

21 November 2014

LGPS Governance Guidance Consultation  
Shadow Scheme Advisory Board Secretariat  
Floor 5 Workforce, Local Government Association  
Local Government House  
Smith Square  
LONDON SW1P 3HZ

Dear Liam

**The Local Government Pension Scheme - Governance Guidance Consultation Document**

Further to the draft guidance on the creation and operation of Local Government Pension Scheme Local Pension Boards in England and Wales consultation paper issued by the LGA on behalf of the Shadow LGPS Advisory Board on 17 October 2014.

As you know, CIPFA has been heavily involved in developing the draft guidance and we are pleased that it has now reached the stage where it can be shared with practitioners. Whilst both Nigel Keogh and I have fed in comments during the development stage, we do have some further observations on the draft guidance, and these are set out in the attached Annex.

I hope these comments are a useful contribution to the development of the guidance. As ever, if you would like to discuss further any of the points raised, please do not hesitate to contact CIPFA via the Pensions Panel Secretary, Nigel Keogh, at [nigel.keogh@cipfa.org](mailto:nigel.keogh@cipfa.org).

Yours sincerely

**Bob Summers**  
Chair, CIPFA Pensions Panel



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## **Annex A**

### **Overall observations and comments**

Initial feedback from some stakeholders would seem to indicate that they find the guidance over-long. Whilst it is clearly a difficult balance to strike in terms of coverage and brevity, perhaps consideration might be given to producing a summary of key points?

There are clear indications that practitioners would also welcome a specimen "terms of reference" for a pensions board.

### **Specific comments:**

#### **Paragraph 3.13**

The first example in the diagram (whereby the administering authority delegates directly and solely to the CFO) is a practice that is rather more the exception than the rule. It's inclusion here may give the impression that the practice is rather more commonplace than is the case. We wonder therefore whether this might be consigned to a footnote.

#### **Paragraph 5.4**

Given that the draft LGPS governance regulations (Regulation 106(1)) make specific reference to the administering authority being responsible for establishing the pensions board, should we be inferring here that this is a function that could be delegated? Whilst such a delegation is clearly permissible, there is a concern that by mentioning it in guidance it might be seen as steer to practitioners.

#### **Paragraph 5.33.6**

The current wording seems to imply that the Local Pensions Board could operate without a chairperson. Clearly the Board would operate more effectively with a chair to manage proceedings, so perhaps the wording might be amended in such a way as to presume that a chair will be appointed.

#### **Paragraph 5.33.9**

This section makes reference to "*open minutes can be promptly published in the Administering Authority's FOIA publication scheme*". For completeness, this should also include agendas and other related, relevant papers.

#### **Paragraph 5.33.9 and paragraph 8.3**

These sections could also make reference to how the board will communicate with the constituencies that the board members represent i.e. employers and employees.

### **Paragraph 7.8**

It might also be worth mentioning here the Wednesbury principles that board members should be aware of:

*when making a decision a body takes into account matters which it ought not to take into account, or;*

*it did not take into account matters which it should have taken into account, or;*

*even if the two previous conditions were satisfied the conclusion was so unreasonable that no reasonable person could ever come to it.*

These need not be included verbatim, but a link could be provided to further information.

### **Paragraph 7.37**

The Section 151 officer or Chief Finance Officer should also be cited as an example of a source of professional advice in this section.

## **Section 8**

Somewhere in this section practitioners should be encouraged to ensure that the role and activities of the local pensions board are considered in the context of the Annual Governance Statement that the administering authority is required to produce as part of its annual accounts.

### **Paragraph 8.5**

The guidance could suggest that the reporting mentioned in this section might be included in the pension fund annual report.

### **Paragraph 8.12**

Given that board's documents will be subject to FOIA, in the context of this section, perhaps the guidance should infer a presumption in favour of transparency and disclosure, with confidentiality being the exception?

## **Section 9 Resourcing and Funding**

This section needs to be strengthened significantly. Practitioners should be encouraged to establish a robust financial framework within which the local pensions board will operate. This will include not only a budget creation process as is alluded to here, but also:

- to whom the local pensions board will be financially accountable;
- the timetable and means by which the budget will be agreed;

- the process by which budgetary disputes will be resolved
- in-year financial monitoring processes and reviews
- year-end financial reporting

It might also be worth including here a prompt to practitioners to consider the role of internal audit in relation to the local pensions board.