

The governance train due to arrive on platform 1 in England and Wales...

The 'Hutton Report' set in train a change of governance regime for public sector pension funds. The first destination date of 1 April 2015 is fast approaching just around the bend, but where is the train on its journey and when might it arrive? In this briefing note we take a look at where we are now, where we will need to be and how we might get there.

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The destination

Our first destination, 'Scheme Advisory and Local Pension Boards', is due to be reached on 1 April 2015. While in the LGPS we have had a Shadow Scheme Advisory Board operating for some time now, the local pension board element remains a little more elusive. In this note, we set the Scheme Advisory Board to one side and look at local pension boards which Administering Authorities, otherwise known as 'Scheme Managers' in the language of the Public Service Pensions Act 2013, must establish by that date.

Engine in place, carriages required

While the destination is known, the detail of what is required or how we should get there is not fully known and continues to change. A recent change in the intent of the meaning of 'establishing pension boards' has been made and in light of the reducing timescale is helpful. Established no longer means a Board populated with members, but one whose constitution has been confirmed by the full Council. Members do not need to have been selected and a first meeting does not need to have taken place.

But where are we with the various elements required to enable us to get to that stage?

The Public Service Pensions Act 2013, the engine, providing the framework for the governance and administration of public sector pension schemes is in place and sections of it are gradually being turned on by enabling legislation.

However, the regulations to put the arrangements into place for the Local Government Pension Scheme (LGPS) are back in the engine shed. The consultation on the draft regulations previously issued is complete and the feedback considered. A second draft we understand has been approved by Minister Kris Hopkins and is expected to be delivered imminently in a consultation alongside regulations relating to cost management to form a new Part 3 of the Local Government Pensions Scheme Regulations 2013 (as amended). It is expected to contain some changes from the first draft.

While the LGPS regulations will be broad brush and high level, much of the detail is to be included in guidance. This has been in one of the Shadow Scheme Advisory Board's design sheds and following close work with the Department for Communities and Local Government, is ready to be issued for consultation alongside or soon after the draft regulations. It will provide guidance on how local pension boards may be created and operate. As per the title, it will provide guidance rather than instruction. Whether or not or how much of it will become statutory guidance is unknown, but it is anticipated to be a key document for Administering Authorities to use.

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Both consultations are expected to be concluded around the end of October. With final versions then to be issued, the regulations laid and decision made on how the guidance will be issued; statutory, non-statutory or a mix, final arrival in the New Year looks likely.

Watching over the LGPS will be The Pensions Regulator (TPR). His draft Code of Practice 14 covers all public sector schemes and covers areas for which he is required to issue a code. It includes practical guidance for Scheme Managers and local pension boards, standards of conduct and example benchmarks. The consultation has concluded and a summary of initial responses has been issued, but the final version of the Code, content unknown, awaits catch up of the Northern Ireland consultation process. The final version of the Code is expected to be laid at the end of November 2014.

LGPS Funds will wish to put in place arrangements such that they can ensure that their Funds operate to meet the expectations of TPR. Helpfully, the TPR has also issued guidance on what he will be focussing on and indicating the approach he will take to doing so. His areas of focus are intended to be record accuracy, communications, IDRP and member knowledge.

In the meantime, a plethora of other parts for the train in the form of enabling and connected legislation to make the whole public sector governance regime work, is gradually appearing.

Arriving at the destination in good shape

While we wait for the carriages to be finished and the full picture to be known, there is much that Pensions Funds can be doing. Development of a flexible plan is key as is booking in now agenda slots on forthcoming fixed Council and Pension Committee meetings. Key dates can be put into diaries and the key actions that will be required mapped out, including considering changes that may be required to existing arrangements, such as the remit of the existing Pensions Committee or equivalent. Actions can be taken, if necessary, to ensure that key people such as Councillors and senior staff have a good understanding of the principles of and knowledge of the emerging public sector governance arrangements and language. The time can also be used to review performance against the issues that the TPR will be looking at and to plan improvements and corrective actions where required.

In addition, the Scheme Advisory Board will be watching over each Fund and Funds can expect their performance to be collated into and reported in an LGPS wide 'Scheme Report' each year, and the immediate period can also be utilised to look at the likely requirements and how the Fund will be positioned.

The onward journey post 1 April 2015

While the local pension board need only be 'established' and does not need to have met or even be populated by 1 April 2015, the race will be on to populate it with members and to arrange for it to meet as soon as possible thereafter. It will then need to operate successfully to deliver its role on an ongoing basis to assist the Scheme Manager, in the form of the Administering Authority, to secure compliance with legal requirements relating to the governance and administration of the LGPS, compliance with the TPR's requirements and efficient and effective governance and administration of the Fund, keeping the watching Scheme Advisory Board and TPR happy.

Administering Authorities can be confident that they will need to be utilising all the time available and moving on to full power as the months progress if all are to be ready for 1 April and to get those local pension boards up and running smoothly on their onward journey.

For those taking the scenic route in Scotland

For those travelling in Scotland, the requirement to have a local pension board established by 1 April 2015 remains but the journey is taking a few slightly different twists and turns and we would draw attention to the draft Local Government Pension Scheme (Governance) (Scotland) Regulations 2014 which were issued on 30 September and for which the consultation will close on 11 November.

Conclusion

Like all great railway journeys, timetables are not guaranteed. However, in this case the journey must be completed by 1 April 2015 and therefore LGPS Pension Funds can expect to be speeding up their section of the journey as time passes. Clearly the journey between now and then is going to continue to have fast and slow sections, but Administering Authorities can be confident that they will need to be utilising all the time available and moving on to full power as the months progress if all are to be ready for 1 April and to get those local pension boards up and running smoothly on their onward journey.

Our Public Sector Benefits Consultancy Team are available to provide advice and assistance to clients on this and other issues:

✉ annemarie.allen@barnett-waddingham.co.uk

☎ 0207 776 3873

🖱 www.barnett-waddingham.co.uk



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