



**CONSULTATION ON POTENTIAL REQUIREMENT FOR SEPARATE  
LGPS PENSION FUND REPORTS**

**RESPONSE FORM**

PLEASE RETURN THIS FORM BY 6 MARCH 2009 TO :

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LASAAC may provide respondents with details of the responses received. Would you wish your response to remain anonymous? (Y / N)	N
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CURRENT ARRANGEMENTS

**Question 1**

Do you agree that LGPS funds are not separate legal entities in their own right? Where possible please explain or support your response.

**Response 1**

**As a matter of Scots law the LGPS funds are not separate entities (s.93 of the Local Government (Scotland) Act 1973 & Reg. 72 of the LGPS (Scotland) Regulations 1998). However, The Directive on the Activities and Supervision of Institutions for Occupational Requirement Provision ("the IORP Directive") should have been implemented in Scotland by 23 September 2005. This Directive applies in part to the Scottish LGPS and our advice is that the Directive requires that funds are legally separated and managed by a body separate from the employers.**

**Question 2**

Do you agree with the statement that there is no current legal requirement for the production of :

- (a) an LGPS annual report?
- (b) a separate audit certificate for LGPS funds?
- (c) a separate audit report for LGPS funds?

Where possible please explain or support your response.

If your organisation produces a separate LGPS annual report please provide a copy (preferably as an e-mail attachment or web-link).

**Response 2**

**There does not appear to be any explicit current legal requirement. However, this requirement could be implied from Reg.30 of the 2008 regulations and s12 of the Local Government in Scotland Act 1973. In addition FRS 17 and IAS 26 have a requirement for separate audit and as the Code of Practice are intended to apply FRS 17 to local authority funds then the Code does not currently achieve that standard.**

POTENTIAL REASONS FOR CHANGE

**Question 3**

Do you agree that the arguments presented in paragraphs 3.2 to 3.7 suggest that changes to the current Scottish LGPS financial reporting and auditing arrangements should be considered? Where possible please explain or support your response.

**Response 3**

**We would agree that the current arrangements should be reviewed. This is closely related to the issue of governance of pension funds in Scotland that is being reviewed following the agreement between the trade unions, COSLA and the Scottish Government on revisions to the Scottish LGPS. That review is being undertaken by SLOGPAG and a task group has been established.**

**Paragraphs 3.2 to 3.7 almost entirely omit any reference to the role of scheme members. They have as great an interest in scheme governance, financial reporting and transparency as the employers.**

**Question 4**

Are there any other reasons, not identified above, which support consideration of changing the current Scottish LGPS financial reporting and auditing arrangements? Where possible please explain or support your response.

**Response 4**

**There is a requirement as set out above to make changes not simply to give consideration.**

OTHER FACTORS TO CONSIDER IN SUGGESTING CHANGE

**Question 5**

Costs :

A) Are there any other factors that would cause additional costs for Scottish LGPS funds or authorities?

B) Is there a level of audit fee that you would regard as appropriate for a LGPS specific audit? An indication of level (whether as an absolute amount or percentage of net assets) would be appreciated.

C) Do you have any other comments in relation to costs?

**Response 5**

**No comment other than proper accountability and transparency can contribute to better administration of a pension scheme and cost effectiveness.**

**Question 6**

Legal Entity : Any comments on this issue would be welcome.

**Response 6**

**As set out above the funds should be a separate legal entity and this would contribute towards more straightforward accounting.**

**Question 7**

Voluntary Arrangements : Should voluntary arrangements (eg good practice guidance) be developed rather than detailed regulation? If so, should statutory regulations require adherence to any guidance or code developed?

**Response 7**

**Reporting arrangements are being considered by SLOGPAG as set out above. At present reporting standards vary and need to be strengthened. However, a voluntary arrangement does not meet the IORP requirements.**

**Question 8**

Governance : Are there more appropriate measures, other than changes to financial reporting and auditing arrangements, which could specify or support a minimum appropriate standard of governance and scrutiny of Scottish LGPS funds? Please provide details.

**Response 8**

**UNISON Scotland set out its position on strengthening governance at national and fund level with the other local government unions as part of the discussions with the Scottish Government and CoSLA through SLOGPAG. As set out above these are being reviewed as part of that agreement.**

**Question 9**

Stakeholder Engagement : Do you consider that a separate LGPS annual report and accounts publication would improve stakeholder engagement? Where possible please explain or support your response.

**Response 9**

**Yes it would improve engagement but it is not a substitute for separate funds and stronger governance.**

QUESTIONS ON POTENTIAL IMPLEMENTATION**Question 10**

If separate LGPS Pension Fund annual reports are required what should they contain? Please provide details - reference to the content described in paragraph 1.4 would be

helpful. Where possible please explain or support your response (eg as to why some information should be included and other information excluded).

**Response 10**

**The list in paragraph 1.4 is helpful and we should also consider best practice in the larger Scottish and UK private sector schemes.**

**Question 11**

If separate LGPS Pension Fund annual reports are required what audit arrangements should apply? Eg should there be a separate audit certificate, a separate audit report to the LGPS trustees, a separate audit appointment etc ?

**Response 11**

**There should be an independent audit consistent with the separation of funds. Whilst there is actually no such thing as an LGPS trustee in Scotland in the legal sense, this does describe the role as we would want it performed. Such a trustee has a fiduciary duty to the scheme members not the employers.**

**Question 12**

Do you have any views on the potential timing of implementing revised arrangements? (eg should any changes be simultaneous with IFRS implementation?)

**Response 12**

**New arrangements should have been implemented by September 2005.**

**Question 13**

Do you have any other comments or suggestions regarding potential improvements to Scottish LGPS financial reporting and auditing arrangements?

**Response 13**

**The key point is that compliance with the IORP directive is not a matter for voluntary arrangements, it requires legislative action. In the context of this consultation that is primarily about separate reporting but it also requires wider governance changes that are being considered through SLOGPAG.**