



Surrey Local Pension Board 9 March 2016

Counsel opinion on the legal status of Local Pension Boards

Recommendations:

The Board is asked to **note** the content of this report.

Legal position of local pension boards - Opinion of James Goudie QC

1. A number of stakeholders have raised question regarding the legal status of local pension boards in particular their legal relationship with the authority acting as scheme manager. Accordingly the Local Government Authority (LGA) approached James Goudie QC for a view against the following questions:
 - The legal status of an LGPS Pension Board.
 - The legal relationship between the Pension Board and the Local Government Pension Scheme (LGPS) Administering Authority (i.e. Scheme Manager).
 - Whether there is a conflict between the requirements of the Superannuation Act 1972 (the 1972 Act) and the Public Sector Pensions Act 2013 (the 2013 Act) with regard to membership of Section 5(7) Combined Committee Boards?
 - Generally on any other issues relevant to this matter

2. Mr Goudie concluded that:
 - Local pension boards are constituted entirely under the 2013 Act and are not local authority committees. He goes on to point out some of the practical difficulties that arise from this view such as access to council officers and indemnity insurance cover.
 - In his view the relationship is entirely that set out in the 2013 Act.
 - There are conflicts between 1972 Act and the 2013 Act but they are not mutually exclusive and it is possible for a combined committee/board to exist. However in his view "An administering authority should think long and hard before choosing to go down the combined role route".

3. The advice then goes on to point out the difficulties in this area, in particular his view that a pensions committee with investment decision-making powers is a finance committee and therefore restricted in its membership.
4. The opinion was adopted by the Scheme Advisory Board (SAB) at the meeting of 25th January.
5. The SAB will review their guidance on pension boards and advises scheme managers to review their local pension board arrangements having regard to this opinion.

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Sources/background papers: Local Government Pension Scheme (LGPS), Pension Boards, opinion of James Goudie QC (07/12/2015)

Annexes: None.