




CLARE SCOTT

JULY 2023

AGENDA – DAY I

- Governance of LGPS in Scotland
- Role of Pension Boards
- Role of Administering Authority – Governance

Lunch

- Role of Scheme Advisory Board – What does this mean in practice?
 - Role of Administering Authority – Pensions Administration & Member Service
 - Role of Administering Authority – Funding
- 



GOVERNANCE OF LGPS IN SCOTLAND

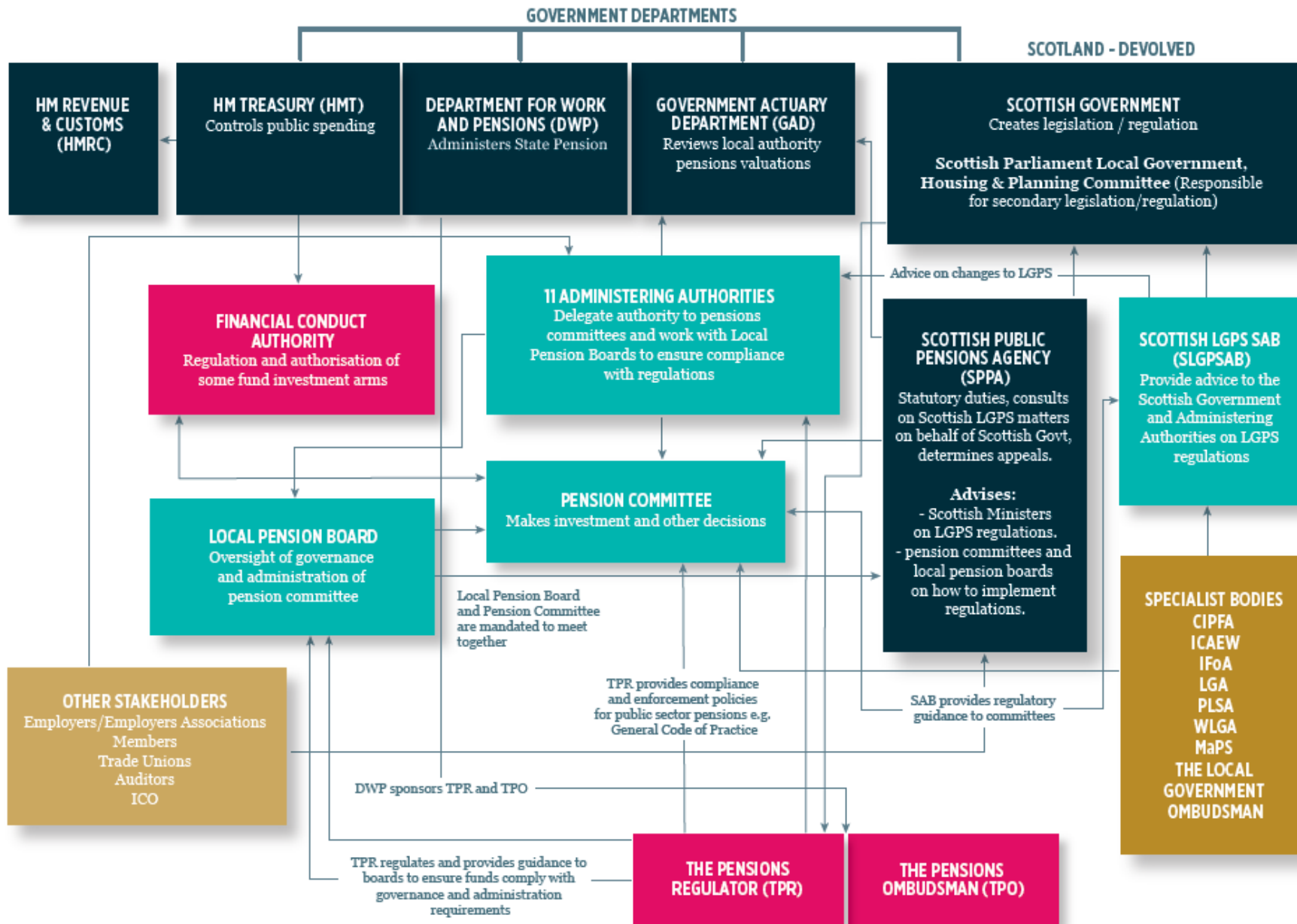
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PENSIONS AND LIFETIME SAVINGS ASSOCIATION

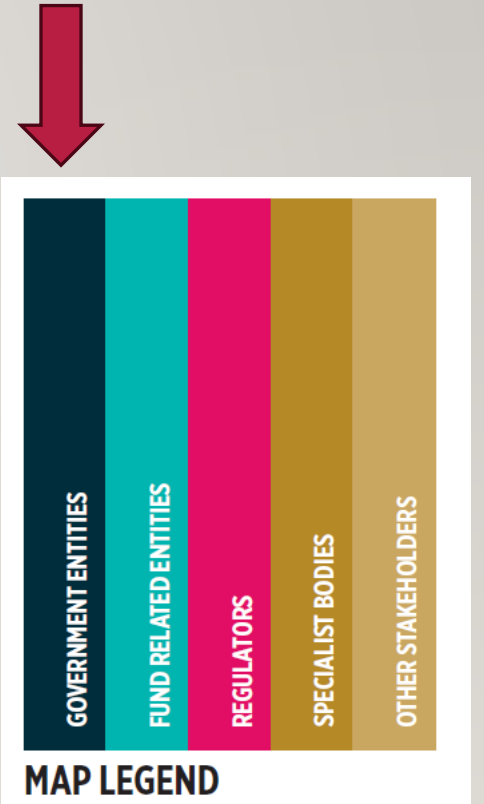
LGPS REGULATORY MAPPING

SCOTLAND



GOVERNMENT ENTITIES

- Only partially devolved – HM Treasury holds the purse strings!
- LGPS not in isolation – other general pensions legislation
- Government Actuary Department
 - Scheme cost cap
 - Oversight of financial position of funds (section 13)
- Scottish Government
- Scottish Public Pensions Agency



“FUND RELATED ENTITIES”

- Scheme Advisory Board
- II Administering Authorities & (Pensions) Committees
- (Local) Pension Boards – one for each Administering Authority



REGULATORS

- Financial Conduct Authority
 - Funds/Administering Authorities are not required to be FCA regulated
 - Required to take advice, advisors may need to be regulated
 - ‘Professional investor’ status to access investment products
 - Requirements on dealing with investment consultants
- The Pensions Regulator – Governance and Pensions Administration
 - Annual returns
 - Codes of Practice
 - Governance surveys
- Pensions Ombudsman



SPECIALIST BODIES

- Audit Scotland
 - Pension funds separate accounts and separate audit from council
- Local Government Association
 - Pensions team also supports Scotland
 - Provides secretariat to English Scheme Advisory Board
- CIPFA
 - Guidance for Funds from CIPFA Pensions Panel...
 - ... but disbanded..



OTHER STAKEHOLDERS

- Employers / Employer Associations
 - Non-administering authority councils
 - ‘Scheduled’ bodies e.g. Police, Fire, Scottish Water, Universities/Colleges
 - Charities
 - Private sector companies undertaking public services
- Members
- Trade unions
- Information Commissioners Office (ICO)



ROLES OF SCHEME ADVISORY BOARD & PENSION BOARDS

Scottish Government
(Responsible Authority)

Scottish LGPS Scheme Advisory Board

SAB advise ... "the Scottish Ministers, at the **Scottish Ministers' request**, on the **desirability of changes to the Scheme**"

SAB advise.. "(on request or otherwise) to the **scheme managers** or ..**pension boards** in relation to the **effective and efficient administration and management**"

II Scottish LGPS
"Administering
Authorities"
or "Scheme Managers"

II (Local) Pension Board

Pension Board... "assists the scheme manager ... **compliance** with **regulations**.. and requirements imposed by the Pensions Regulator (**governance and administration**)"

KEY MESSAGES – LGPS

- Is covered by lots of regulations
- Faces lots of guidance
- Has multiple stakeholders/regulators
- Funds are very transparent (generally) compared to unfunded public schemes and private sector schemes
- Primary scrutiny by external audit



**QUESTIONS?
COMMENTS?**



ROLE OF PENSION BOARDS

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PENSION BOARD

- Introduced in 2015 – Public Sector Pensions Act
- One per Administering Authority/Scheme Manager
- Equal employer and member representatives
- ... responsibility for assisting the scheme manager in relation to ...
 - (a) securing **compliance** with the scheme **regulations and other legislation** relating to the **governance and administration**...;
 - (b) securing **compliance** with requirements imposed ... by the Pensions Regulator;



SCOTLAND'S PENSION BOARDS ...(VS ENGLAND & WALES)

- Minimum size of 8 in Scotland
- Meet alongside Pensions Committee and may meet separately
- Remit also includes investment and funding
- Joint secretarial prescribed
- Can ask for a review of a decision under certain circumstances ... SAB may provide advice to Scheme Manager or Pension Board if a difference in view persists

PENSION BOARDS IN PRACTICE

- Presence of stakeholders in governance structure (and in the room!)
- Greater continuity of membership compared to Pensions Committee?
- Lack of clarity on the role – representation vs compliance
- Confusion of roles with Pensions Committee, particularly in Scotland?
- Annual reports from Pension Boards – common in England & Wales
- Membership - funds with smaller number of employers / Administering Authority members
- Template Terms of Reference used by many

VIEWS FROM PENSION BOARD MEMBERS

- Sharon Dalli, Police Scotland
 - Employer representative on Pension Board at Lothian Pension Fund
- (Councillor) Gordon Pryde, Fife Council
 - Represented UNISON on Pension Board at Fife Pension Fund until 2022
 - Now a councillor member of the Pensions Committee of Fife Council



**QUESTIONS?
COMMENTS?**



ROLE OF ADMINISTERING AUTHORITY - GOVERNANCE

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ADMINISTERING AUTHORITIES

- All Scottish & most English Administering Authorities are councils
- Some English funds are not part of a council. Decision making body...
 - South Yorkshire Pensions Authority
 - Councillors from four councils plus non-voting union members
 - Environment Agency
 - Employer and member representatives plus Executive (also acts as Pension Board, excl. executive)
 - London Pensions Fund Authority
 - Members of decision-making body appointed by London Mayor

FIDUCIARY DUTY

- Any person who administers the property or financial affairs of another
- Must act in the best interests of the members and employers (and tax-payers?)
- Not defined in legislation
- Key documents
 - LGA Legal Opinion (April 2014)
 - Law Commission Fiduciary Duties of Investment Intermediaries Report (June 2014)

ENGLISH SAB LEGAL OPINION

- Administering Authority may not prefer its own interests over other employers
- Scheme employers should not impose their views on the Administering Authority
- The Administering Authority should not impose its own views where not widely supported by scheme employers and members
- Need to manage conflicts of interest
- Not about the individual views of individual Pensions Committee members

LGPS CONFLICTS OF INTEREST - POTENTIAL AND PERCEIVED

- Setting contribution rate for the Administering Authority
- Cross charging for services or shared resources (IT, HR, Payroll, staff costs)
- Local investment decisions
- Commercial relationships between Administering Authority and the Fund

LGPS SENIOR OFFICER

- All Fund responsibilities
- Sufficient seniority / reporting line in Administering Authority
- Documentation of delegations and decision making
- Majority time on LGPS issues / Knowledge & Understanding
- Reporting direct to Pensions Committee and Pension Board
- Recommends budget to Pensions Committee
- Signs Governance Compliance Statement (with Council S151 if necessary)

GOVERNANCE CHALLENGES

- Knowledge and Skills / Pensions Committee & Pension Board
- Administering Authority role versus Council/Employer
- The Pensions Regulator – forthcoming changes to Codes of Practice
- Climate risks / carbon emission disclosures
- Resources
- Lobby groups





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