



Notice of Non-key Executive Decision

Subject Heading:	Agreements for Approval – LCIV Pension Recharge and Guarantee Agreements
Cabinet Member:	Cabinet Member for Finance and Property, Councillor Roger Ramsey
SLT Lead:	Statutory Section 151 Officer - Jane West
Report Author and contact details:	Debbie Ford 01708432569 <u>Debbie.ford@onesource.co.uk</u>
Policy context:	The LLAs are acting in their capacity as LCIV shareholders to enable the mandated “joint venture” pooling arrangements that LCIV has been set up to achieve
Financial summary:	Based on 31 March 2018 valuations, 1/32 share for Pension Recharge is £62k and £100k for the Pension Guarantee although there is no cap to limiting the liability and it should be noted that the cost is likely to increase as LCIV staff numbers grow in accordance with its MTFS.
Relevant OSC:	Overview and Scrutiny Board
Is this decision exempt from being called-in?	No

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

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

All 32 London Local Authorities (LLAs) are shareholders in the London Collective Investment Vehicle (LCIV) and Havering contributes its 1/32 share of any costs by way of payment in the form of a Service Charge and Development Fund Charge.

Pension Guarantee Agreement (Appendix A) - The present LGPS pension arrangements were established in 2015 as part of the arrangements to set up LCIV. The Secretary of State gave approval for LCIV to be an admitted body in the City of London (CoL) Scheme. Lawyers advised that the contractual provisions in the Shareholder Agreement for shareholders to share liabilities were not sufficient in the case of the pension scheme, so CoL required a separate guarantee. CoL agreed to admit LCIV on condition that other Shareholders enter into a multi-part guarantee agreement. The guarantee is in favour of CoL and would only be used if there were to be a shortfall of assets in the case of a crystallisation event such as the full closure of the pension scheme. Whilst the pension scheme is active there would be no call under the guarantee.

Pension Cost Recharge Agreement (Appendix B) - seeks to address the impact of FRS102 accounting requirements on the balance sheet and regulatory capital requirements. The Agreement creates an asset which reduces the likelihood of a requirement to contribute additional regulatory capital. If the Agreement is not in place the Board would have to look at the level of regulatory capital in the business.

It is recommended that the Council enters into the Pension Guarantee and the Pension Cost Recharge Agreements on behalf of its pension fund with London CIV Limited.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Constitution, at paragraph 3.10.3 (j) The S151 Officer has the function of managing the Council's Pension Scheme and Pension Fund.

STATEMENT OF THE REASONS FOR THE DECISION

The LLAs are acting in their capacity as LCIV shareholders to enable the mandated "joint venture" pooling arrangements that LCIV has been set up to achieve

In the short term only 14 LLA's need to sign the Pension Cost Recharge Agreement to address the short term LCIV FRS102 balance sheet and regulatory capital position. Over the long term more LLAs need to sign to address the longer term position.

All LLAs need to sign the multi party Guarantee Agreement for this to become effective.

OTHER OPTIONS CONSIDERED AND REJECTED

The alternative to the Pension Cost Recharge Agreement is to require/request LLAs to contribute regulatory capital. Managing the strength of the LCIV balance sheet and mitigating any sources of volatility are important within LCIV governance and subject to overview by the FCA.

LCIV have explored the option of a third party "bond" and been refused cover. Another theoretical alternative would be to hold a sum in escrow (not a commercial bond since this is a pension fund commitment and open-ended). This would need to be re-assessed on a regular basis. CoL's actuary has given an indicative initial (not one off) figure of £7m which represents a substantial cost to LLAs (£300,000 per LLA).

PRE-DECISION CONSULTATION

Not applicable

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Debbie Ford

Designation: Pension Fund Manager (Finance)

Signature:



Date: 8/8/19

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The decision sought in this report is to enter into the appended Pensions Guarantee Agreement and Pension Cost Recharge Agreement with London CIV limited which is the collective investment vehicle that the Council has entered into as a shareholder under Reg 9 Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 permits the appointment of investment managers after taking into consideration proper advice. Reg 8 provides powers of direction for the Secretary of State. The Local Government Pension Scheme: Investment Reform Criteria and Guidance issued by the Dept. for Communities and Local Government (November 2015) requires LGPS funds to pool their investment for manager selection and monitoring purposes.

The Council's Chief Finance Officers is the appropriate decision taker as per the delegations contained within the Part 3 of the Council's Constitution.

The effect of the Pension Guarantee Agreement is designed to protect LCIV if it cannot, for whatever reason, meet any exit payment at the end of admission arrangements it is entering into with City of London. The uncapped liability for the Council is proportioned between the other Councils in the arrangements and it is anticipated that the outlay will increase with growth.

The purpose of the Pension Cost Recharge Agreement is to allow LCIV to pass through all pension costs, routine, exceptional and on exit including any pension strain. Costs will be recharged on a fairly direct proportionate basis although not linked to the size of the Council or the amount of funds transferred across. The costs attributed to these arrangements are noted in the body of this report.

FINANCIAL IMPLICATIONS AND RISKS

The amount of the Pension Cost Recharge is approximately £62,500 as at 31 March 2018, if calculated as 1/32nd of the expected LCIV FRS102 deficit.

There is no additional service charge payment required as a result of signing the Pension Recharge Agreement. The cost of the recharge will be contained within the existing service charge. The cost of the pension scheme is met as part of LCIV's budget. If an increase is required, then this will be built into the budget as is the case for local authority and other company budgets.

LCIV's budget is subject to approval by Shareholders at the General Meeting together with the Medium-Term Financial Strategy (MTFS) and business plan. Prior to that the MTFS is discussed with the Shareholder Committee which includes 4 SLT representatives.

As at 31 March 2018 the 1/32 share of the exit payment (Guarantee) should it have become due would be in the region of £100k.

Both of these amounts are likely to vary in future years as the staff numbers grow.

To mitigate the risk of escalating pension costs the LCIV have introduced controls through its remuneration and discretions policies as follows:

- The LCIV Board agreed to restrict access to the LGPS scheme to staff earning below £120k. It has also agreed that staff who is promoted to posts on salaries of £120k and above will no longer be eligible for membership of the LGPS scheme. This is in the Remuneration Policy (and Statement) and confirmed in letters to LLAs about the Pension Recharge and Guarantee Agreements.
- The Board could only change the Remuneration Policy to increase the limit on the recommendation of the Remuneration and Nomination Committee. In practice making such a change would require LLA NEDs and the Shareholder Committee Chair and Treasurer Observer on the Board to argue the case for a change.

Legal opinion sought made a suggestion that the Pension Cost Recharge agreement should be capped. However whilst there are uncapped liabilities it has been deemed that the Chief Executive Officer of the London CIV has set out sufficient checks and balances to ensure costs do not escalate. S151 consultation with other Society of London Treasurers (SLT) colleagues has also shown other London Authorities willingness to sign the agreements. It should be noted that 4 Treasurers drawn from the member Boroughs and nominated by the SLT sit on the Shareholder Executive committee and so are in strong position to influence on the growth of LCIV LGPS liabilities going forward.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

No direct HR implications on Havering staff. These are the pension arrangements for the staff employed at the London CIV.

EQUALITIES AND SOCIAL INCLUSION 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

Non-key Executive Decision

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

BACKGROUND PAPERS

NONE

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

~~Proposal NOT agreed because~~

Details of decision maker

Signed

Jane West

Name: JANE WEST

Cabinet Portfolio held: Chief Operating Officer

CMT Member title: Statutory S151 Officer

Head of Service title Head of Pensions and Treasury

Other manager title: Pension fund Manager (Finance)

Date: 12/8/19

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 12/8/2019

Signed

J. J. R. R.