DORSET COUNTY PENSION FUND

Governance Compliance Update
Pension Fund Committee on 14th March 2023

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1.0 Introduction

1.1 I last presented my annual review on the governance arrangements for the Dorset County Pension Fund at the Committee on 10th March 2022 and this will be my last report to the Committee. As for all local authorities, the past three years have placed a strain on governance arrangements generally, but the Dorset Fund has adapted well and has continued to maintain good governance standards. However, progress from central Government on key national governance initiatives has been slow and I comment in more detail below.

2.0 Committee and Board meetings

2.1 While the Committee has reverted to physical meetings at County Hall, I note that the Local Pension Board continues to hold virtual meetings. Many funds have opted for hybrid meetings which combine physical and virtual attendance. This is proving particularly useful where, for example, advisers need to attend for a single agenda item or for training purposes. For many this has become a practical benefit from the lessons learned during the pandemic.

3.0 Core business activity

3.1 I have looked through the public papers for both the Committee and the Board and read the Part I minutes of each meeting. This only provides me with a partial oversight of proceedings but enough to satisfy me that the meetings are being run well in governance terms and are covering the broad range of responsibilities. As previously, I endorse the way in which questions from the public have been handled. In addition, I commend the improved website.

3.2 For the Committee, I note the attention being given to the investment underperformance by the Brunel Pool and that the governance arrangements are being monitored. The Committee has identified concerns about the 'pooling concept', including the pace of transition, the focus of the pool operator, and what action can be taken in the event of continuing underperformance. I comment further below on pooling.

4.0 Annual Report

4.1 I have read through the annual report for 2021-22 and consider that, as in past years, the report is well written and informative. The decision to publish the pension fund report in draft is to be commended given the continuing delays to the Council's main accounts. The proposal by the Scheme Advisory Board (SAB) to separate the accounts may help resolve this national issue.

4.2 In my opinion, and as stated in the report itself, the annual report is compliant with the regulations (Reg 57) and has proper regard to the guidance as issued by CIPFA. I applaud the reference to the CIPFA compliance checklist in the main body of the annual report.

4.3 The Government's informal response to the good governance review suggests some slimming down of the content of annual reports to allow greater focus on policy progress and achievements, rather than just reproducing policy documents. This has been an issue for a number of years and such a change would not only reduce the size of the report (replacing full content with web links) but provide better communication and accountability on key policy areas, although much of this is done already by Dorset.

5.0 LGPS Regulations and Guidance

5.1 The impact of the COVID-19 pandemic has continued to slow progress on an increasing number of regulatory and guidance matters. As I reported 12 months ago, the DULHC has a significant 'build-up' of regulatory matters requiring their attention and the position has barely moved forward in the past year. There is a growing risk that changes in the regulatory framework will be rushed and not processed in a practicable manner, giving funds insufficient time to implement change.

5.2 The Committee benefits enormously from Cllr Beesley in his capacity as both a member of the SAB and as the Committee's representative on the Brunel Oversight Board. The Committee is being kept up to date with scheme regulatory developments on a 'first hand' basis and many of the issues I have listed below will be known to the Committee. Needless to say, most are not new although progress is expected in 2023:

McCloud remedy – The DLUHC is due to publish its response to their 2020 consultation, setting out decisions on the matters covered in that consultation in the spring and to publish an updated version of the draft regulations implementing the McCloud remedy later in the year to come into force on 1 October 2023. Additionally, DLUHC intend to issue the necessary statutory guidance for these regulations in 2023. The key issues are:

- The likely significant impact on administration workloads
- The lack of definitive regulations and guidance
- The potential impact on data accuracy which could affect Pensions Dashboard compliance

SAB Good Governance Review – SAB agreed the proposals in the Hymans report in February 2021 together with a work plan for implementation. Although it is understood that DLUHC is discussing the proposals internally, there is no formal indication of what may emerge, the extent of any changes to the regulatory framework, and when further information will be available. Key issues include:

- Further regulation or just more complex guidance
- Streamlining annual reports
- Centralised KPIs and improvement regime
- Formal training requirements for elected members
- Workforce strategy requirements
- Documenting best practice
- Biennial independent external review and assessment

Pooling arrangements – DLUHC issued an informal consultation in January 2019 which was subsequently withdrawn for revision following a significant amount of criticism and challenge. It is not clear when revised guidance will be issued but some clarity is needed on the operation of the pools. Key issues include:

- Further regulation and/or guidance
- Transition to 100% is required/enforced
- Strength of continuing commitment by funds
- Introductions of more metrics or performance indicators
- Clarifying the strategic policy lead
- Prospect of more consolidation of funds

Investment strategy guidance – Revised guidance on the preparation of the investment strategy statement is awaited following the Supreme Court judgement in favour of the Palestine Solidarity Campaign. Key issues include:

- Regulation on responsible investment/climate change
- Fiduciary duty – definitions and practical application
- Levelling-up intentions
- Sharia compliance

Climate risk disclosure – Consultation on the introduction of mandatory climate risk reporting across the LGPS, using the Task-force on Climate-related Financial Disclosures (TCFD) has been completed but with no response from DLUHC to date. Responses to a recent survey by SAB indicated that a significant proportion (30%) do not have the resources to produce a risk report, and of those, 45% indicated that they would not be able to deliver a report by the anticipated deadline of December 2024. There was also uncertainty about access to the necessary data. Some funds are waiting for greater certainty about the requirements, while some are pressing ahead with planning. Key issues include:

- A lack of certainty about the exact requirements for LGPS funds
- Whether 'fiduciary duty' will be defined and/or regulated
- The need for regulations/guidance and their status, i.e. whether mandatory or advisory
- Reliance on third parties to source the data and conduct climate risk analysis
- Monitoring compliance and regulatory competency
- The process if any for review and 'policing' of disclosures made.

Pensions dashboards – The consultation on the proposals have been completed but it is not yet clear exactly how these will be applied in the LGPS. Key issues include:

- The formulation of regulations and/or guidance
- Impact on data collection, accuracy and entry onto the system
- Process for checking compliance/impact of breaches
- Potential for cyber crime

Work of the former CIPFA Pensions Panel – CIPFA has disbanded the Panel and the SAB has established a new Compliance and Reporting Committee to replace the Panel to take on their work. As the Committee will be aware, CIPFA guidance is part of the regulatory framework (e.g. annual reports) and it is not yet clear how this will be translated into new regulatory guidance. Key points to note:

- The status of new guidance will need to be clarified in regulations
- CIPFA is engaging Isio (KPMG Pensions) to contribute to the process of revising guidance
- Guidance will continue to be issued with the CIPFA 'badge' but under the auspices of the SAB
- Future guidance will be issued free of charge (according to SAB)

Cost control mechanism – DLUHC published a consultation on proposed amendments to SAB's cost mechanism on 30th January. The intention is to update the SAB mechanism to align with Treasury cost control valuations to give the former greater flexibility. The key issue is whether this could lead to changes in the Scheme with consequential amendments to the regulations and valuation calculations.

5.3 All these issues and potential changes will impact upon the governance framework and timescales are likely to be truncated due to the loss of momentum during the pandemic. They will also further complicate the requirements for compliance, knowledge and understanding on both the Committee and the Board.

5.4 Furthermore, there have been references to broadening the role of local pension boards in terms of monitoring compliance, almost in a 'scrutiny type' role which is not consistent with assisting the scheme manager and place boards in a conflict of interest situation. This may be of concern if the role of boards is widened to encompass investment and funding issues.

6.0 The Pensions Regulator (tPR)

6.1 The new combined Code has still not been published and in a recent conference, tPR were not able to say when this would be available. They did say that they are "*confident that the LGPS will respond well to this*" and that "*well-run pension schemes should not be concerned*". It was also confirmed that "*the new code is a lot tidier than the version released for consultation*". However, it is still not known how the LGPS will be differentiated from non-funded public service schemes and funded private sector schemes

6.2 At that same conference, the representative from tPR listed the "*tsunami of regulatory challenges coming down the line, including the new single code of practice, the pensions dashboard and managing cyber risk. On cyber risk, the LGPS is a very large and important scheme and so will be in the crosshairs of cyber criminals*".

6.3 Along with this "tsunami", tPR has issued its Public Service Governance and Administration Survey 2022-23. This is a somewhat simplistic survey covering all public service schemes and from which, in the past, tPR has drawn some simplistic assumptions.

6.4 tPR does not currently have any locus in the funding and investment of the LGPS. However, with a growing regulatory framework across a wide range of functions including investment, there is concern that there will be a greater need for regulatory oversight and that tPR will take this on.

7.0 Conclusions

- The Dorset County Pension Fund continues to maintain good governance principles and to adapt to a changing regulatory framework.
- Although the transition to the new Civica administration system has put added pressure on the administration, it appears that the situation is improving.
- Further pressures on the administration will come from the implementation of pensions dashboards, McCloud, cyber risk, cost cap mechanism and other changes that are in progress.
- The governance framework is on the verge of significant change across many fronts.
- There continues to be competing demands from the various interested parties and regulators to introduce new controls, guidance and standards, e.g. SAB, LGA, tPR, DLUHC, Treasury.
- As I have said many times before, there does not appear to be a clear objective that change should benefit scheme employers and members other than an implicit expectation of improved governance.
- **Good governance is under threat from good governance intentions.**