



# Haverling

LONDON BOROUGH

## PENSIONS COMMITTEE AGENDA

**7.00 pm**

**Tuesday  
19 March 2019**

**Town Hall, Main Road,  
Romford**

Members 7: Quorum 3

### COUNCILLORS:

**Conservative  
Group  
( 3)**

John Crowder  
(Chairman)  
Matt Sutton  
Viddy Persaud

**Residents' Group  
( 1)**

Stephanie Nunn

**Upminster &  
Cranham Residents'  
Group ( 1)**

Ron Ower

**Labour Group  
(1)**

Vacancy

**North Haverling  
Residents' Group  
( 1)**

Martin Goode  
(Vice-Chair)

**Trade Union Observers  
(No Voting Rights)  
(2)**

John Giles, Unison  
Andy Hampshire, GMB

**Admitted/Scheduled  
Bodies  
Representative  
(Voting Rights) (1)**

**For information about the meeting please contact:  
Victoria Freeman 01708 433862  
victoria.freeman@onesource.co.uk**

## **Protocol for members of the public wishing to report on meetings of the London Borough of Havering**

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

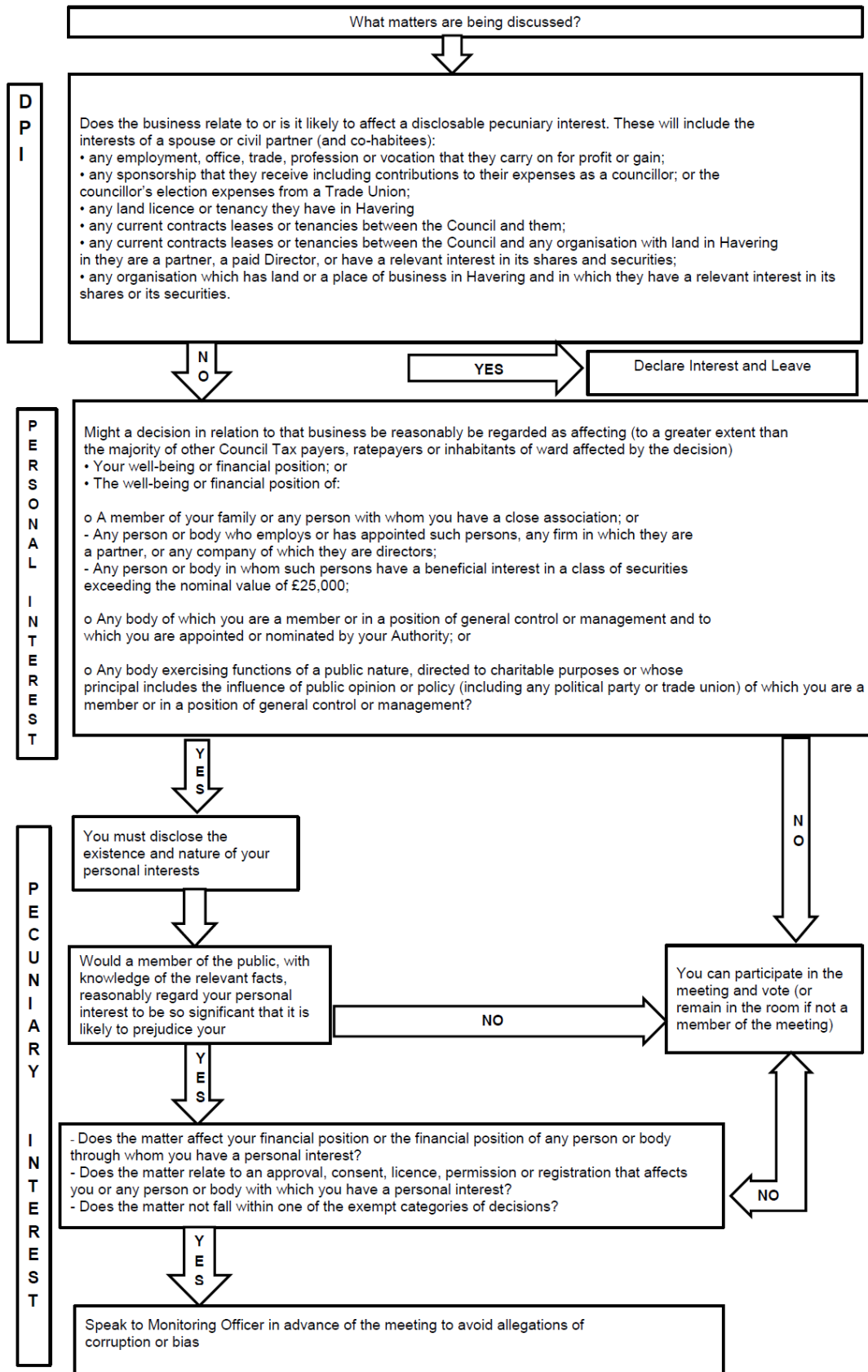
- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**



## **AGENDA ITEMS**

### **1 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

### **2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive

### **3 DISCLOSURE OF INTERESTS**

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any interest in any item at any time prior to the consideration of the matter.*

### **4 MINUTES OF THE MEETING (Pages 1 - 6)**

To approve as correct the minutes of the ordinary meeting held on 11 December 2018 and of the extraordinary meeting held on 21 February 2019 and authorise the Chairman to sign them.

### **5 MINUTES OF THE LOCAL PENSION BOARD (Pages 7 - 12)**

To receive the minutes of the Local Pension Board.

### **6 LOCAL GOVERNMENT PENSION SCHEME CONSULTATIONS (Pages 13 - 52)**

### **7 THE PENSIONS REGULATOR (TPR) IN DEPTH ENGAGEMENT (Pages 53 - 56)**

### **8 EXCLUSION OF THE PUBLIC**

To consider whether the public should now be excluded from the remainder of the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during those items there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972; and, if it is decided to exclude the public on those grounds, the Committee to resolve accordingly on the motion of the Chairman.

### **9 STATEMENT OF INVESTMENT BELIEFS (Pages 57 - 68)**

### **10 PENSION FUND PERFORMANCE MONITORING FOR THE QUARTER ENDED DECEMBER 2018 (Pages 69 - 168)**

**Andrew Beesley**  
Head of Democratic Services



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**MINUTES OF A MEETING OF THE  
PENSIONS COMMITTEE  
Committee Room 3a, Town Hall, Main Road, Romford  
11 December 2018 (7.00 - 8.50 pm)**

**Present:**

**COUNCILLORS**

<b>Conservative Group</b>	John Crowder (Chairman), Melvin Wallace (Vice-Chair) and Matt Sutton
<b>Residents' Group</b>	Stephanie Nunn
<b>Upminster &amp; Cranham Residents' Group</b>	Ron Ower
<b>Independent Residents' Group</b>	David Durant
<b>North Havering Residents' Group</b>	Martin Goode

An apology for absence was received from Andy Hampshire, Trade Union Observer.

All decisions were taken with no votes against.

The Chairman reminded Members of the action to be taken in an emergency.

**86 TO NOTE ANY CHANGES TO THE MEMBERSHIP OF THE PENSIONS COMMITTEE**

The Committee noted that Councillor Durant had been appointed as a member of the Pensions Committee.

**87 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

There were no apologies for absence.

**88 DISCLOSURE OF INTERESTS**

There were no disclosures of interest.

**89 MINUTES OF THE MEETING**

The minutes of the meeting held on the 13 November 2018 were agreed as a correct record and signed by the Chairman.

**90 THE LOCAL GOVERNMENT PENSION SCHEME CHARGING POLICY**

The Charging Policy was originally introduced in November 2014 to formally set out the Pension Fund policy relating to the actuarial and legal charges for specific areas of work along with more general costs such as strain costs or charges relating to poor performance and late payment of scheme contributions. The Policy had been reviewed to ensure that it was still fit for purpose and included the most recent guidance from the Pensions Regulator.

The draft policy was circulated to all scheme employers for comment, and five responses had been received and their comments considered and incorporated into the policy where appropriate. Following the comments of the Pensions Committee, the draft charging policy would be finalised and submitted to the Section 151 Officer for approval and published for implementation in January 2019.

**RESOLVED:**

**That the Committee:**

- i) Noted the draft Charging Policy.**
- ii) Delegated the approval of the final Charging Policy to the Section 151 Chief Operating Officer.**

**91 PUBLIC SERVICE PENSIONS ACT 2013 - SECTION 13**

The Committee received the Executive Summary Review of the Actuarial Valuations of Funds as at 31 March 2016 Pursuant to Section 13 of the Public Service Pensions Act 2013.

The overall summary of the findings were:

- 89 funds were tested out of 91 LGPS funds (due to incomplete or missing data).
- 70 received green flags on all solvency and long term cost efficiency measures.
- 20 amber flags and 2 red flags allocated in total (14 amber flags in the solvency criteria – which included an amber flag for insolvency for Havering); 2 red flags under the solvency criteria; and 6 amber flags under the long term cost efficiency criteria.

The Council's actuaries had commented that the amber flag for insolvency was the only flat raised, therefore, it could be inferred that GAD had agreed with their actuary that the investment and contribution plans were suitable.



**RESOLVED:**

**That the Committee:**

- i) Noted the results of the report produced by GAD as attached as Appendix A, B and C.**
- ii) Noted the Actuarial firms joint letter to Ministry of Housing, Communities and Local Government and Scheme Advisory Board as attached as Appendix D.**

**92 EXCLUSION OF THE PUBLIC**

**The Committee resolved to exclude the public from the meeting during discussion of the following items on the grounds that if members of the public were present it was likely that, given the nature of the business to be transacted, that there would be disclosure to them of exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972 which could reveal information relating to the financial or business affairs of any particular person (including the authority holding that information) and it was not in the public interest to publish this information.**

**There were no members of the public or press present for the duration of the meeting.**

**93 FUND MANAGERS REVIEW - VOTING AND ENGAGEMENT**

**The Committee received a report produced by the Fund's Investment Advisor, Hymans Robertson, which presented a summary on the responsible investment activities of the Fund's investment managers in support of the Committee's ongoing monitoring requirement as set out in the Investment Strategy Statement. The review was focused on the period for the year to 30 June 2018.**

**RESOLVED:**

**That the Committee:**

- i) Noted the Hymans summary review of fund manager voting and engagement activity attached as Appendix A.**
- ii) Noted the Responsible Investment policy of the London CIV attached as Appendix B.**
- iii) Considered and agreed the potential next steps in respect of future developments of the monitoring and review process as outline in the Hymans report at Appendix A.**

94 **PENSION FUND PERFORMANCE MONITORING FOR THE QUARTER ENDED SEPTEMBER 18**

The Committee received a report which provided an overview of the performance of the Havering Pension Fund investments for the quarter to 30 September 2018. The performance information was taken from the quarterly performance reports supplied by each Investment Manager, State Street Global Services Performance Services PLC quarterly Performance Review Report and Hymans Monitoring Report.

The net return on the Fund's investments for the quarter to 30 September 2018 was 1.2% (or £8.16m to £734m). This quarter, the fund underperformed against the strategic benchmark by 2.0%.

Based on the information supplied by the performance measurers, the total combined fund value at the close of business on 30 September 2018 was £734.57m. This valuation differed from the basis of valuation used by the Fund Managers and the Investment Advisor in that it excluded accrued income. This compared with a fund value of £726.41 at the 30 June 2018, an increase of £8.16m. Movement in the fund value was attributable to an increase in assets of £15.81m and a decrease in cash of £-7.65m. Internally managed case levels stood at £15.92m.

**RESOLVED:**

**That the Committee:**

- i) **Noted the summary of the performance of the Pension Fund within the report.**
- ii) **Considered Hymans performance monitoring report and presentation (Appendix A – Exempt).**
- iii) **Received a presentation from the Fund's Multi Asset Manager GMO – Global Real Return (UCITS) Fund (Appendix B – Exempt).**
- iv) **Considered the quarterly reports provided by each investment manager.**
- v) **Noted the analysis of the cash balances (paragraph 3.2 refers).**

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**Chairman**

**MINUTES OF A MEETING OF THE  
PENSIONS COMMITTEE  
Committee Room 1-Town Hall  
21 February 2019 (1.30 - 4.19 pm)**

**Present:**

**COUNCILLORS**

**Conservative Group**            John Crowder (Chairman) and Viddy Persaud

**Residents' Group**            Stephanie Nunn

**Upminster & Cranham  
Residents' Association  
Group**            Ron Ower

**Independent Residents  
Group**            David Durant

**North Havering  
Residents Group**            Martin Goode

All decisions were taken with no votes against.

The Chairman reminded Members of the action to be taken in an emergency.

**95    APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

An apology for absence was received from Councillor Matt Sutton.

**96    DISCLOSURE OF INTERESTS**

Agenda Item 5 - INVESTMENT MANAGEMENT CONSULTANCY SERVICES - STAGE 2 EVALUATION.

Councillor Ron Ower, Personal, Daughter works for one of tendering companies - in a department unrelated to the work under discussion.

**97    EXCLUSION OF THE PUBLIC**

**The Committee resolved to exclude the public from the meeting during discussion of the following item on the grounds that if members of the public were present during that item, there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government act 1972.**

**There were no members of the press or public present for the duration of the meeting.**

**98 INVESTMENT MANAGEMENT CONSULTANCY SERVICES - STAGE 2 EVALUATION**

In line with the National LGPS Framework Further Competition specification, the Committee received presentations from the shortlisted Investment Management Consultancy firms seeking to be appointed as Investment Management Consultant for the Pension Fund. Members scored each company's presentation and asked questions of the presenting officers attending. Scoresheets were retained by Council officers in order to complete the final evaluation process.

**RESOLVED:**

**That authority be delegated to the Council's Chief Financial officer to award the Investment Management Consultant Services contract and in consultation with the Monitoring Officer to approve the final forms of contract and the entering into such agreements necessary to give effect to the appointment of an Investment Management Consultant for the Council's Pension Fund.**

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**Chairman**

**NOTES OF THE INQUORATE MEETING OF THE  
LOCAL PENSION BOARD  
Town Hall, Main Road, Romford  
18 December 2018 (4.00 - 6.00 pm)**

**Present:**

Anne Giles, Scheme Member Representative  
Mark Holder, Scheme Member Representative

**Officer Attendance:**

Caroline Berry, Pensions Projects and Contracts Manager  
Debbie Ford, Pensions Manager, Pensions and Treasury

**11 CHAIR'S ANNOUNCEMENTS**

The Chair reminded Members of the action to be taken in an emergency. The meeting was inquorate, and those in attendance agreed that the meeting should proceed informally.

**12 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Denise Broom, Employer Representative, and David Holmes, Employer Representative.

**13 DISCLOSURE OF INTEREST**

There were no disclosures of interest.

**14 MINUTES OF THE MEETING**

The minutes of the Local Pension Board meeting held on the 21 August 2018 and the notes of the inquorate meeting held on the 20 October 2018 were received.

The following matters arose from the minutes of the previous meeting, which were not covered elsewhere on the agenda:

- i) Minute No. 4 (i): Reference to charging a fee for administration for processing late payments and interest charges had been included in the Charging Policy.
- ii) Minute No. 4 (iii): Discussion of the process of recording those overpayments that were written off were ongoing and the process would be reviewed to bring Havering and Newham Council's in line.

- iii) Minute No. 6(i): Short member profiles had been provided for inclusion on the website. Profiles of any new members would need to be provided in due course.

15 **COMPLIANCE CHECKLIST**

The following sections were discussed and points noted:

Section B – Knowledge and Understanding

B8 – Are all pension board members investing sufficient time in their learning and development? Members agreed that the requirement was fully compliant. Members of the Pensions Committee needed to complete a skills audit prior to a training plan being drawn up, however training was undertaken prior to consideration of specialist decisions.

B12 – Have the pension board members completed the Pension Regulator's toolkit for training on the Code of Practice number 14? It was requested that all members should complete the Pensions Regulator toolkit within 6 months. Members were requested to forward any certificates of training completed to the Pensions Manager to ensure completeness of the training register.

Section C – Conflicts of Interest

C7 – Is appropriate information included in the register? New members to complete the conflicts register.

Section D – Publishing Information about Schemes

D2 – Does the Administrating Authority publish other useful related information about the Pension Board? The website required updating to include job titles and any other relevant roles held by members. Once completed, the requirement would be compliant.

Section E – Managing Risk and Internal Controls

E1 – Is there an agreed process for identifying and recording scheme risks? The pending audit would ensure that all checks were in place. Once the audit had been completed, the requirement would be compliant.

E2 – Does the Fund have an adequate process to evaluate risks and establish internal controls? The pending audit would ensure that all checks were in place. Once the audit had been completed, the requirement would be compliant.

E4 – Does the Administrating Authority review the effectiveness of the risk management and internal control systems of the Fund? The pending audit would ensure that all checks were in place. Once the audit had been completed, the requirement would be compliant.

E6 – Is there a standing item on the Pension Board agenda to review scheme risks? Although the review of scheme risks was not a standing item on agendas, the risk register would be reviewed on an annual basis.

E7 – Does the Administrating Authority have adequate systems, arrangements and procedures (internal controls) in place for the administration and management of the Fund and are they documented? The pending audit would ensure that all checks were in place. Once the audit had been completed, the requirement would be compliant.

E8 – Do these procedures apply equally to outsourced services, are internal controls reflected in contracts with third party providers and is there adequate reporting in relation to those controls? The pending audit would ensure that all checks were in place. Once the audit has been completed, the requirement would be compliant.

#### Section F – Administration and Scheme Record Keeping

F2 – Does the Fund have the appropriate processes in place so employers can provide timely and accurate information? Members agreed that the requirement was compliant and further agreed that the requirement would be monitored as a KPI. 'Your Fund' was in place and appropriate training had been offered to all scheme employers; and the Pensions Committee had delegated the approval of the Charging Policy to the Section 151 Officer.

F3 – Does the Fund keep records of and reconcile transactions as required by the Record Keeping Regulations? Reconciliation was done on a quarterly basis. Due to there being no interface between Altair and Oracle, there may be discrepancies. Confirmation was sought on whether there was a requirement in the Record Keeping Regulations.

F7 – Does the Administrating Authority have policies and processes to monitor data on an ongoing basis? The pending audit would ensure that all checks were in place. Once the audit had been completed, the requirement would be compliant.

F9 – Is a data improvement plan in place which is being monitored with a defined end date? There was currently no formal data improvement plan. Members requested that a date be inserted for the provisional plan to be submitted. Members further requested that a report on the data score be presented to the next meeting.

#### Section H – Providing Information to Members and Others

H9 – Is all other information provided in accordance with the legal timescales? Checks to be undertaken to ensure compliance with Disclosure Regulations; and to be written into monitoring checklists. Action outstanding.

Section I – Internal Dispute Resolution

I4 – Has the Administering Authority ensured that employers who make first stage decisions also have IDR in place? A discretion review was being undertaken and a report would be submitted to the Committee in March.

Members requested that timescales be included on all actions highlighted either red or amber.

**Actions:**

- i) **C7 - New members to complete the conflicts register – Denise Broom.**
- ii) **D2 - The website required updating to include job titles and any other relevant roles held by members – Caroline Berry.**
- iii) **E1, E2, E4, E7, E8 and F7 to be reviewed as part of Internal Audit process.**
- iv) **E6 - The board agreed to include the risk register as a standing item going forward.**
- v) **F3 – Confirmation to be sought on the reconciliation requirements in the Record Keeping Regulations – Caroline Berry.**
- vi) **F9 – Pension Board Regulator draft plan and a report on the data score to be presented to the next meeting – Caroline Berry / Victoria Freeman.**
- vii) **H9 – Is all other information provided in accordance with the legal timescales? Checks to be undertaken to ensure compliance with Disclosure Regulations; and to be written into monitoring checklists. Action outstanding – Caroline Berry.**
- viii) **Timescales to be included on all actions highlighted either red or amber.**

16 **KEY PERFORMANCE INDICATORS**

Members received the Performance Indicators – October Monthly Report and the LPP Monthly report for October 2018. Members expressed continued concern regarding the format LPP reported their performance as they considered the statistics to be misleading. Members requested that some case journeys be presented at the next meeting; that reasons be provided for those cases on hold; and that the Assistant Director of LPP be invited to attend the next meeting to explain the statistical data presented.



**Actions:**

**i) Case journeys to be presented at the next meeting – Caroline Berry.**

**ii) Reasons for those cases on hold be provided – James Curtis.**

**iii) The Assistant Director of LPP to be invited to attend the next meeting to explain the statistical data presented – Caroline Berry / Victoria Freeman.**

**17 INTERNAL DISPUTE RESOLUTION PROCESS UPDATE**

Members received the draft Internal Dispute Resolution Procedure – Employer’s Guide, which would be published on the Pension website once approved by LPP.

Members were informed that Internal Audit would be allocating 10 days, during which they would focus on contract management, monitoring, issues and resolution. The compliance checklist would be forwarded to LPP for confirmation that they were adhering to the legislation.

**Action: Compliance checklist to be forwarded to LPP for confirmation that they were adhering to the legislation – Caroline Berry.**

**18 LPP INTERNAL AUDIT**

Members requested that reassurance be sought from Lancashire Council regarding the recent LPP internal audit by Deloitte.

**Action: Reassurance to be sought from Lancashire Council regarding the recent LPP internal audit by Deloitte – Caroline Berry.**

**19 PENSION REGULATOR SCHEME SURVEY**

The Pensions Regulator surveyed public service pension schemes in autumn 2018 to assess how they were being run. This built on previous surveys in 2015, 2016 and 2017. In the latest survey, the Pensions Regulator further examined certain risks and areas of underperformance that schemes identified in previous years.

Sections of the survey covered:

- Makeup of the Board
- Administration and recording keeping
- Service security
- Data Review
- Annual benefit statements
- Resourcing issues

The Council's response to the survey had been submitted on the 27 November, in order to meet the 30 November 2018 deadline.

20 **TO RECEIVE FEEDBACK FROM RECENT MEETINGS OF THE PENSIONS COMMITTEE**

Members received feedback of the Pensions Committee meeting held on the 13 November 2018 and the 11 December 2018. The minutes would be circulated for information at the next meeting.

**Action: Minutes of the Pension Committee meetings held on the 13 November 2018 and the 11 December 2018 to be circulated for information at the next meeting.**

21 **BOARD MEMBERSHIP AND RECRUITMENT**

Members noted the appointment of Denise Broom as an employer representative on the Local Pension Board.

Members discussed the succession of the Chair and the need to appoint an employer representative pending the resignation of David Holmes.

**Action: Advice would be sought on the options available if a Chair were not forthcoming, in accordance with the terms of reference of the Board.**

22 **WORK PLAN**

The Chair of the Local Pension Board and the Chair of the Pensions Committee would meet to discuss potential items for the work plan.

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Chairman

**PENSIONS COMMITTEE**

**19 MARCH 2019**

**Subject Heading:**

**LOCAL GOVERNMENT PENSION  
SCHEME CONSULTATIONS**

**SLT Lead:**

**Jane West**

**Report Author and contact details:**

**Debbie Ford  
Pension Fund Accountant  
01708432569  
[Debbie.ford@onesource.co.uk](mailto:Debbie.ford@onesource.co.uk)  
Contract Procurement Rules**

**Policy context:**

**Contract Procurement Rules**

**Financial summary:**

**No cost implications**

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

**SUMMARY**

The report is to advise the Committee of the Ministry for Housing, Communities & Local Government (MHCLG) publication of two draft consultations that impact the Local Government Pension Scheme (LGPS), issued in January 2019.

**RECOMMENDATIONS**

That the Committee:

1. Note the detail of the consultations and the response date for Asset pooling being the 28 March 2019 and Fair Deal being 4 April;
2. Discuss/provide feedback for inclusion into the consultation responses, if required.
3. If required, Members delegate the approval of response on Asset pooling to the S151 Officer and /or the Pensions Committee Chair.
4. If required, Members delegate the approval of response on Fair Deal to the S151 Officer and /or the Pensions Committee Chair.

**REPORT DETAIL**

1. In January 2019 the MHCLG issued two draft consultations, as follows:
2. **LGPS draft statutory guidance on asset pooling**
  - a) The consultation is open for 12 weeks with a closing date of the **28 March 2019**.
  - b) It is deemed an informal consultation which is addressed to "*interested parties only, including the Scheme Advisory Board, Pensions Committees, Local Pension Boards, the pool Joint Committees or equivalent, the Cross Pool Collaboration Group, the pool operating companies where owned by participating funds, CIPFA and ALATS*".
  - c) This will set out requirements on administering authorities, replacing previous guidance and builds on previous Ministerial communications and guidance on investment strategies.
  - d) MHCLG are inviting views on the attached draft guidance as **Appendix A**.
  - e) Produced by Hymans, a summary of the consultation follows, with the applicable MHCLG guidance paragraphs referenced in brackets:
    - Guidance will have statutory force

- The definition of “pooled assets” excludes passive investment in life policies held directly by administering authorities
- Pool members *must* appoint a pool company regulated by the FCA (3.2)
- Pool members *should* consider moving from active to passive investment where active management has not generated better net of fees performance over a reasonable period (3.6)
- Pool members *should* take account of benefits across the pool and the scheme as a whole and should not seek simply to minimise costs in the short term (4.4)
- Inter-authority payments *may* be used to share transition costs equitably between pool members (5.4)
- There are tighter definitions of the conditions to justify keeping assets outside of the pool (existing “retained” assets and new investments)
- From 2020 it is expected that pool members “*should* make new investments outside the pool only in very limited circumstances” (6.2)
- Pool members may invest in vehicles provided by other pools where collaboration between pools or specialisation can deliver improved net returns (6.3)
- There is no specific target for infrastructure (7.2)
- All residential property is included in the definition of infrastructure (7.5)
- Extensive reporting requirements on costs and performance relative to relevant indices (8.2) kick in with effect from the 2018-19 report (8.1)

**3. Local Government Pension Scheme: Fair Deal – Strengthening pension protection.**

- a) The consultation is open for 12 weeks with a closing date of **4 April 2019**.
- b) The consultation is aimed at those with an interest in the obligations that apply when a service or function is outsourced from an LGPS employer, including employees, outsourcing employers and service providers.
- c) The scope of the consultation is on changes to the regulations governing the LGPS, covering the following areas:
  - Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer (and remove the option of a broadly comparable scheme).
  - Proposals that would automatically transfer LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover and therefore avoiding unintended trigger of exit payments.

- d) The Funds Administration provider Local Pension Partnership (LPP) will give consideration to the consultation and the consequent administrative requirements
  - e) The Funds Actuary will give consideration to the consultation and will respond accordingly.
  - f) Human Resources have been sent the consultation for consideration
4. Both consultation papers were distributed to members of the Committee on the 24 January 2019 to provide members the opportunity to discuss feedback (if any) to the consultations.

## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

There are no financial implications in responding to the consultation documents

**Asset pooling** - The fund has identified a risk for meeting the new reporting requirements due to the short timescales for implementation and availability of data.

Within section 8 the new reporting requirements it states that Pool members are required to report total investment costs and performance against benchmarks publicly and transparently in their annual reports, following the CIPFA guidance *Preparing the Annual Report*, with effect from the 2018-19 report.

In summary, pool member annual reports should include:

- opening and closing value and proportion of pooled assets by asset class
- opening and closing value and proportion of local assets by asset class
- net and gross performance of pooled assets by asset class
- total costs of pooled assets by asset class
- for actively managed listed assets, net performance by asset class net of total costs compared to appropriate passive indices over a one, three and five year period
- net and gross performance of local assets by asset class
- total costs of local assets by asset class
- asset transition during the reporting year
- transition plans for local assets
- pool set-up and transition costs, presented alongside in-year and cumulative savings from pooling

- ongoing investment management costs by type, with a breakdown between pooled assets and local assets

The fund is seeking comments from the pooling company (London CIV ) on whether these reporting requirements are deliverable and the Fund is awaiting a response.

**Legal implications and risks:**

The proposals for changes to Guidance and the LGPS Regulations are subject to consultation. The MHCLG should take into consideration all consultees comments before finalising any changes and therefore if Members wish to make comments they should indicate what these are so that they can be submitted within the required deadlines.

**Human Resources implications and risks:**

**Asset pooling** – There are no immediate HR implications.

**Fair Deal** – If the proposals in the consultation proceed then for those employees whose jobs have been outsourced will receive increased pension protections and will remain in the Local Government Pension Scheme (LGPS) under new proposals. The status of protected transferee will be retained for as long as the individual is wholly or mainly employed on the delivery of the outsourced service or function, even if the service or function is subsequently sub-contracted or re-tendered.

Under the government proposals, employers of outsourced staff will no longer be able to offer staff a comparable scheme – all transferred staff will be able to stay in the LGPS.

The mechanism for securing continued membership of the LGPS, in addition to the existing option of an admission agreement will be the introduction of a new route. Under this new route, the Fair Deal employer will be able to determine that it will act as the **deemed employer** in respect of the protected transferee.

This means that when an employee is compulsorily transferred from their Fair Deal employer to another service provider, their former employer (e.g. Havering Council) will have the option of remaining the deemed employer for the transferred staff. Under this proposal the new service provider would not have full responsibilities under the LGPS Regulations 2013.

The draft regulations state that advice will be issued by the Scheme Advisory Board to help Fair Deal employers put in place service contracts which give flexibility and protection from potential risks.

**Equalities implications and risks:**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- i. the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- ii. the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- iii. foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment/identity.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants

An EIA is not considered necessary regarding this matter as the protected groups are not directly or indirectly affected.



## **Local Government Pension Scheme**

### **Statutory guidance on asset pooling**

## **Contents**

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- 8 Reporting**

## **Foreword**

The reform of investment management in the Local Government Pension Scheme (LGPS) for England and Wales began in 2015 with the publication of criteria and guidance on pooling of LGPS assets, following extensive consultation with the sector. LGPS administering authorities responded by coming together in groups of their own choosing to form eight asset pools.

Through the hard work and commitment of people across the scheme, those eight pools are now operational. Their scale makes them significant players at European or global level, and significant annual savings have already been delivered, with the pools forecasting savings of up to £2bn by 2033. Along the way many lessons have been learnt and great progress has been made in developing expertise and capacity, including in private markets and infrastructure investment.

This is a considerable achievement in itself, but there is still a long way to go to complete the transition of assets and to deliver the full benefits of scale. In the light of experience to date with pooling and the challenges ahead, authorities have requested guidance on a range of issues. The time is now right for new guidance to support further progress.

## 1 Introduction

1.1 This guidance sets out the requirements on administering authorities in relation to the pooling of LGPS assets, building on previous Ministerial communications and guidance on investment strategies, and taking account of the current state of progress on pooling. It is made under the powers conferred on the Secretary of State by Regulation 7(1) of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the 2016 Regulations). Administering authorities are required to act in accordance with it.

1.2 This guidance replaces the section at pages 7 to 8 of Part 2 of *Guidance for Preparing and Maintaining an Investment Strategy*, issued in September 2016 and revised in July 2017, which deals with regulation 7(2)(d) of the 2016 Regulations. It also replaces *Local Government Pension Scheme: Investment Reform Criteria and Guidance*, issued in November 2015.

## 2 Definitions

2.1 This guidance introduces a set of definitions for use in this and future guidance, as follows:

**'Pool'** the entity comprising all elements of a Local Government Pension Scheme (LGPS) asset pool

**'Pool member'** an LGPS administering authority which has committed to invest in an LGPS pool and participates in its governance

**'Pool governance body'** the body used by pool members to oversee the operation of the pool and ensure that the democratic link to pool members is maintained (for example, Joint Committees and officer committees)

**'Pool company'** the Financial Conduct Authority (FCA) regulated company which undertakes selection, appointment, dismissal and variation of terms of investment managers, and provides and operates pool vehicles for pool members

**'Pool fund'** a regulated unitised fund structure operated by a regulated pool company, such as an Authorised Contractual Scheme (ACS)

**'Pool vehicle'** an investment vehicle (including pool funds) made available to pool members by a regulated pool company

**'Pooled asset'** an investment for which the selection, appointment, dismissal and variation of terms for the investment manager is delegated to a regulated pool company, or an investment held in a pool vehicle

**'Retained asset'** an existing investment retained by a pool member during the transition period

**'Local asset'** a new investment by a pool member which is not a pooled asset

## 3 Structure and scale

3.1 All administering authorities must pool their assets in order to deliver the benefits of scale and collaboration. These include:

- reduced investment costs without affecting gross risk-adjusted returns
- reduced costs for services such as custody, and for procurement
- strengthened governance and stewardship and dissemination of good practice
- greater investment management capacity and capability in the pool companies, including in private markets
- increased transparency on total investment management costs
- diversification of risk through providing access to a wider range of asset classes, including infrastructure investments

3.2 In order to maximise the benefits of scale, pool members must appoint a pool company or companies to implement their investment strategies. This includes:

- the selection, appointment, dismissal and variation of terms of investment managers, whether internal or external

- the management of internally managed investments
- the provision and management of pool vehicles including pool funds

It is for the pool companies to decide which investment managers to use for pool vehicles, including whether to use in-house or external management. Pool members may continue to decide if they wish to invest via in-house or externally managed vehicles.

3.3 Pool companies may be wholly owned by pool members as shareholders or may be procured and appointed by the pool members as clients.

3.4 A pool company must be a company regulated by the Financial Conduct Authority (FCA) with appropriate FCA permissions for regulated activities. This helps ensure the pools comply with financial services legislation, and provides additional assurance to scheme members and employers. Depending on the structure of the pool, appropriate permissions may include permissions for execution, acting as agent, provision of advice, or such other permissions as required by the FCA. Where regulated funds (e.g. in an ACS) are operated by the pool company it should comply with relevant UK legislation.

#### *Regular review of services and procurement*

3.5 Pool governance bodies, working with the pool company, should regularly review the provision of services to the pool, and the process of procurement, to ensure value for money and cost transparency. Where services are procured or shared by pool members, pool members should regularly review the rationale and cost-effectiveness of such arrangements, compared to procurement and management through the pool company. Pool members and pool companies should consider using the national LGPS procurement frameworks ([www.nationallgpsframeworks.org](http://www.nationallgpsframeworks.org)) where appropriate.

#### *Regular review of active and passive management*

3.6 Pool members, working with the pool company, should regularly review the balance between active and passive management in the light of performance net of total costs. They should consider moving from active to passive management where active management has not generated better net performance over a reasonable period. Pool members should also seek to ensure performance by asset class net of total costs is at least comparable with market performance for similar risk profiles.

## **4 Governance**

4.1 Pool members must establish and maintain a pool governance body in order to set the direction of the pool and to hold the pool company to account. Pool governance bodies should be appropriately democratic and sufficiently resourced to provide for effective decision making and oversight.

4.2 Pool members, through their internal governance structures, are responsible for effective governance and for holding pool companies and other service providers to account. Strategic asset allocation remains the responsibility of pool members, recognising their authority's specific liability and cash-flow forecasts.

4.3 Members of Pension Committees are elected representatives with duties both to LGPS employers and members, and to local taxpayers. Those who serve on Pension Committees and equivalent governance bodies in LGPS administering authorities are, in many ways, required to act in the same way as trustees in terms of their duty of care to scheme employers and members, but are subject to a different legal framework, which derives from public law. In particular while they have legal responsibilities for the prudent and effective stewardship of LGPS funds, LGPS benefits are not dependent on their stewardship but are established and paid under statute in force at the time.

4.4 Those who serve on Pension Committees and equivalent governance bodies in pool members should therefore take a long term view of pooling implementation and costs. They should take account of the benefits across the pool and across the scheme as a whole, in the interests of scheme members, employers and local taxpayers, and should not seek simply to minimise costs in the short term.

4.5 Local Pension Boards of pool members have a key role in pool governance, given their responsibilities under the LGPS Regulations 2013 (regulation 106 (1)) for assisting authorities in securing compliance with legislation, and ensuring effective and efficient governance and administration of the LGPS. They can provide additional scrutiny and challenge to strengthen pool governance and reporting, and improve transparency and accountability for both members and employers.

4.6 Local Pension Boards may also provide a group of knowledgeable and experienced people from which observers may be drawn if pool members wish to include observers on pool governance bodies.

#### *Strategic and tactical asset allocation*

4.7 Pool members are responsible for deciding their investment strategy and asset allocation, and remain the beneficial owners of their assets, in accordance with *Guidance for Preparing and Maintaining an Investment Strategy*.

4.8 Pool members collectively through their pool governance bodies should decide the pool's policy on which aspects of asset allocation are strategic and should remain with the administering authority, and which are tactical and best undertaken by the pool company. Pool governance bodies, when determining where such decisions lie, should be mindful of the trade-off between greater choice and lower costs and should involve the pool company to ensure the debate is fully informed on the opportunities and efficiencies available through greater scale.

4.9 Providing pool members with asset allocation choices through an excessively wide range of pool vehicles or investment managers will restrict the pool company's ability to use scale to drive up value. On the other hand maximising scale by significantly limiting asset allocation options may not provide all pool members with the diversification needed to meet their particular liability profile and cash flow requirements. Pool members should set out in their Funding Strategy Statement and Investment Strategy Statement how they, through the pool governance body, have balanced these considerations and how they will keep this under regular review.

4.10 Where necessary to deliver the asset allocation required by pool members, pool companies may provide a range of pool vehicles and in addition arrange and manage segregated mandates or access to external specialist funds. Pool governance bodies should ensure that their regulated pool companies have in place the necessary permissions to enable pool vehicles to be made available where appropriate.

4.11 Determining where asset allocation decisions lie will not be a one-off decision as pool member requirements will change over time. Pool governance bodies should ensure that a regular review process, which involves both pool members and pool companies, is in place.

## **5 Transition of assets to the pool**

5.1 Pool members should transition existing assets into the pool as quickly and cost effectively as possible. Transition of listed assets should take place over a relatively short period.

5.2 Pool governance bodies, working with pool companies and, where appointed, external transition managers, should seek to minimise transition costs to pool members while effectively balancing speed, cost and timing, taking into account exit or penalty costs and opportunities for crossing trades.

5.2 The transition process will incur direct or indirect costs which may fall unevenly across pool members. For example, where the selected managers are used by some pool members but not others. In such cases pool members who are already using the selected manager may incur significantly lower (if any) transition costs than those who do not.

5.3 Inter-authority payments (or other transfers of value) may be desirable in order to share these costs equitably between pool members. The Government's view is that such payments are investment costs within Regulation 4(5) of the 2016 Regulations, and payments made by a pool member to meet its agreed share of costs may be charged to the fund of that pool member, whether the payments are made to other pool members, the pool company, or another body by agreement.

#### *Temporary retention of existing assets*

5.4 In exceptional cases, some existing investments may be retained by pool members on a temporary basis. If the cost of moving the existing investment to a pool vehicle exceeds the benefits of doing so, it may be appropriate to continue to hold and manage the existing investment to maturity before reinvesting the funds through a pool vehicle.

5.5 In many cases there will be benefits in such retained assets being managed by the pool company in the interim. However pool members may retain the management of existing long term investment contracts where the penalty for early exit or transfer of management would be significant. These may include life insurance contracts ('life funds') accessed by pool members for the purpose of passive equity investment, and some infrastructure investments. Pool members may also retain existing direct property assets where these may be more effectively managed by pool members.

#### *Regular review of retained assets*

5.6 Pool members, working with the pool company, should undertake regular reviews (at least every three years) of retained assets and the rationale for keeping these assets outside the pool. They should review whether management by the pool company would deliver benefits. Pool members should consider the long term costs and benefits across the pool, taking account of the guidance on cost-sharing, and the presumption should be in favour of transition to pool vehicles or moving such assets to the management of the pool company.

## **6 Making new investments outside the pool**

6.1 Pool members should normally make all new investments through the pool company in order to maximise the benefits of scale. Following the 2019 valuation, pool members will review their investment strategies and put revised strategies in place from 2020. From 2020, when new investment strategies are in place, pool members should make new investments outside the pool only in very limited circumstances.

6.2 A small proportion of a pool member's assets may be invested in local initiatives within the geographical area of the pool member or in products tailored to particular liabilities specific to that pool member. Local assets should:

- Not normally exceed an aggregate 5% of the value of the pool member's assets at the point of investment.
- Be subject to a similar assessment of risk, return and fit with investment strategy as any other investment.

6.3 Pool members may invest through pool vehicles in a pool other than their own where collaboration across pools or specialisation by pools can deliver improved net returns.

6.4 During the period of transition, while pool governance bodies and pool companies work together to determine and put in place the agreed range of pool vehicles, a pool member may make new investments outside the pool, if following consultation with the pool company, they consider this is essential to deliver their investment strategy. This exemption only applies until the pool vehicles needed to provide the agreed asset allocation are in place.

## 7 Infrastructure investment

7.1 Infrastructure investment has the potential to provide secure long term returns with a good fit to pension liabilities, and form part of investment strategies of authorities. The establishment of the pools was intended to provide the scale needed for cost-effective investment in infrastructure, and to increase capacity and capability to invest in infrastructure.

7.2 There is no target for infrastructure investment for pool members or pools, but pool members are expected to set an ambition on investment in this area. Pool companies may provide pool vehicles for investment in UK assets, or overseas assets, or both, as required to provide the risk and return profile to meet pool member investment strategies. However the Government expects pool companies to provide the capability and capacity for pools over time to move towards levels of infrastructure investment similar to overseas pension funds of comparable aggregate size.

7.3 Pool companies may provide pool vehicles for investment in existing (brownfield) or new (greenfield) infrastructure, based on an assessment of the benefits and risks in relation to pool member liabilities, and non-financial factors where relevant. Pool members may invest in their own geographic areas but the asset selection and allocation decisions should normally be taken by the pool company in order to manage any potential conflicts of interest effectively, maintain propriety, and ensure robust evaluation of the case for investment.

7.4 For the purpose of producing annual reports, infrastructure assets are defined in the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance *Preparing the Annual Report* as follows:

*Infrastructure assets are the facilities and structures needed for the functioning of communities and to support economic development. When considered as an investment asset class, infrastructure investments are normally expected to have most of the following characteristics:*

- *Substantially backed by durable physical assets;*
- *Long life and low risk of obsolescence;*
- *Identifiable and reliable cash flow, preferably either explicitly or implicitly inflation-linked;*
- *Revenues largely isolated from the business cycle and competition, for example, through long term contracts, regulated monopolies or high barriers to entry;*
- *Returns to show limited correlation to other asset classes.*

*Key sectors for infrastructure include transportation networks, power generation, energy distribution and storage, water supply and distribution, communications networks, health and education facilities, social accommodation and private sector housing.*

*Conventional commercial property is not normally included, but where it forms part of a broader infrastructure asset, helps urban regeneration or serves societal needs it may be.*

7.5 All residential property is included in this definition of infrastructure. It is not restricted to social accommodation or private sector housing.

7.6 A variety of platforms may be required to implement the infrastructure investment strategies of pool members. Pool companies are expected to provide access to a range of options over time including direct and co-investment opportunities.

## 8 Reporting



8.1 Pool members are required to report total investment costs and performance against benchmarks publicly and transparently in their annual reports, following the CIPFA guidance *Preparing the Annual Report*, with effect from the 2018-19 report.

8.2 In summary, pool member annual reports should include:

- opening and closing value and proportion of pooled assets by asset class
- opening and closing value and proportion of local assets by asset class
- net and gross performance of pooled assets by asset class
- total costs of pooled assets by asset class
- for actively managed listed assets, net performance by asset class net of total costs compared to appropriate passive indices over a one, three and five year period
- net and gross performance of local assets by asset class
- total costs of local assets by asset class
  - asset transition during the reporting year
  - transition plans for local assets
  - pool set-up and transition costs, presented alongside in-year and cumulative savings from pooling
  - ongoing investment management costs by type, with a breakdown between pooled assets and local assets

8.3 Investments should be classed as pool assets on the basis of the definition in the CIPFA guidance *Preparing the Annual Report*.

*For the purpose of defining those assets which are classed as being within an asset pool, 'pooled assets' are those for which implementation of the investment strategy – i.e. the selection, appointment, dismissal and variation of terms for the investment managers (including internal managers) – has been contractually, transferred to a third party out with the individual pension fund's control.*

8.4 Any investment where a pool member retains the day to day management, or the responsibility for selecting or reappointing an external manager, is not a pool asset.

8.5 Pool members should provide a rationale for all assets continuing to be held outside the pool, including the planned end date and performance net of costs including a comparison which costs of any comparable pool vehicles. They should also set out a high level plan for transition of assets.

8.6 The SAB will publish an annual report on the pools based on aggregated data from the pool member annual reports, in the Scheme Annual Report. Pool members should comply with all reasonable requests for any additional data and information from the SAB to enable it to publish a comprehensive report.

8.7 Pool members should ensure that pool companies report in line with the SAB Code of Cost Transparency. They should also ensure that pool companies require their internal and external investment managers to do so.

8.8 Pool members should also ensure that the annual report of the pool company is broadly consistent with the reports of pool members, and with the Scheme Annual Report, in so far as it relates to their investments, and that the report includes a narrative to explain differences. These may arise for example from reporting periods of pool companies which differ from that of the pool member.

8.9 Pool members are required to report any change which results in failure to meet the requirements of this guidance to the LGPS Scheme Advisory Board (SAB) and to MHCLG.

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Ministry of Housing,  
Communities &  
Local Government

# Local Government Pension Scheme: Fair Deal – Strengthening pension protection

Policy consultation



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January 2019

ISBN: 978-1-4098-5403-6

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# Scope of the consultation

<p>Topic of this consultation:</p>	<p>This consultation seeks views on proposals to amend the rules of the Local Government Pension Scheme in England and Wales, as set out in the draft Local Government Pension Scheme (Amendment) Regulations 2019 (Annex A). It covers the following areas:</p> <ol style="list-style-type: none"> <li>1. Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer (and remove the option of a broadly comparable scheme).</li> <li>2. Proposals that would automatically transfer LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover.</li> </ol>
<p>Scope of this consultation:</p>	<p>MHCLG is consulting on changes to the regulations governing the Local Government Pension Scheme (LGPS).</p>
<p>Geographical scope:</p>	<p>These proposals relate to the Local Government Pension Scheme in England and Wales only.</p>
<p>Impact Assessment:</p>	<p>Our Fair Deal proposals will strengthen the pensions protections that apply following an outsourcing and it is intended that all transferred staff of relevant LGPS employers will benefit equally from the new provisions. We do not believe our proposals will have an adverse impact on any section of the LGPS employer workforce, and believe they will have equal positive impacts on groups with and without particular protected characteristics. This is including in relation to staff who work flexibly, part-time or who have taken career breaks. This is because our reforms are intended to equalise pensions rights between those who have and have not been outsourced from their LGPS employer, with them all having continued access to membership of the LGPS.</p> <p>None of the changes contained in this consultation require a Regulatory Impact Assessment under the Small Business, Enterprise and Employment Act 2015. Our Fair Deal proposals will require bodies who provide services to LGPS employers to provide employees with continued access to the LGPS following a transfer. For a small number of transfers, there may be some additional costs associated with outsourcing staff under the new provisions. This may be the case where an LGPS employer is not currently subject to the 2007 or 2012 Directions (see paragraph 8), but it is proposed they would be subject to our new regulations. Nevertheless, we expect this to apply in a minority of situations and only to outsourcings from public bodies or publicly owned companies.</p>

	<p>Additionally our proposals to introduce a new way for contractors to participate in the LGPS (the 'deemed employer' approach) are intended to give greater flexibility to outsourcing employers which will potentially help them obtain better value from their contracts. For contractors, the proposals are intended to give them greater certainty on the pensions costs they will face over the life of the contract.</p> <p>The proposals in chapter 3 that provide for the automatic transfer of assets and liabilities where an employer is subject of a merger or takeover are intended to protect LGPS funds from the unintended consequences of organisational changes. They are also intended to give greater certainty to all parties about the responsibility for pensions liabilities after such events.</p>
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## Basic Information

To:	<p>This consultation is particularly aimed at those with an interest in the obligations that apply when a service or function is outsourced from an LGPS employer, including employees, outsourcing employers, and service providers.</p> <p>Any change to the LGPS is likely to be of interest to other stakeholders as well, such as local pension administrators, those who advise them, other LGPS employers and local taxpayers.</p>
Body/bodies responsible for the consultation:	Local Government Finance Reform and Pensions, Ministry of Housing, Communities and Local Government
Duration:	This consultation will last for 12 weeks from Thursday 10 January 2019 to Thursday 4 April 2019.
Enquiries:	For any enquiries about the consultation please contact <a href="mailto:LGpensions@communities.gov.uk">LGpensions@communities.gov.uk</a> .
How to respond:	<p>Please respond by email to:</p> <p><a href="mailto:LGpensions@communities.gov.uk">LGpensions@communities.gov.uk</a></p> <p>Alternatively, please send postal responses to:</p> <p>LGF Reform and Pensions Team  Ministry of Housing, Communities and Local Government  2nd Floor, Fry Building  2 Marsham Street  London  SW1P 4DF</p> <p>When you reply it would be very useful if you could make it clear which questions you are responding to. Additionally,</p>

	<p>please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p>
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- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number.



# Chapter 1 – Introduction

1. The Ministry of Housing, Communities and Local Government (MHCLG) consulted in May 2016<sup>1</sup> on the introduction of greater pensions protection for employees of LGPS employers who are compulsorily transferred to service providers. The 2016 consultation proposed that, in line with the Government's Fair Deal guidance of October 2013<sup>2</sup>, most LGPS members in this position should have continued access to the LGPS in their employment with the service provider. In doing so, it was proposed that the option to provide transferring staff with access to a broadly comparable scheme should be removed.
2. On 19 April 2018, the Government response to the consultation confirmed our commitment to introduce the strengthened Fair Deal in the LGPS but noted that respondents to the 2016 consultation had raised a number of concerns regarding the specific approach we proposed to adopt. We said we would give full consideration to the points raised and committed to consult on new proposals by the end of the year.
3. Chapter 2 of this document sets out our new policy proposals for introducing Fair Deal in the LGPS, which will enable LGPS employers to obtain better value from outsourced service contracts, and ensure that transferred employees retain the security which comes with membership of the LGPS, a statutory scheme with benefits set out in law. We welcome comments from respondents on our questions.
4. We are also taking this opportunity to consult on another change to the rules of the LGPS (as set out in more detail in Chapter 3). This change would provide for the automatic transfer of LGPS assets and liabilities to a successor body when an exiting LGPS employer is taken over or is part of a merger.
5. Your comments are invited on the questions contained in chapters 2 and 3 and the set of draft regulations at Annex A.
6. **The closing date for responses on the draft regulations at Annex A, and the related questions in Chapters 2 and 3, is Thursday 4 April 2019.**

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<sup>1</sup> <https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations>

<sup>2</sup> <https://www.gov.uk/government/publications/fair-deal-guidance>

## Chapter 2 – Fair Deal

7. The Government's 'Fair Deal' policy was introduced in 1999 and sets out how pensions issues should be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services. Under the original Fair Deal guidance, transferred staff had to be given access to a scheme certified as being 'broadly comparable' to their previous public service pension scheme.
8. Following the publication of the Government's original Fair Deal guidance, pensions protection for local government employees in England and Wales was provided through:
  - the Best Value Staff Transfers (Pensions Direction) 2007 ('the 2007 Direction' - covering employees of English best value authorities and Welsh Police authorities), and
  - the Welsh Authorities Staff Transfers (Pensions) Direction 2012 ('the 2012 Welsh Direction' - covering employees of Welsh improvement authorities and community councils).
9. Under these Directions, protected employees who are contracted out to a new employer following the transfer of a service or function must be given either continued access to the LGPS by their new employer, or access to a scheme certified by an actuary as 'broadly comparable' to the LGPS.
10. The Government announced in July 2012 that the Fair Deal policy would be reformed. Under the 'new' Fair Deal policy, staff transferring from the public sector would have continued access to their public service pension scheme rather than being offered a broadly comparable private pension scheme, as was previously the case.
11. HM Treasury published its revised Fair Deal guidance in October 2013<sup>3</sup>. It covers central government departments and their agencies, the NHS, schools that are not local authority maintained (such as academies), and any other parts of the public sector under the control of Ministers where staff are eligible to be members of a public service pension scheme.
12. As set out in the Introduction, the Government now intends to introduce the strengthened Fair Deal in the LGPS. The proposed reforms will mean that independent providers will no longer have the option of providing transferred staff with access to a broadly comparable scheme. Instead, employees will always have continued access to the LGPS. This strengthens existing protections significantly. Protected employees will have increased confidence and security in knowing that, despite their transfer, they will retain a right to all the benefits that come with membership of the LGPS, not least that it is a statutory scheme with benefits set out in law. Moreover, so long as the protected employees remain wholly or mainly employed on the delivery of the service or function

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<sup>3</sup> <https://www.gov.uk/government/publications/fair-deal-guidance>

transferred, they will continue to have that protection even if the service is subsequently sub-contracted or transferred out again.

13. Responses to the 2016 consultation were mixed. Whilst many respondents were supportive of our aims in providing transferred staff with continued access to the LGPS, there were a variety of concerns on the detail of the proposals. More detail on the issues raised are contained in the Government's April 2018 response, but they can be summarised as concerns:

- regarding the employers to which our Fair Deal regulations would apply.
- that those already transferred out under the 2007 Direction would not have continued protection.
- that the proposals did not refer to the protections that apply in Wales (i.e. the 2012 Welsh Direction).
- that the regulations were a missed opportunity to consider introducing more explicit risk sharing provisions.
- that continued use of the admitted body framework could lead to a growing administrative burden for LGPS administrators.
- the lack of guidance.

14. In the following sections, we set out the detail of new proposals which are intended to address each of those concerns in turn and provide the framework for a workable, efficient system of pension protection.

## The basics of Fair Deal in the LGPS

### Protected transferees

15. The draft regulations apply in both England and Wales. They provide for the introduction of a new regulation 3B in the LGPS Regulations 2013<sup>4</sup>. Under this, an LGPS employer must ensure that protected transferees are given access to membership of the LGPS for so long as they remain a protected transferee and have an entitlement to membership of the scheme. A protected transferee is an individual who:

- a. is an active member or is eligible to be an active member of the LGPS,
- b. was employed by a Fair Deal employer (as defined) immediately before that person's employment was compulsorily transferred under a contract to a service provider in relation to the delivery of a service or a function of the Fair Deal employer.

16. A protected transferee will remain a protected transferee for so long as they remain wholly or mainly employed on the delivery of the service or function transferred, even if the service is subsequently sub-contracted or otherwise transferred to a different service provider.

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<sup>4</sup> S.I. 2013/2356 (as amended)

17. Where an employee is transferred out to an employer which offers membership of another public service pension scheme, the draft regulations provide that they would not be eligible for the LGPS but that they would remain a protected transferee. This ensures that if, following a re-tender, they are subsequently transferred to a new provider which does not offer a public service pension scheme, they do not lose their protection.
18. Service providers and Fair Deal employers may wish to consider offering the same status and protection to all staff who are providing a service as part of contract negotiations, whether or not they were previously employed by the Fair Deal employer. The draft regulations therefore also provide that an employee who is working wholly or mainly on the delivery of the service or function transferred may be treated as a protected transferee even if they were not formerly in the employment of the Fair Deal employer. However, protection for additional staff who are not covered by Fair Deal will remain subject to contract terms. The draft regulations therefore provide that protected transferee status for staff will require the agreement of both the Fair Deal employer and the service provider and it is proposed either party can determine at any time that such an individual is no longer a protected transferee.

### **Question 1 – Do you agree with this definition?**

#### **Fair Deal employers**

19. The draft regulations define a new type of scheme employer, a 'Fair Deal employer'. As defined, Fair Deal employers are those LGPS employers whose employees will have protected access to the LGPS following a compulsory transfer of the type outlined above.
20. Some respondents to the 2016 consultation queried our approach on the employers covered by Fair Deal. One concern raised was regarding consistency. It was suggested that it was inconsistent for further and higher education institutions who participate in the LGPS to be excluded on the grounds that they are non-public sector bodies<sup>5</sup>, whilst admission bodies, the majority of whom are also non-public sector bodies, would be covered by the requirements. Aside from those admission bodies who participate in the LGPS in relation to the transfer of a service or function ('transferee' admission bodies), admission bodies are bodies who normally participate in the LGPS because of close links with a local authority or because they provide a public service ('community' admission bodies). They include charities, housing associations and other non-public sector bodies, and are not required to participate in the LGPS.
21. In light of the concerns raised, it is proposed that admission bodies which undertake an outsourcing will have the option of requiring service providers to offer continued access to the LGPS as they do now, but will not be obliged to do so. Whilst we are committed to ensuring that public sector workers who are eligible for the LGPS are protected after being outsourced, we do not wish to limit the freedom that non-public sector

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<sup>5</sup> In the terms set out by the Office for National Statistics, <https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/datasets/publicsectorclassificationguide>

organisations can reasonably expect in the total package they offer to their staff, including pay and pension.

22. Other respondents felt that the employees of police and crime commissioners (PCCs) worked in the public sector and should be protected under our Fair Deal regulations. In the 2016 consultation, we said that PCCs should not be required to follow Fair Deal because they are not best value authorities. However, in order to be consistent with the approach we are taking for local government and noting the concerns made by respondents to our previous consultation, it is now proposed that employees of PCCs are in the scope of the new regulations, in the same way as is proposed for employees of chief constables.
23. In light of the points noted above, under our draft regulations all LGPS scheme employers will be Fair Deal employers with the exception of:
- further education corporations, sixth form college corporations and higher education corporations (i.e. post-1992 universities), and
  - admission bodies.

As they do now, contractors providing services to the organisations listed above will be able to provide access to the LGPS to transferred staff via entering into an admission agreement with the pension fund (subject to meeting requirements and with the agreement of the contracting employer), but there would be no obligation for them to do so under scheme regulations.

## **Question 2 – Do you agree with this definition of a Fair Deal employer?**

### **Transitional arrangements**

24. It is important to the Government that those who have previously worked in local government and who are protected under either the 2007 Direction or 2012 Welsh Direction do not lose out from the changes we are making. Our draft regulations therefore provide that when contracts that fall under the 2007 Direction or 2012 Welsh Direction are next re-tendered, protected staff will become protected transferees under the LGPS Regulations 2013 and gain a right to membership of the LGPS.
25. This level of protection goes beyond the current requirements of the 2007 and 2012 Directions, which provide that service providers have the option of providing staff with access to a broadly comparable scheme instead. It is our intention to take the necessary steps to ensure that staff who were transferred out under the 2007 Direction or under the 2012 Welsh Direction gain the improved protections the next time a contract is re-tendered. We will work with the Welsh Government on transitional arrangements to deliver this in relation to transfers that have taken place under the 2012 Direction.
26. Transferred employees who were entitled to pension protection under the 2007 Direction or the 2012 Direction and were given access to a scheme certified as broadly comparable to the LGPS will have a right to transfer their benefits from that scheme to the LGPS if the fund receives a request. Under our draft regulations, such transfers would be treated as individual transfers under existing provisions contained in

regulations 100 and 101 of the LGPS Regulations 2013. We propose that the value of transfers be calculated using Cash Equivalent Transfer Value (CETV) factors contained in actuarial guidance issued by the Secretary of State. CETV factors are issued to convert the transfer value received by an LGPS fund to an amount of career average pension on an actuarially neutral basis. This approach is intended to ensure that inward transfers are calculated using an established process that is fair to scheme members, scheme employers and local taxpayers.

**Question 3 – Do you agree with these transitional measures?**

**Question 4 – Do you agree with our proposals regarding the calculation of inward transfer values?**

## Risk sharing

27. A significant issue highlighted by respondents to the 2016 consultation was in relation to risk sharing, sometimes known as ‘pass-through’. Pass-through is a mechanism for limiting a service provider’s exposure to pensions risk as a scheme employer. As the LGPS is a funded, defined benefit pension scheme there are a number of risks which scheme employers are exposed to, in particular:

- Contributions risk – employer contribution rates are assessed every three years via a funding valuation. If the valuation shows that the financial or demographic position of the employer, or both, has changed since the previous valuation, contribution rates can go up or down.
- Funding risk – when an employer’s last active member leaves the LGPS, any deficit that has built up in relation to the employer’s liabilities has to be paid to the LGPS fund by the scheme employer. For service providers, these deficits can be quite large, even by reference to the total value of the contract.

Under pass-through, a service provider may pay a fixed contribution rate for the life of the contract, or pay the contributions within a certain range. The outsourcing employer may retain the responsibility for any shortfall in contributions, as well as the benefit of any surplus.

28. There are a number of benefits to using a pass-through approach:

- For the service provider, they do not necessarily bear the risks listed above. This makes their cost/benefit analysis when considering bidding or a contract more straightforward. We are aware that for small and medium service providers in particular, pensions risk is a significant barrier, and can mean they do not bid for contracts they otherwise would, because they cannot bear the risk of significant contribution rate increases or of the risk of a large exit payment being required at the end of the contract.
- For the Fair Deal employer they do not have to pay the ‘risk premium’ which service providers sometimes build into their contract prices. Because of contributions risk and funding risk, we understand that service providers often build a buffer into their prices to ensure that it is still profitable for them to operate a contract even if, for example, LGPS contributions end up being much higher than originally stated.

Using pass-through removes the need for such a buffer (and should therefore mean Fair Deal employers get better value for money).

### **The 'deemed employer' approach**

29. We are aware that some LGPS employers already use pass-through arrangements with their service providers where greater flexibility assists outsourcing. However, in light of the views expressed in the responses to the 2016 consultation we want to ensure that Fair Deal employers actively consider the potential benefits of including risk sharing provisions in their service contracts. To achieve this, we are proposing that service providers do not necessarily need to become admission bodies in the LGPS to participate in the scheme. Instead, 'deemed employer' status could be used instead.
30. Deemed employer status is available under the LGPS Regulations 2013 already (see the table in part 4 of schedule 2). It means that, for specific groups of employees, their 'scheme employer' in the LGPS is not their employer in employment law, but is the 'deemed employer' instead. For example, under the LGPS Regulations 2013, the 'deemed employer' for the employees of voluntary schools is the associated local authority.
31. Under our proposals, when an employee is compulsorily transferred from their Fair Deal employer to a service provider, their former employer will have the option of remaining the deemed employer for the transferred staff.
32. Using this approach, the service provider would not have full scheme employer responsibilities under the LGPS Regulations 2013. Instead, the default position would be that the Fair Deal employer would retain the majority of scheme employer responsibilities (including contributions and funding risk). However, we envisage that this would only be a starting point, and the service contract between the parties would cover the detail of the pensions relationship, including the sharing of risk.
33. With appropriate provisions in the service contract, deemed employer status will give Fair Deal employers like local authorities greater flexibility when transferring services and functions to external providers. This will enable them to achieve the benefits of pass-through while enabling flexibility for negotiations around price and risk sharing between the two parties.
34. In addition, a major benefit of this approach is that it will provide a more seamless transition for LGPS members. A frequent issue under the current system is that a contract commences before the admission agreement is signed, leaving members in limbo for long periods of time. Under the deemed employer approach, members would continue in the section of their Fair Deal employer and there would be no uncertainty regarding their pension rights. Administering authorities would also benefit from not having to backdate admission agreements or seek to enforce these retrospectively.
35. The deemed employer approach will also help to tackle a growing issue in the LGPS; the large and rising number of scheme employers (over 16,000 across the scheme in England and Wales), which causes administrative issues at a local level. Making use of deemed employer status would slow the rate of increase and could therefore have administrative benefits for LGPS pension funds.

36. Using deemed employer status may also give greater flexibility to contractors in how they account for their pensions obligations. Currently, contractors who participate in the LGPS via an admission agreement but who have entered into pass-through arrangements may have to account for their liabilities on a defined benefit basis (even though their obligations are more akin to defined contribution liabilities). The deemed employer approach may enable a different accounting treatment because the legal responsibility would remain with the Fair Deal employer.
37. Using deemed employer status in this way has potential risks for Fair Deal employers because it means they are, by default, responsible for the pension liabilities which would, under an admission agreement, automatically be the responsibility of the service provider. However, the Fair Deal employer would be able to protect itself from these risks by including detailed provisions on the pensions relationship between the Fair Deal employer and the service provider in the service contract.
38. The draft regulations state that advice will be issued by the LGPS Scheme Advisory Board (SAB) to help Fair Deal employers put in place service contracts which give them flexibility and protect them from potential risks. We will want to ensure that this advice gives Fair Deal employers the knowledge and confidence they need to outsource services in a way that provides them with value and gives increased certainty to service providers. We will work closely with the SAB on the development of this advice, and expect that it will be issued before or at the same time the Fair Deal regulations are issued.
39. The draft regulations also provide that the deemed employer approach can only be used by the proprietor of an academy where that proprietor has followed guidance on the use of the deemed employer approach given by the Department for Education. Guidance issued by the Department for Education will set out the provisions that must be included in the service contract between a proprietor of an academy and a service provider to protect the proprietor, and ultimately the Department for Education, from pensions risks which should in all cases be met by the service provider.

**Question 5 – Do you agree with our proposals on deemed employer status?**

**Question 6 – What should advice from the scheme advisory board contain to ensure that deemed employer status works effectively?**

**Responsibilities for employers**

40. In practice, even where the deemed employer approach is used, the service provider will retain an administrative role in relation to the pensions of their employees. As the legal employer, they will be responsible for deducting employee contributions and providing information to the pension fund (for example, for end of year processing). To ensure that the actions of the service provider do not prevent the Fair Deal employer from meeting their responsibilities, the draft regulations state that the service provider must provide sufficient and timely information to enable the Fair Deal employer to meet its scheme functions. We anticipate that this point will be addressed in more detail in advice issued by the Scheme Advisory Board.



41. We are also keen to ensure that, unless service contracts explicitly provide otherwise, responsibility for certain decisions that may give rise to costs arising is retained by the service provider, as well as the responsibility for meeting those costs. In particular, the draft regulations provide that the service provider shall retain the decision-making responsibility for decisions where costs may be payable under regulation 68 of the LGPS Regulations 2013. This covers a variety of costs, including ill-health, redundancy, flexible retirement and the award of additional pension.

**Question 7 – Should the LGPS Regulations 2013 specify other costs and responsibilities for the service provider where deemed employer status is used?**

**Existing arrangements**

42. Whilst we believe there are significant advantages of making use of deemed employer status, we propose that the admission body option is retained so that Fair Deal employers can choose to require their service providers to become full scheme employers in the LGPS if they wish. This approach may be more appropriate for larger, longer term contracts where it is more fitting for a service provider to have full employer responsibilities under the LGPS regulations.

43. To make clear that risk sharing practices can also be used where the admission body option is used, our draft regulations insert a paragraph into part 3 of schedule 2 of the LGPS Regulations 2013 confirming that admission agreements may also contain details of risk sharing arrangements agreed between the Fair Deal employer and the service provider. We anticipate that advice issued by the SAB will contain detail on the provisions that may be put into an admission agreement on risk sharing between the parties involved.

**Question 8 – Is this the right approach?**

**Timely consideration of pensions issues**

44. An issue that is frequently raised with regard to outsourcing by LGPS employers is the lack of priority given to pensions issues. Often admission agreements are not signed before the contract takes effect leading to periods of limbo for members. This can be a barrier to the parties to a contract sharing risk effectively. Indeed, lack of consideration of pensions issues at the contract negotiation stage could be damaging to those Fair Deal employers using the deemed employer approach. In our April 2018 response to the 2016 consultation, we said we would consider the issues around this further.

45. The draft regulations we are consulting on require that the service contract between a Fair Deal employer and the service provider state whether continued access to the LGPS will be provided via the deemed employer route or via the admission body route. We intend that this requirement will ensure consideration is given to pensions issues at an early stage, and the substantive differences between the two options are fully appreciated.

46. We also expect timely consideration of pensions issues to be covered in the SAB advice, with the benefits of doing so. For example, to ensure that the best value can be obtained from outsourcing exercises, Fair Deal employers should confirm the approach

they intend to adopt at the point they are inviting bids from potential service providers. We welcome views from consultees on other ways in which we can encourage early consideration of pensions issues.

**Question 9 – What further steps can be taken to encourage pensions issues to be given full and timely consideration by Fair Deal employers when services or functions are outsourced?**

**Public sector equality duty**

47. Our Fair Deal proposals will strengthen the pensions protections that apply following an outsourcing and it is intended that all transferred staff of relevant LGPS employers will benefit equally from the new provisions. We do not believe our proposals will have an adverse impact on any section of the LGPS employer workforce, and believe they will have equal positive impacts on groups with and without particular protected characteristics.

**Question 10 – Are you aware of any other equalities impacts or of any particular groups with protected characteristics who would be disadvantaged by our Fair Deal proposals?**

## Chapter 3 – Transferring pension assets and liabilities

48. In recent years, the frequency with which LGPS scheme employers have been involved in mergers or takeovers has increased. This increase is partly a consequence of reforms within the public sector (including local authority schools becoming academies, whose proprietors have employer responsibilities in their own right), and of new organisational structures being used by LGPS employers for the delivery of services and functions.
49. When the last active member of an LGPS scheme employer leaves the scheme, the regulations provide that an exit payment usually needs to be paid to the LGPS fund. This means the exiting employer becomes liable for the payment of an amount which is intended to cover the costs of their entire pensions liability, and which is calculated on a low-risk basis. Because of this, the exit payment is often high, particularly in relation to the size of the ceasing employer.
50. Where an LGPS scheme employer merges into, or is taken over by, another organisation this exit payment can sometimes be triggered unintentionally and potentially leave the ceding organisation with a liability they cannot meet. If they cannot do so, the liability will be met by the other employers in the fund (and ultimately the local taxpayer).
51. To address these concerns we propose to amend the regulations to provide that when an LGPS scheme employer is merged into or taken over by another organisation, the responsibility for that pensions liability automatically transfers to the successor body, unless specific legislative provisions require otherwise. This is intended to ensure that normal business activities, such as mergers and takeovers, can take place effectively and efficiently without unintended consequences occurring in respect of an employer's LGPS liabilities.
52. In addition, we propose that where the successor body is also an LGPS employer with active members in another fund, the assets and liabilities must be automatically transferred to that fund and combined with the successor body's assets and liabilities.
53. We propose that the Secretary of State should issue guidance on this area and that, in particular, guidance should cover the terms of transfers of assets and liabilities between pension funds.

**Question 11 – Is this the right approach?**

**Question 12 – Do the draft regulations effectively achieve our aims?**

**Question 13 – What should guidance issued by the Secretary of State state regarding the terms of asset and liability transfers?**

## About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex B.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

# Annex A – Draft regulations

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## STATUTORY INSTRUMENTS

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**2019 No.**

### **PUBLIC SERVICE PENSIONS, ENGLAND AND WALES**

#### **The Local Government Pension Scheme (Amendment) Regulations 2019**

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

These Regulations are made in exercise of the powers conferred by sections 1, 3 and 25 of, and Schedule 3 to the Public Service Pensions Act 2013<sup>(a)</sup>.

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

#### **Citation, commencement and extent**

- 1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2019.
- (2) These Regulations come into force on [xxx] but have effect as follows [xxx].
- (3) These Regulations extend to England and Wales.

#### **Amendment of the Local Government Pension Scheme Regulations 2013**

2. The Local Government Pension Scheme Regulations 2013<sup>(b)</sup> are amended in accordance with regulations 3 to 6.
3. After Regulation 3A<sup>(c)</sup> (civil servants etc engaged in probation provision) insert the following regulations—

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<sup>(a)</sup> 2013 c. 25.  
<sup>(b)</sup> S.I. 2013/2356; those Regulations have been amended by S.I. 2014/44, S.I. 2014/525, S.I. 2014/1146, S.I. 2015/57, S.I. 2015/755 and by S.I. 2018/493.  
<sup>(c)</sup> Regulation 3A was inserted by S.I. 2014/1146.

### **“Pensions protection following a compulsory transfer**

**3B.**—(1) A protected transferee for the purposes of these Regulations is an active member or a person who is eligible to be an active member who was employed by a Fair Deal employer immediately before that person’s employment was compulsorily transferred to a service provider under an ongoing contract in relation to the delivery of a service or a function of the Fair Deal employer on or after [xxx: the date on which the Local Government Pension Scheme (Amendment) Regulations come into force].

(2) The employer of a protected transferee must ensure that the protected transferee has access to membership of the Scheme for so long as that person remains a protected transferee and is entitled to be an active member of the Scheme.

(3) If the employer of a protected transferee is not a Scheme employer under Part 1 or Part 2 of Schedule 2 who designates the protected transferee as being eligible for the LGPS, the Fair Deal employer must provide in their contract with the service provider that a protected transferee must be provided with access to the Scheme either by—

- (a) the service provider entering into an admission agreement under paragraph 1(d) of Part 3 of Schedule 2 to these Regulations; or
- (b) subject to sub-paragraph (4), the Fair Deal employer determining to act as the deemed employer in respect of the protected transferee.

(4) Any determination under sub-paragraph (3)(b) by a Fair Deal employer listed in paragraph 20 of Part 1 of Schedule 2 must be made in accordance with guidance issued by the Secretary of State.

(5) A person remains a protected transferee for so long as that person is wholly or mainly employed on the delivery of the service or function transferred, even if the service or function is subsequently sub-contracted or otherwise transferred to a different service provider.

(6) A person remains a protected transferee even if for a period they are not entitled to be a member of the Scheme because they are entitled to membership of another public service pension scheme in relation to the employment transferred from their Fair Deal employer.

(7) An employee of a service provider who is working wholly or mainly on the delivery of the service or function transferred from a Fair Deal employer other than by a compulsory transfer under sub-paragraph (1) may be treated as a protected transferee with the written agreement of the Fair Deal employer and the service provider.

(8) An agreement under sub-paragraph (7) may be terminated by either the Fair Deal employer or the service provider at any time.

(9) A person who is a former employee of a best value authority or a police authority in Wales<sup>(a)</sup> and who is entitled to pension protection or would be entitled to pension protection following a subsequent transfer under the Best Value Authorities Staff Transfers (Pensions) Direction 2007 is to be—

- (a) regarded as being a protected transferee when the contract is next renewed with the same contractor, or the contract passes to a new service provider, and
- (b) shall remain so regarded for such period as that person is—
  - (i) entitled to membership of the Scheme; and
  - (ii) remains wholly or mainly employed on the delivery of the service or function transferred from the best value authority or police authority in Wales.

(10) A person who is a former employee of a Welsh improvement authority<sup>(b)</sup> or a community council who is entitled to pension protection or would be entitled to pension protection following a subsequent transfer under the Welsh Authorities Staff Transfers (Pensions) Direction 2012 is to be—

- (a) regarded as being a protected transferee when the contract is next renewed with the same contractor, or the contract passes to a new service provider, and
- (b) shall remain so regarded for such period as that person is—

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<sup>(a)</sup> Section 1 of the Local Government Act 1999 (c. 27) designates the bodies which are best value authorities.

<sup>(b)</sup> Section 1 of the Local Government (Wales) Measure 2009 (c. 02) designates the bodies which are Welsh improvement authorities.

(i) entitled to membership of the Scheme, and

(ii) remains wholly or mainly employed on the delivery of the service or function transferred from the Welsh improvement authority or community council.

(11) A person who is an employee of a service provider working on the delivery of a service or function transferred from a Fair Deal employer who has not been compulsorily transferred to the provider from that Fair Deal employer in relation to the delivery of that service or function is not a protected transferee for the purposes of these Regulations.

(12) Where a transfer is requested under regulation 100(1) (inward transfers of pension rights), the administering authority must grant that request if the request relates to the transfer of a protected transferee's pension rights accrued in a pension scheme to which they had access under the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012.

(13) A Fair Deal employer must have regard to advice issued by the Scheme Advisory Board on the matters to be considered in regard to the provision of pensions protection to a protected transferee or persons who may be regarded as protected transferees, including the sharing of risk.

(14) The employer of a protected transferee must—

- (a) provide sufficient and timely information to enable the Fair Deal employer to meet its Scheme functions under these Regulations; and
- (b) be responsible for, and meet any costs arising from, decisions taken by the employer which may give rise to payments under regulation 68 (employer's further payments) in the absence of express provision to the contrary in the service contract between the Fair Deal employer and the service provider.

(15) In this regulation "employer of a protected transferee" means a service provider who employs a protected transferee who is provided with access to the LGPS under this regulation."

4. In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained), after sub-paragraph (10) insert—

"(11) Where a Scheme employer becomes an exiting employer as a consequence of the Scheme employer being merged into, or taken over by, another organisation—

- (a) the successor body becomes responsible for the exiting employer's assets and liabilities, in the absence of any express legislative provision to the contrary; and
- (b) shall be treated for the purpose of these Regulations as the Scheme employer in relation to the employees and former employees of the exiting employer.

(12) Where the successor body is a Scheme employer with active members in that administering authority or another administering authority, the assets and liabilities of the exiting employer must be automatically transferred to the administering authority of the successor body and combined with the successor body's assets and liabilities.

(13) A transfer of assets and liabilities under sub-paragraph (12) must be determined in accordance with guidance issued by the Secretary of State."

5.—(1) Schedule 1<sup>(a)</sup>(interpretation) is amended as follows.

(2) After the definition of "European pensions institution" insert—

"“Fair Deal employer” means a Scheme employer listed in paragraphs 1 to 13 and 15 to 25 of Part 1 of Schedule 2 or in paragraphs 1 to 3 and 5 to 15 of Part 2 of Schedule 2;”

(3) After the definition of "permanently incapable" insert—

"“protected transferee” has the meaning given in regulation 3B(1);”

(4) After the definition of "Scheme year", insert—

"“service provider” means a body contracted to deliver a service or a function of a Fair Deal employer;”

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(a) There are amendments to Schedule 1 which are not relevant to these Regulations.

(5) After the definition of “statutory pay” insert—

““successor body” means a body which either—

(a) takes over a Scheme employer, causing that employer to become an exiting employer; or

(b) takes on the functions of a Scheme employer following a merger between that employer and one or more organisations, and which causes that employer to become an exiting employer;”.

6.—(1) Schedule 2 (Scheme employers) is amended as follows.

(2) In Part 3, after paragraph 5 insert—

“5A. An admission agreement made under paragraph 1(d)(i) may include details of risk sharing arrangements between the Scheme employer and the admission body, provided that the Scheme employer has had regard to any advice issued by the Local Government Pension Scheme Advisory Board.”.

(3) In Part 4, in the table insert at the end—

“An employee of a service provider who is a protected transferee, where the Fair Deal employer has determined under regulation 3B(3)(b)) that the protected transferee should be deemed to be an employee of the Fair Deal employer	The Fair Deal employer referred to in column 1”
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We consent to the making of these Regulations.

*Names*

Date Two of the Lords Commissioners of Her Majesty’s Treasury  
Signed by authority of the Secretary of State for Housing, Communities and Local Government.

*Minister*

Minister of State

Date Ministry of Housing, Communities and Local Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”).

Regulations 3, 5 and 6 implement the Government’s “Fair Deal” policy for local government workers with the effect that most members of the Local Government Pension Scheme who are compulsorily transferred to another employer will retain the right to membership of the Scheme.

Regulation 4 provides that where a Scheme employer becomes an exiting employer as a consequence of a takeover or a merger, the assets and liabilities of that employer automatically transfer to the successor body.



# Annex B

## Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

### 1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk).

### 2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

### 3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

Section 21 of the Public Service Pension Act 2013 requires the responsible authority, in this case the Secretary of State, to consult such persons as he believes are going to be affected before making any regulations for the Local Government Pension Scheme. MHCLG will process personal data only as necessary for the effective performance of that duty.

### 3. With whom we will be sharing your personal data

We do not anticipate sharing personal data with any third party.

### 4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

### 5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected

d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

- 6. Your personal data will not be sent overseas**
- 7. Your personal data will not be used for any automated decision making.**
- 8. Your personal data will be stored in a secure government IT system.**

## PENSIONS COMMITTEE

<b>Subject Heading:</b>	The Pensions Regulator (tPR) In Depth Engagement
<b>SLT Lead:</b>	Jane West Section 151 Officer
<b>Report Author and contact details:</b>	Caroline Berry 01708 432185 Caroline.berry@onesource.co.uk
<b>Policy context:</b>	Local Government Pension Scheme Regulations 2013 and Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014
<b>Financial summary:</b>	There is no financial impact of this report

### The subject matter of this report deals with the following Council Objectives

Communities making Havering	[x]
Places making Havering	[x]
Opportunities making Havering	[x]
Connections making Havering	[x]

**SUMMARY**

The Pensions Regulator (tPR) are conducting an in depth engagement with a sample of Local Government Pension Schemes and have chosen Havering as one of the funds that they would like to review. The review will identify strengths and areas for development for Havering. tPR will publish a report of their findings across all reviews that provides a picture of the pension scheme reviewed. This will be on an anonymous basis. The review will focus on the governance and administration of the Scheme.

**RECOMMENDATIONS**

It is recommended that the Committee note the review by tPR. Any resulting actions will be reported to the Committee at the conclusion of the review.

**REPORT DETAIL**

tPR carry out an annual Governance and Administration Survey amongst all public service pension schemes and the results from the last survey showed that improvements in the Local Government Pension Scheme had stalled.

The purpose of tPR's review is to understand the challenges that schemes are facing, to monitor how schemes are performing and suggest improvements and relevant actions.

The LGPS is made up of approximately 100 individual funds and 10% have been selected for review. London Borough of Havering is one of those. Schemes have been chosen at random based on their geographical location and the size of fund. tPR have emphasised that they have no specific concerns regarding the governance and administration of the Havering Fund.

The review will comprise of 5 meetings. The areas to be reviewed are:

- Administrator Risk
- Record Keeping
- Member Communications
- Internal Controls
- Internal Disputes Resolution Procedure
- Maintaining Contributions

- Employer Non-Compliance
- Affordability & Funding
- Pension Board Members Knowledge and Understanding
- Relationships between the Scheme Manager and the Pension Board
- Conflicts of Interest
- Fraud/Misappropriation of assets
- Scams
- Cyber Security

tPR will provide an observations letter after each meeting confirming any areas that they have identified for improvement along with any strengths.

London Borough of Havering are learning from, and sharing experiences with other authorities that have been selected for review.

The process is expected to take about 6 months and we will report back to Committee confirming outcomes.

tPR will provide a report of its findings across all the selected Local Government Pension Schemes. Although the report may contain information regarding Havering, we will not be named.

Existing resources within the Council's workforce will be required to support the meetings with tPR and to take any action required following the conclusion of the engagement.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

There appear to be no financial implications or risks arising from this report

### **Legal implications and risks:**

There are no apparent legal implications arising from consideration of this Report.

### **Human Resources implications and risks:**

There appear to be no HR implications or risks arising that impact on the Council's workforce. However, there will be resources required from the Shared Service to support the meetings with the Pensions Regulator which will need to be drawn from existing resources.

### **Equalities implications and risks:**

There are no direct equality implications regarding this matter.

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**PENSIONS COMMITTEE**

**19 MARCH 2019**

**Subject Heading:**

**STATEMENT OF INVESTMENT  
BELIEFS**

**SLT Lead:**

Jane West

**Report Author and contact details:**

Debbie Ford  
Pension Fund Manager  
01708432569

**Policy context:**

[Debbie.ford@onesource.co.uk](mailto:Debbie.ford@onesource.co.uk)  
Investment Strategy Statement

**Financial summary:**

No cost implications

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

**SUMMARY**

This report provides members with the proposed steps to establish a Statement of Investment Beliefs

## RECOMMENDATIONS

That the Committee:

1. Consider the proposed investment beliefs set out in Appendix A and whether these reflect the broad views of Committee members;
2. Engage in discussion around areas where there were a range of views from the online questionnaires, to build consensus;
3. Agree next steps to finalise a formal Statement of Investment Beliefs for inclusion in the Fund's Investment Strategy Statement (ISS), and that these beliefs will be referenced as part of future investment decision making;
4. Receive additional training on ESG matters to further develop Committee understanding, reflecting comments received as part of the online questionnaire.

## REPORT DETAIL

At the 11 December 2018 Committee meeting Hymans Robertson provided training on Responsible Investment matters.

An action agreed from that training session was to work towards a formal Statement of Investment Beliefs for the Fund. To establish those beliefs, Hymans developed a questionnaire to gather the Committee views on a range of areas relating to the Fund's investment approach.

The questionnaire was issued on the 24 January 2019 with a closing date of the 8 February 2019.

The draft Statement of Investment Beliefs reflects feedback from the online questionnaire which is attached as **Appendix A. The tracked changes in Appendix 1 represent Hymans' amendments to the original Statement following the consultation.**

Having a clear set of investment beliefs can improve governance by providing a framework for all investment decisions and will form part of the overall investment process.



## IMPLICATIONS AND RISKS

### **Financial implications and risks:**

There are no direct financial implications in adopting a statement of beliefs but it will mitigate the risk of scrutiny of the committee's investment decisions as having a statement of investment beliefs in place will provide rationale for the decision making process.

A change may be necessary to the Investment Strategy Statement (ISS) to incorporate the investment beliefs, if adopted, and this will be changed when the ISS is next updated, later in the year as per the business plan.

### **Legal implications and risks:**

There is no statutory obligation to produce a Statement of Investment Beliefs but as mentioned in the report it can help achieve good governance as establishing a Statement of Investment Beliefs will underpin the investment decisions that the Committee take in driving forward and setting objectives within the ISS.

Currently the Council has a broad discretion to take non-financial considerations into account in its investment strategy. The Secretary of State has issued guidance to Local Authorities on the exercise of their discretion on non-financial considerations which has been subject to challenge in the Courts. The Court of Appeal has ruled in favour of the Secretary of State but that Court's decision is subject to an appeal to the Supreme Court and therefore Members will need to be aware that this area is potentially subject to change. R. (on the application of Palestine Solidarity Campaign Ltd) v Secretary of State for Communities and Local Government [2018] EWCA Civ 1284.

### **Human Resources implications and risks:**

There are no immediate HR implications.

### **Equalities implications and risks:**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- i. the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- ii. the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;

- iii. foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment/identity.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants

An EIA is not considered necessary regarding this matter as the protected groups are not directly or indirectly affected

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**PENSIONS COMMITTEE**

**19 March 2019**

<b>Subject Heading:</b>	<b>PENSION FUND PERFORMANCE MONITORING FOR THE QUARTER ENDED DECEMBER 2018</b>
<b>CLT Lead:</b>	<b>Jane West</b>
<b>Report Author and contact details:</b>	<i>Christine Sampson Pension Fund Accountant 01708431745 <a href="mailto:Christine.Sampson@onesource.co.uk">Christine.Sampson@onesource.co.uk</a></i>
<b>Policy context:</b>	Pension Fund Managers' performances are regularly monitored in order to ensure that the investment objectives are being met.
<b>Financial summary:</b>	This report comments upon the performance of the Fund for the period ended 31 December 2018

**The subject matter of this report deals with the following Council Objectives**

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

**SUMMARY**

This report provides the Committee with an overview of the performance of the Havering Pension Fund investments for the quarter to 31 December 2018. The performance information is taken from the quarterly performance reports supplied by each Investment Manager, State Street Global Services Performance Services PLC (formerly known as WM Company) quarterly Performance Review Report and Hymans Monitoring Report.

The net return on the Fund's investments for the **quarter** to 31 December 2018 was **-5.6% (or -£42.16m to £692.41m)**. This quarter the fund underperformed the combined tactical benchmark by -3.5% and underperformed against the strategic benchmark by -7.8%.

Stafford Capital Partners was the best performer on a relative basis over the quarter, with the largest underperformance against benchmark coming from

GMO. Only Royal London, UBS and Stafford posted any growth in that quarter.

The overall net return of the Fund's investments for the **year** to 31 December 2018 was **-3.6%**. This represents an underperformance of **-3.9%** against the combined tactical benchmark and an underperformance of **-5.1%** against the annual strategic benchmark - this is a measure of the Fund's performance against a target based upon gilts + 1.8% (the rate which is used in the valuation of the funds liabilities). The implications of this are set out in paragraphs 1.1 and 1.3 below.

We measure the individual managers' annual return for the new combined tactical benchmark and these results are shown later in the report.

## RECOMMENDATIONS

That the Committee:

- 1) Note the summary of the performance of the Pension Fund within this report.
- 2) Consider Hymans performance monitoring report and presentation (Appendix A - Exempt).
- 3) Receive presentations from the London CIV for the Fund's Multi Asset and UK Equities Managers within the LCIV platform – Baillie Gifford (Appendix B- Exempt)., and Ruffer for the LCIV Absolute Return Fund (Appendix C – Exempt)
- 4) Consider the quarterly reports provided by each investment manager.
- 5) Note the analysis of the cash balances (paragraphs 3.2 refers).

## REPORT DETAIL

### 1. **Background**

- 1.1 **Strategic Benchmark** - A strategic benchmark has been adopted for the overall Fund of Index Linked Gilts + 1.8% per annum. This is the expected return in excess of the fund's liabilities over the longer term and should lead to an overall improvement in the funding level. The strategic benchmark measures the extent to which the Fund is meeting its longer term objective of

reducing the Fund's deficit. The current shortfall has arisen largely as a consequence of the historically low level of real interest rates which have driven up the value of index linked gilts (and consequently the level of the funds liabilities). The Funds steady outperformance against strategic benchmark over the previous two years came to an abrupt halt as index-linked gilt yields fell over the quarter, pushing liability valuations up, whilst the funds return seeking assets fell sharply.

- 1.2 **Tactical Benchmark** - Each manager has been set a specific (tactical) benchmark as well as an outperformance target against which their performance will be measured. This benchmark is determined according to the type of investments being managed. This is not directly comparable to the strategic benchmark as the majority of the mandate benchmarks are different but contributes to the overall performance.

The objective of the Fund's investment strategy is to deliver a stable long-term investment return in excess of the expected growth in the Fund's liabilities. The Fund has retained investments with Royal London which have offered some resilience to the fluctuations in interest rates over this period, but given the long term nature of the fund, the Funds investment advisors believe that the objective of pursuing a stable investment return remains appropriate. The investment strategy has therefore been evolved to provide exposure to diverse sources of investment return consistent with this objective.

- 1.3 The revised asset allocation targets per the Investment Strategy Statement are shown in the following table and reflect the asset allocation split and targets against their individual fund manager benchmarks:

Table 1: Asset Allocation

<b>Asset Class</b>	<b>Target Asset Allocation (ISS Nov17)</b>	<b>Investment Manager/ product</b>	<b>Segregated /pooled</b>	<b>Active/ Passive</b>	<b>Benchmark and Target</b>
UK/Global Equity	15.0%	LCIV Baillie Gifford (Global Alpha Fund)	Pooled	Active	MSCI All Countries Index plus 2.5% (gross)
	7.5%	Legal & General Investment Management (SSgA until Nov 17)	Pooled	Passive	FTSE All World Equity Index
	7.5%	Legal & General Investment Management (SSgA until Nov 17)	Pooled	Passive	FTSE RAFI All World 3000 Index
Multi Asset Strategy	12.5%	LCIV Baillie Gifford (Diversified Growth Fund)	Pooled	Active	Capital growth at lower risk than equity markets
	15.0%	GMO Global Real return (UCITS)	Pooled	Active	OECD CPI g7 plus 3 - 5% over a complete market cycle
Absolute Return	15%	LCIV Ruffer	Pooled	Active	Absolute Return
Property	6%	UBS	Pooled	Active	AREF/IPD All balanced property Index Weighted Average
Gilt/ Investment Bonds	19%	Royal London	Segregated	Active	50% iBoxx £ non- Gilt over 10 years 16.7% FTSE Actuaries UK gilt over 15 years 33.3% FTSE Actuaries Index-linked over 5 years. Plus 1.25%*
Infrastructure	2.5%	Stafford	Pooled	Active	CPI plus 5% (net of fees)

\*0.75% prior to 1 November 2015



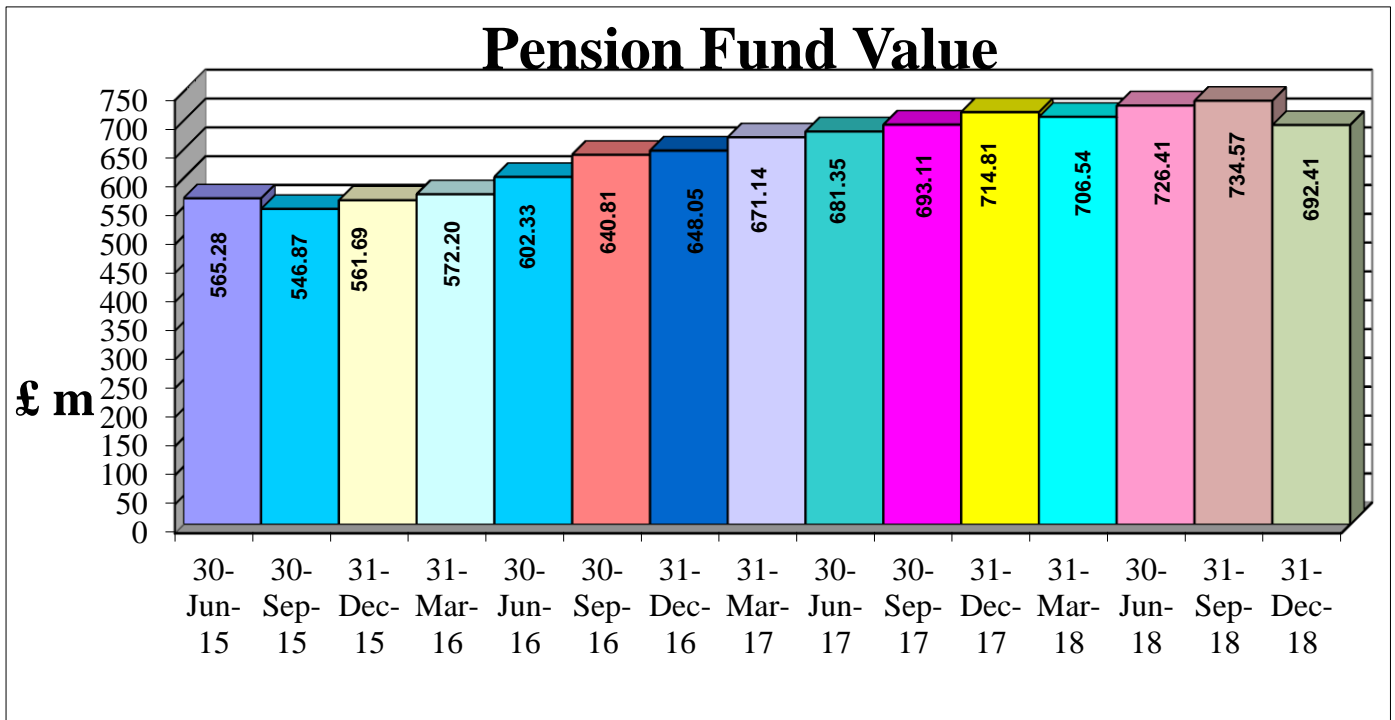
- 1.4 UBS, LGIM, GMO and Stafford manage the assets on a pooled basis. Royal London manages the assets on a segregated basis. Both the Baillie Gifford mandates and the Ruffer mandates are managed on a pooled basis and operated via the London Collective Investment Vehicle (LCIV). Performance is monitored by reference to the benchmark and out performance target as shown in the above table. Each manager's individual performance is shown later in this report with a summary of any key information relevant to their performance.
- 1.5 Since 2006, to ensure consistency with reports received from our Performance Measurers, Investments Advisors and Fund Managers, the 'relative returns' (under/over performance) calculations has been changed from the previously used arithmetical method to the industry standard geometric method (please note that this will sometimes produce figures that arithmetically do not add up).

## **2. Reporting Arrangements**

- 2.1 After reviewing the current reporting arrangements at the Pensions Committee held on the 5 June 2017 it was agreed that only one fund manager will attend each committee meeting, unless performance concerns override this.
- 6) 2.2 The Fund Managers attending this meeting are the London CIV for the Fund's Multi Asset and UK Equities Managers within the LCIV platform (Appendix B- Exempt) and Ruffer will present performance on the LCIV Absolute Return Fund
- 2.3 Hyman's performance monitoring report is attached at **Appendix A**.

## **3 Fund Size**

- 3.1 Based on information supplied by our performance measurers the total combined fund value at the close of business on 31 December 2018 was **£692.41m**. This valuation differs from the basis of valuation used by our Fund Managers and our Investment Advisor in that it excludes accrued income. This compares with a fund value of £734.57m at the 30 September 2018; a **decrease** of **£-42.16m**. Movement in the fund value is attributable to a decrease in assets of £-41.51m and a decrease in cash of £-0.65m. Internally managed cash level stands at **£15.27m** of which an analysis follows in this report.



Source: WM Company (Performance Measurers)

3.2 An analysis of the internally managed cash balance of **£15.92m** follows:

Table 2: Cash Analysis

<b>CASH ANALYSIS</b>	<b>2016/17 31 Mar 17</b>	<b>2017/18 31 Mar 18</b>	<b>2018/19 30 Dec 18</b>
	£000's	£000's	£000's
<b>Balance B/F</b>	<b>-12,924</b>	<b>-12,770</b>	<b>-17,658</b>
Benefits Paid	36,490	36,532	28,051
Management costs	1,358	1,221	812
Net Transfer Values	2,151	1,108	1,468
Employee/Employer Contributions	-40,337	-42,851	-35,751
Cash from/to Managers/Other Adj.	586	-785	7,898
Internal Interest	-94	-113	-94
<b>Movement in Year</b>	<b>154</b>	<b>-4,888</b>	<b>2,384</b>
<b>Balance C/F</b>	<b>-12,770</b>	<b>-17,658</b>	<b>-15,274</b>

3.3 Members agreed the updated cash management policy at its meeting on the 15 December 2015. The policy sets out that the target cash level should be £5m but not fall below the de-minimus amount of £3m or exceed £6m. This policy includes drawing down income from the bond and property manager when required.

- 3.4 The cash management policy incorporates a threshold for the maximum amount of cash that the fund should hold but introduced a discretion that allows the Chief Executive (now the Chief Operating Officer/Statutory S151 officer) to exceed the threshold to meet unforeseeable volatile unpredictable payments. The excess above the threshold of £6m is being considered as part of the investment strategy implementation (possibly to fund the closed ended funds and College mergers).
- 3.5 During 2018, the Committee appointed three Real Asset Managers and two Private Debt managers to implement the agreed strategy. As at 31 December 2018, monies had been drawn by Stafford although a number of further investments were made following the year end. In particular, 100% of the commitment to JP Morgan (infrastructure) and 50% of the commitment to CRBE (Global Property) have been drawn alongside a commitment to Churchill (Private Debt). These commitments have been largely funded by realising assets from GMO (£70m). Investments have also been made in the LGIM Emerging Market Equity Fund as assets have been realised from GMO to maintain the underlying allocation to this asset class. To finalise implementation of the strategy, Committee has still to consider the appointment of a Multi Asset Credit Mandate, expected to be via the London CIV, and which will be progressed during 2019.

#### **4. Performance Figures against Benchmarks**

- 4.1 The overall net performance of the Fund against the new **Combined Tactical Benchmark** (the combination of each of the individual manager benchmarks) follows:

Table 3: Quarterly Performance

	<b>Quarter to 31.12.18</b>	<b>12 Months to 31.12.18</b>	<b>3 Years to 31.12.18</b>	<b>5 years to 30.12.18</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Fund	-5.6	-3.7	6.6	6.2
Benchmark	-2.2	0.3	6.1	6.0
*Difference in return	-3.5	-3.9	0.5	0.2

*Source: WM Company*

*Totals may not sum due to geometric basis of calculation and rounding.*

4.2 The overall net performance of the Fund against the **Strategic Benchmark** (i.e. the strategy adopted of Gilts + 1.8% Net of fees) is shown below:

Table 4: Annual Performance

	<b>Quarter to 31.12.18</b>	<b>12 Months to 31.12.18</b>	<b>3 Years to 31.12.18</b>	<b>5 years to 30.12.18</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Fund	-5.6	-3.7	6.6	6.2
Benchmark	2.3	1.5	10.1	10.2
*Difference in return	-7.8	-5.1	-3.1	-3.6

Source: WM Company

\*Totals may not sum due to geometric basis of calculation and rounding.

4.3 The following tables compare each manager's performance against their **specific (tactical) benchmark** and their **performance target** (benchmark plus the agreed mandated out performance target) for the current quarter and the last 12 months.

Table 5: QUARTERLY PERFORMANCE (AS AT 30 DECEMBER 2018)

<b>Fund Manager</b>	<b>Return (Performance)</b>	<b>Benchmark</b>	<b>Performance vs benchmark</b>	<b>Target</b>	<b>Performance vs Target</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Royal London	0.56	1.14	<b>-0.58</b>	1.45	<b>-0.89</b>
UBS	1.63	0.89	<b>0.74</b>	n/a	<b>n/a</b>
GMO	-4.31	-0.06	<b>-4.25</b>	n/a	<b>n/a</b>
LGIM Global Equity	-10.51	-10.53	<b>0.02</b>	n/a	<b>n/a</b>
LGIM Fundamental Index	-10.66	-10.56	<b>-0.10</b>	n/a	<b>n/a</b>
LCIV/Ruffer*	-5.40	n/a	<b>n/a</b>	n/a	<b>n/a</b>
LCIV/Baillie Gifford (DGF)*	-4.59	n/a	<b>n/a</b>	n/a	<b>n/a</b>
LCIV/Baillie Gifford (Global Alpha Fund)	-12.46	-10.63	<b>-1.83</b>	n/a	<b>n/a</b>
Stafford Capital Partners Ltd	5.4	1.7	<b>3.6</b>	n/a	<b>n/a</b>

Source: WM Company, Fund Managers and Hymans

- Totals may not sum due to geometric basis of calculation and rounding.
- Performance data reported as per LCIV for those funds under their management.
- \*Not measured against a benchmark

**Table 6: ANNUAL PERFORMANCE (LAST 12 MONTHS)**

<b>Fund Manager</b>	<b>Return (Performance)</b>	<b>Benchmark</b>	<b>Performance vs benchmark</b>	<b>Target</b>	<b>Performance vs Target</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Royal London	-1.48	-1.49	<b>0.01</b>	-0.24	<b>-1.24</b>
UBS	8.46	6.47	<b>1.99</b>	n/a	<b>n/a</b>
GMO	-7.32	1.85	<b>-9.17</b>	n/a	<b>n/a</b>
LGIM Global Equity	-3.42	-3.50	<b>0.08</b>	n/a	<b>n/a</b>
LGIM Fundamental Index	-6.24	-6.16	<b>-0.08</b>	n/a	<b>n/a</b>
LCIV/Ruffer*	-6.05	n/a	<b>n/a</b>	n/a	<b>n/a</b>
LCIV/Baillie Gifford (DGF)*	-5.07	n/a	<b>n/a</b>	n/a	<b>n/a</b>
LCIV/Baillie Gifford (Global Alpha Fund)	-4.15	-3.37	<b>-0.78</b>	n/a	<b>n/a</b>
Stafford Capital Partners Ltd	n/a	n/a	<b>n/a</b>	n/a	<b>n/a</b>

Source: WM Company, Fund Managers and Hymans

- Totals may not sum due to geometric basis of calculation and rounding.
  - Performance data reported as per LCIV for those funds under their management.
- \*Not measured against a benchmark

## **5. Fund Manager Reports**

In line with the new reporting cycle, the Committee will only see one Fund Manager at each Committee meeting unless there are performance concerns for individual managers. Fund Managers brief overviews are included in this section. The full detailed versions of the fund managers' report are distributed electronically prior to this meeting.

### **5.1. UK Investment Grade Bonds (Bonds Gilts, UK Corporates, UK Index Linked, UK Other) – (Royal London Asset Management)**

- a) Royal London last met with the Committee on 13 March 2018 which reviewed performance as at 31 December 17
- b) The value of the fund as at 31 December 2018 has increased by £0.69m since the September quarter.
- c) Royal London delivered a net return of 0.56% over the quarter, underperforming the benchmark by -0.58%. The mandate is ahead of the benchmark over the year by 0.01% and 0.59% since inception.

## **Pension Committee, 19 March 2019**

- d) Royal London Asset Allocation
- |                                  | %    |
|----------------------------------|------|
| i. Credit Bonds (corporate )     | 57.2 |
| ii. Index Linked Bonds           | 24.1 |
| iii. Sterling Government Bonds   | 10.4 |
| iv. RL Sterling Extra Yield Bond | 5.7  |
| v. Overseas Bonds                | 0.0  |
| vi. Cash                         | 2.6  |
- (Figures subject to Rounding)
- e) The Funds relative underperformance of the benchmark during the quarter was across most holdings, only exposure Secured and structured debt having a broadly positive relative performance.
- f) The main driver of relative underperformance resulted mainly from the underweight exposure to UK government debt and the preference from subordinated financial issues.
- g) The Fund's holding in the Royal London Sterling Extra Yield Bond Fund had a negative impact on returns, underperforming the broader sterling credit market, hampered by allocations to BBB rated bonds and debt ratings below investment grade, which lagged behind higher rated issues.
- h) Royal London expected a gradual increase in government bonds yields, with volatility remaining elevated so retained a short duration position versus the benchmark over the quarter. Yields on 10 year gilts fell by 30 basis points during the quarter, declining over the period reversing the third quarter gains. This duration positioning had a negative effect on performance.

### **5.2. Property (UBS)**

- a) UBS last met with the Committee on 24 July 2018 which reviewed performance as at 31 March 2018
- b) The value of the fund as at 31 December 2018 increased by £0.29m since the September quarter.
- c) UBS delivered a net return of 1.63% over the quarter, out performing the benchmark by 0.74%. The mandate is ahead of the benchmark over the year by 1.99% and 1.03% over 5 years
- d) On 22 November 2017, the Chancellor announced changes to the taxation of capital gains on real estate disposals by non-residents, effective 6<sup>th</sup> April 2019. Following consultation between The Association of Real Estate Funds and HMRC a Technical Note was released in Quarter 4 of 2018 confirming that certain structures, including Triton Property Funds (Jersey), should benefit from the exemption designed to ensure that tax-exempt investors are not taxed when investing via overseas vehicles. UBS will keep unitholders updated.

e) UBS Sector weighting:

	%
i. Industrial	41.4
ii. Retail warehouse	23.3
iii. Office	20.1
iv. Other Commercial Property	12.0
v. Cash	0.4
vi. Unit Shops	2.8

f) Performance again continued to be driven by the Fund's sector weighting strategy, particularly for the industrial/logistics assets which exceeding forecasts, and ongoing asset management across the portfolio. Office markets have also continued to exceed expectations.

g) Although the retail sector has generally continued to suffer, the fund signed multiple leases over the quarter. Against the trend Springfield Outlet Centre Spalding has returned 14 years of consecutive turnover growth.

**5.3. Multi Asset Manager (GMO – Global Real Return (UCIT Fund - Undertakings for collective investments in transferrable securities)**

a) GMO last met with the committee on 11 December 2018 which reviewed performance as at 30 September

b) The value of the fund has decreased by £-4.54m since the September quarter.

c) GMO have underperformed their benchmark over the 3 month, 12 month and since inception.

d) GMO asset Allocation:

	%
i. Equities	36.7
ii. Alternative strategies	29.6
iii. Fixed Income	18.6
iv. Cash/Cash Plus	15.1

e) The allocation to cash/cash plus had a minimal impact on the portfolio, returning 0.7% for the quarter, which was in line with 3-Month US T Bills

This fund will be used to fund the real asset mandates, and a periodical disinvestment will occur as and when required.

**5.4 Passive Equities Manager - Legal & General Investment Management (LGIM)**

## **Pension Committee, 19 March 2019**

- a) The value of the fund as at the 31 December 2018 decreased by £-11.71m since the September quarter
- b) LGIM last met with the Committee on 18 September 2018 which reviewed performance as at 30 June 2018
- c) This mandate benefits from fee reductions as negotiated by the LCIV and is recognised as a mandate under the London CIV
- d) The passive equity mandate is split between the FTSE RAFI All World 3000 index and the FTSE All World Index.
- e) As anticipated from an index-tracking mandate LGIM has performed in line with the benchmark since inception, delivering a net return on the FTSE RAFI All World 300 index of -10.51% out performing the benchmark by 0.02% and a net return on the FTSE Rafi AW 3000 Equity Index of -10.66% over performing the benchmark by 0.10%

### **5.5. Multi Asset Manager – London CIV (Ruffer.**

- a) This mandate transferred to the London CIV on 21 June 2016.
- b) The London CIV will now oversee the monitoring and review of performance for this mandate. However, Ruffer has stated that they are happy to continue with the existing monitoring arrangements and meet the Committee to report on its own performance, representatives are due to make a presentation at this committee.
- c) Ruffer are due to make a presentation at this committee to review performance as at 31 December 2018.
- d) The value of the fund has decreased by £-5.29m since the September quarter.
- e) Since inception with the London CIV, Ruffer returned -5.40% over the quarter, -6.05% over the year and 1.64% since inception. The mandate is an Absolute Return Fund (measures the gain/loss as percentage of invested capital) and therefore is not measured against a benchmark. Capital preservation is a fundamental philosophy of the Fund.
- f) The fund under performed this quarter, returning -5.40%. The funds exposure to defensive assets, Gold, Gold equities and UK Index-linked bonds contributed positively to the portfolio, while losses within equities generally came from cyclicals and financials, the protective strategies only countered that in a small way.



**5.6. UK Equities - London CIV (Baillie Gifford Global Alpha)**

- a) This mandate transferred to the London CIV on the 11 April 2016
- b) The London CIV will oversee the monitoring and review of the performance of this mandate and representatives are due to make a presentation at this committee,
- c) The value of the Baillie Gifford Global Equities mandate fund decreased by £-17.51m since the September quarter.
- d) Since inception with the London CIV the Global Alpha Fund delivered a return of -12.46% over the quarter, underperforming the benchmark by -1.83% delivered a return of -4.15% over the year, underperforming the benchmark by -0.78 and since inception with the London CIV the fund returned 15.39% outperforming the benchmark by 2.73%.
- e) The underperformance this quarter was largely due to the funds exposure to US, UK and Ireland which were the among the worst detractors to the portfolio, as disappointing earnings growth projections caused mass sell off in the market, long duration stocks were particularly affected, both Grubhub and Amazon fall into these categories. Also detracting from performance was holdings in energy related companies, in line with a declining oil price. The largest positive contributors to performance included emerging markets, in particular Brazil where holdings in Banco Bradesco shares soared by nearly 50% as they announced results which suggested that the difficult economic environment of the past few years seems to be easing.

**5.7. Multi Asset Manager – London CIV (Baillie Gifford Diversified Growth Fund)**

- a) This mandate was transferred to the London CIV on the 15 February 2016.
- b) The London CIV will oversee the monitoring and review of the performance of this mandate and representatives are due to make a presentation at this committee,
- c) The value of the Baillie Gifford Diversified Growth mandate fund decreased by £-3.93m since the September quarter.
- d) The Diversified Growth mandate delivered a return of -4.59% over the quarter, -5.07% over the last year and 4.49% since inception with the London CIV. The Sub-fund's objective is to achieve long term capital growth at lower risk than equity markets and therefore is not measured against a benchmark.

- e) The fund underperformed this quarter, making only a few changes to the portfolio mainly capitalising on opportunities where price falls led to compelling valuations. Emerging market bonds were one of the few positive contributors, while listed equities were the largest detractor overall, with insurance linked bonds and property also adding to the negative returns.

### **5.8 Stafford Capital Partners Limited**

- a) Stafford provides valuations on a quarterly basis through out the year. The quarterly reports and associated capital account statements are distributed 60 days post quarter end. Given that they are a fund of funds this gives them time to receive the underlying fund investments statements to incorporate into the report, consequently Stafford reporting will be a quarter behind other funds
- b) The Fund's performance for the quarter ended 30<sup>th</sup> September was flat, with a -0.1% decrease in value. The fund's investment portfolio currently comprises of 6 funds, originally providing exposure to 137 underlying infrastructure assets with 127 remaining as of 30<sup>th</sup> September 18. In respect of distributions, investors received a weighted average annualised cash yield since inception of 4.7%. Estimated return over quarter 0.4% (estimated, Hymans Robertson calculations)

### **5.9 London CIV Update**

- a) The London CIV held a General meeting on the 31 January 2019, main issues to bring to the Committee's attention are:
- **Variation to Shareholder Agreement** - Proposal to change the shareholder agreement from acting as an FCA authorised operator of an ACS to acting as an FCA authorised company. Key change would mean that it would not be necessary to obtain the written approval of all the boroughs each time LCIV needed to vary its FCA permissions – this would be signed off by the Board. This was agreed at the meeting and the Shareholder Agreement Variance has now been signed
  - **LCIV Medium Term Financial Strategy 2019 – 2024 – Approve the 2019/2020 Annual budget** -key issues to highlight from this report is that there will be no change to the £25k pa shareholder subscription and the Development Fund Charge of £65k pa will continue over the MTFS period, reducing to £25k in 2023/24. However this is a change to previous MTFS reports where the DFC was set to decrease, so this has resulted in additional costs of £190k over the 2019- 2024 MTFS period.
  - **LCIV reported Havering savings for the year to September 2018 to be £45k however officer calculations show this to be £22k.** Officers have yet to share savings methodology with the LCIV so the figures are indicative but the overall saving as reported by the LCIV is not far off.

Cumulative savings are not yet available from the LCIV for Officers to carry out a comparison.

- b) **Dissolution of the Pensions CIV Joint Committee (PCSJC) notice** - The new governance framework was approved at the LCIV AGM on the 12 July 2018 and as part of the implementation changes all London Local Authorities are required to sign the written notice agreeing to the dissolution of the PCSJC. This has now been signed off by Havering.
- c) **Signing of the 'Pension Cost Recharge Agreement' and 'Pension Guarantee'**. The current position is that the LCIV are seeking information from the boroughs with regards to the decision making process and whether boroughs are likely to require independent legal advice. Officers will be contacting Legal Services to determine who internally can make the decision and sign the agreement. There is still the issue with regard to providing the guarantee and the cost control methods of the recharge. Members will be updated of any progress when known.
- d) LCIV have announced the appointment of a permanent Chief Executive Officer – Mike O'Donnell starting early March 2019

## **5.2 Corporate Governance Issues**

The Committee, previously, agreed that it would:

1. Receive quarterly information from each relevant Investment Manager, detailing the voting history of the Investment Managers on contentious issues. This information is included in the Managers' Quarterly Reports, which will be distributed to members electronically.
2. Receive quarterly information from the Investment Managers, detailing new Investments made.
  - Points 1 and 2 are contained in the Managers' reports.

**This report is being presented in order that:**

- The general position of the Fund is considered plus other matters including any general issues as advised by Hymans.
- Hymans will discuss the managers' performance after which the particular manager will be invited to join the meeting and make their presentation. The manager attending the meeting will be from:

London CIV (Baillie Gifford Funds) & Ruffer

- Hymans and Officers will discuss with Members any issues arising from the monitoring of the other managers.

**IMPLICATIONS AND RISKS**

**Financial implications and risks:**

Pension Fund Managers' performances are regularly monitored in order to ensure that the investment objectives are being met and consequently minimise any cost to the General Fund

**Legal implications and risks:**

None arising directly

**Human Resources implications and risks:**

There are no immediate HR implications. However longer term, shortfalls may need to be addressed depending upon performance of the fund.

**Equalities implications and risks:**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment/identity.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the

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Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EIA is not considered necessary regarding this matter as the protected groups are not directly or indirectly affected

**BACKGROUND PAPERS**

None

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