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To: Secretaries of Higher Education, Local Government and Police Branches, Regional Secretaries, Regional Heads of Local Government, Pensions Contacts.

Local Government Pension Scheme Governance (LGPS) and Trade Union Representation

This circular provides information on a statutory consultation process that sets out a 'draft best practice guidance' for to the governance structures and procedures of the Local Government Pension Scheme in England and Wales. All branches in England and Wales with members in the LGPS are urged to respond to the consultation process. Comments on the Communities and Local Government (CLG) proposals should be sent to: Colin Meech, c.meech@unison.co.uk or to UNISON, 1 Mabledon Place, London WC1H 9AJ. A draft response is being prepared for branches so that it can be sent directly to the CLG, this will be sent shortly.

The Department for Communities and Local Government have started a period of statutory consultation on a set of best practice guidance for the governance of the LGPS. This is attached for your information.

The deadline for consultation is November 9th 2007. Branches are asked to consult their members and send their comments in by no later than Wednesday 7th of November 2007 to: Colin Meech, National Officer, UNISON, 1 Mabledon Place, London WC1H 9AJ or c.meech@unison.co.uk

The national union will shortly be providing a template response for branches to send directly to CLG and this will be circulated shortly and will be available on the UNISON web site for downloading.

Why improved Governance of the LGPS is important

Collectively the LGPS is the largest pension fund in the UK with billion's of pounds worth of investments, how our member's money is invested and how it is managed is crucial to delivering the pension benefits to UNISON members. The role and importance of trade union representatives of contributors and beneficiaries of the fund UNISON believes is essential to make sure the benefits are delivered and the funds are secure and well managed.

At the Local Authority Pension Fund Forum conference in 2006 Minister Phil Woolas highlighted the aims of the governance consultation: *“Our policy objective has therefore been to ensure consistency (in governance) across all 89 fund authorities and to raise the quality of all LGPS committees to best practice standards”*.

Summary of CLG consultation proposals

- The 89 administration authorities responsible for the management of the LGPS in England and Wales will be required to report to CLG on what committee structures or otherwise they use to ensure a transparency in the governance of the scheme. This is already a statutory requirement.
- From April 2008 they will have inform the CLG of how they meet a set of best practice guidance. The consultation is on what should be in the guidance and what will be tolerated as best practice.
- Unlike the Minister’s statement above, the CLG paper is relaxed on what methods the authorities use for the representation of scheme members and others. For example instead of seeking to improve representation by having guidance that requires beneficiaries to have seats on pensions committees, they will allow an employer road show to count as representation.
- Structure – which committee structure is used (if any)
- Representation – who is represented on the committees – including UNISON representatives
- Selection and role of ‘lay members’ i.e. representatives who are not councillors
- Voting – whether or not voting rights are offered to UNISON representatives or others
- Training and facility time offered to representatives
- Frequency of meetings and the quorum required
- Access to the meeting documents
- Publicity – how to publicise the governance practices of the scheme.

Action required

Branches and regions have therefore a vital role in placing pressure on the CLG by responding to the consultation exercise. Directly through to the CLG, and by sending comments to the national union for inclusion in our response.

A draft response for branches will be distributed to you in the coming weeks and all of the documentation will be posted on the Pensions campaign area of main web site for downloading.

Comment

UNISON has maintained the view for several years that the generally poor and arbitrary levels of member representation on the LGPS are at odds with all other

funded occupational pension schemes in the UK. Active member participation and voting rights for scheme members on governing boards is a core principle for trust-based schemes, introduced in the Pensions Act 2004.

Scheme member involvement in investment matters of funded schemes is also a central principle of the Myners Review of institutional investment, whose findings were adopted by UK Government. Myners argued that the protection of beneficiaries' interests against the often conflicted interests of employers and fund managers was best ensured by the participation of member-nominated trustees, or in the case of the LGPS member-nominated reps, (MNTs or MNRs) with good training and adequate facility time and support.

Government and employers have opposed equivalent status for members of the LGPS, on the grounds that the scheme's statutory basis, between renegotiations regardless of investment performance, implies that members carry no investment risk, and therefore should be excluded from representation. UNISON has argued that the recent attempts to cut benefits, and more recently, the inclusion of a "cost-sharing" element between members and employers in the case of shortfalls in the scheme completely refute the argument that there is no investment risk for members.

Conflicts of interest under current arrangements

The new governance proposals further weaken the already poor position of members on the scheme, by permitting and encouraging the inclusion on committees and panels representatives of what CLG calls wider "stakeholders", such as taxpayers, and financial advisors. In trust-based schemes, the trustees must make decisions "in the sole interest of beneficiaries", the inclusion of other interests is not permitted.

There are therefore two ways in which LGPS governance is contrary to this principle of pension fund management under trust-based schemes:

1. Councillors who serve on the LGPS committees owe not only a duty to the scheme, but also to the broader interests of the authority. There is a de facto conflict of interest regarding beneficiaries in the scheme
2. By asserting that the scheme is "public money", as has been stated by ministers and civil servants in the recent period, and that beneficiaries are not the only "stakeholders", scheme governance is further compromised by conflicting interests which are specifically excluded in private sector funded schemes.

Therefore UNISON is of the view that the LGPS falls far short of the "best practice" ambitions claimed in the Draft Governance Guidelines. This extends from the introductory descriptions of the scheme, to numerous more detailed omissions of the best practice proposals set out by UNISON in recent submissions.