regulator as to what should be included in the remit of the pension board.

Pension Board membership

In considering the make-up of the pension board, WMPF already have an advisory body consisting of trade union representatives. The need for the pension board to be proportionate with an equal number of employer and member representatives is a provision welcomed by the Fund to further the remit of our existing advisory board which has been beneficial to the Funds work.

The inability for elected members to act as employer/member representatives is not an issue for WMPF as we are a large enough fund to draw representatives from our member and employer groups. We welcome the ability to appoint elected councillors as 'others' however given the new role of pensions boards we feel there is a benefit to be gained in appointing existing pension committee members to the pension board to support newly appointed persons.

However, in not allowing elected members to act as employer representatives, it will fall to officers to attend on their body's behalf. Given the knowledge and understanding requirement of board members it is likely that those nominated to the board will be persons holding a relevant position in their body, Legal, Finance, HR/payroll officers. There is a risk of conflict in these situations and greater clarity on how the scheme manager manages this would be welcomed.

Funding of the Scheme Advisory Board

The Scheme Advisory Board is supported as a provision of the legislation where a fixed or banding fee is proposed and where such fee is not proportionate to actual Fund size. Clarity as to what the fee is for is also requested, we would support the fee where it is used to improve the LGPS and expect members to have an opportunity to comment on the Board's budgetary plans on which the fee is levied.

We would not support a remuneration for the Scheme Advisory Board members.

Annual General Meetings, Employer Forums, etc

As a matter of good practice WMPF hold an AGM and mid-year review inviting employers from across our Fund together with trade union representatives who sit on our Joint Consultative Panel which have been successful and well attended.

The reviews offer an insight into the work of Fund including annual performance information and offer opportunities for questions to be raised. WMPF would continue to deliver these events irrespective of whether they become a statutory requirement.

The Fund also takes a proactive approach to informing our members and highlighting issues to them through such mediums as roadshows, member surgeries and employer events which are supported by a newsletter and various briefs on the Fund's website.

We question the ability of the Fund to manage, resource and indeed fund an AGM such as that proposed. With over 270,000 members if even 1% of those attend would require a significant amount of resource and cost which the Fund would have to seek to recover from the employers as part of their administering contributions. In a time when budgets are tight and challenges to contributions are growing WMPF does not believe this requirement to be in the interest of the Fund or its members. Indeed WMPF already holds several directed events for both members and employer organisations as discussed above.

Consideration would need to be given to the differing size of pension funds, some have only one authority employer and therefore to hold an annual meeting for itself may be considered overly burdensome. It is suggested that this requirement should be considered best practice in fostering relationships rather than a mandatory requirement as there is always a risk that no employers attend an arranged meeting. A requirement to have at least annual communications rather than meetings would be more supportable.

Further, given the representation of employers and members on the pension board it is expected that any concerns or information will be relayed back to the employers/members through their representatives on the board or through such established mediums as Employer/Employee Peer Groups/events/newsletters.

Public Sector Equality Duty

WMPF believe the Board to be undertaking a public duty in advising and assisting with decisions that impact on individuals. As a Board of a public authority, it would seem logical that it should adhere to the Public Sector Equality Duty.

Further, as the remit of the Board is be a conscience to the decisions taken, part of that should be to advise on the overall impact of those decisions and the considerations the decision maker needs to take into account when determining outcomes.

We would support a requirement for the Board to be subject to the Equality Duty.

Knowledge and Understanding

WMPF would agree with a requirement for persons appointed to pensions committees to be bound by the same knowledge and understanding requirement as those appointed to the pension board.

In considering the two roles, the pension committee will be the decision making body, the pension board the advising body, it would appear to be counter-productive to have a decision making body not required to have the knowledge and understanding of the implications of their decisions.

What is unclear is the extent of that knowledge. As discussed above it is likely, although not definite, that persons nominated by the employer body to sit on the pensions board will be officers in positions relevant to the subject area. Legal, finance, HR officers and therefore their knowledge and understanding might be quite high although may need tuning to pension specific matters. Compare this to a member representative who has no experience in these areas, what would be comparable? Is it an ability to learn throughout the course of their appointment on the board? To find a member representative who understands the implications of their decisions at the outset would be extremely difficult, especially if those representatives cannot be trade union members.

Clarity is required on what constitutes capacity and experience and we would expect that to draw a comparative between ability to learn and having a ground level to start from.

Questions for clarity

In addition to those questions raised by the consultation, WMPF also request clarity on the following questions

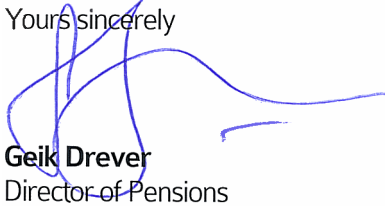
1. Are Trade Union representatives sufficient to meet the employee representative requirement on the pension board or does government anticipate that these be actual employees?

WMPF would support a mixture of both given the knowledge and understanding requirement. Further the Shadow Scheme Advisory Board consists of Trade Union representatives as employee representative and Trade Unions pride themselves on representing the whole workforce not just their members.

2. Are conflicts only relevant where they are actual or potential? Is membership of a pension scheme with your employer an exempted conflict?

WMPF believe potential conflicts would be difficult to manage and would suggest that unless a representative's interest is an actual conflict with a direct impact on or resulting from the business being transacted, other matters should be governed under the rules of bias.

Yours sincerely



Geik Drever
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