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DATE: 4 June 2019

To: Members of the
LOCAL PENSION BOARD

Employer Representatives

Pinny Borg
Emma Downie

Member Representatives

Lesley Rickards
Appointment from 1st July 2019

A meeting of the Local Pension Board will be held at Bromley Civic Centre on
WEDNESDAY 12 JUNE 2019 AT 3.30 PM

MARK BOWEN
Director of Corporate Services

Copies of the documents referred to below can be obtained from
http://cds.bromley.gov.uk/

AGENDA

1 APOLOGIES FOR ABSENCE

2 APPOINTMENT OF CHAIRMAN 2019-20

3 DECLARATIONS OF INTEREST

4 MINUTES OF THE PREVIOUS MEETING HELD ON 6 NOVEMBER 2018
(Pages 1 - 18)

5 MINUTES OF THE GENERAL PURPOSES AND LICENSING COMMITTEE MEETINGS HELD ON 27TH NOVEMBER 2018, 12TH FEBRUARY 2019, AND 16TH MAY 2019 (Pages 19 - 42)

6 MINUTES OF THE PENSIONS INVESTMENT SUB-COMMITTEE MEETINGS HELD ON 7TH NOVEMBER 2018, 14TH JANUARY 2019, AND 5TH MARCH 2019 (Pages 43 - 62)

7 PLANNING FOR TRIENNIAL VALUATION

Oral Update

8 MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT CONSULTATIONS (Pages 63 - 90)

- **FAIR DEAL**
- **LOCAL VALUATION CYCLE AND MANAGEMENT OF RISK**
- **GOOD GOVERNANCE SURVEY**

9 NATIONAL ISSUES AFFECTING THE LOCAL GOVERNMENT PENSION SCHEME (LGPS)

Oral Update

10 TRAINING

Oral Update

11 ANY OTHER BUSINESS

12 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

Items of Business	Schedule 12A Description
13 EXEMPT MINUTES OF THE GENERAL PURPOSES AND LICENSING COMMITTEE MEETING HELD ON 12TH FEBRUARY 2019 (Pages 91 - 92) Including an update on the cessation of an admitted body and deficit recovery plan (Minute 86/1 of above minutes).	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
14 EXEMPT MINUTES OF THE PENSIONS INVESTMENT SUB-COMMITTEE MEETING HELD ON 14TH JANUARY 2019 (Pages 93 - 96)	Information relating to the financial or business affairs of any particular person (including the authority holding that information)

LOCAL PENSION BOARD

Minutes of the meeting held at 2.27 pm on 6 November 2018
(start of the meeting delayed from the scheduled start time of 2pm)

Present

Pinny Borg (Chairman)
Emma Downie
Lesley Rickards

Also Present

Fahar Rehman, Pensions Manager
Keith Pringle, Democratic Services Officer

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Geoff Wright and Lesley Rickards conveyed her apologies for late arrival.

2 APPOINTMENT OF CHAIRMAN

It was agreed that Pinny Borg would continue as Chairman until the term of office for all Board Members expires on 30th June 2019.

3 DECLARATIONS OF INTEREST

There were no declarations.

4 MINUTES OF THE PREVIOUS MEETING HELD ON 10 APRIL 2018

The minutes were agreed subject to the final sentence of Minute 14 being amended to:

"Pinny Borg was appointed Chairman of the Board for the current twelve month period."

5 MINUTES OF THE GENERAL PURPOSES AND LICENSING COMMITTEE MEETINGS HELD ON 29 MAY 2018, 25 JULY 2018, AND 26 SEPTEMBER 2018

The minutes were noted.

6 MINUTES OF THE PENSIONS INVESTMENT SUB-COMMITTEE MEETINGS HELD ON 22 MAY 2018, 24 JULY 2018, AND 13 SEPTEMBER 2018

The minutes were noted. In so doing attention was drawn to the increased market

value of the L B Bromley Fund at £1,044.3m as of 31st July 2018.

For minutes of the Sub-Committee's meeting on 24th July 2018, reference was made to the Pension Fund Risk Register and two significant risks affecting the responsibilities of the Pensions Manger i.e. governance risk and operational risk The former could include the cessation of an admitted body due to not having any active members, a body dissolving, or reaching the end of the contract term with the ceasing body unable to pay the calculated cessation value. Operational risk could include a loss of data due to system failures, causing membership data to be lost, and making the payment of pensions impossible to calculate and pay.

Controls to reduce the financial risk comprised procedures in place, particularly on newer contracts, to have bond or guarantors to cover any cessation debts, covenant reviews, and monitoring of the membership profile of scheme employers. For the operational risk, daily data backups are made by the software provider Aquila Heywood. Through existing controls, risks are mitigated, presenting a low likelihood of occurrence. As such, both risks hold a low risk rating and both are monitored monthly. A full risk register is being produced to cover all Pension admin risks and will be presented at the next Local Pension Board Meeting and to the General Purposes and Licensing Committee.

7 INTRODUCTION TO THE LGPS FOR BOARD MEMBERS (PRESENTATION)

The Pensions Manager outlined details of the Local Government Pension Scheme (LGPS) as provided in the presentation slides for the item (**Appendix A**). This forms part of the Board's training in acquiring and retaining knowledge and understanding of the LGPS.

8 LOCAL PENSION BOARD ROLES AND RESPONSIBILITIES

A Pensions Regulator guide on public service pension boards was provided to help convey Board Member roles and responsibilities.

A further document outlined the requirement level, source of knowledge/information, and RAG rating for:

- aspects of knowledge and understanding needed by Board Members;
- conflicts of interest and Board Member representation; and
- publishing information about schemes.

Highlighting a training need for Board members, Lesley Rickards felt that an overview would be appreciated on the requirement for a Pension Board to be conversant with scheme rules and documented Administration policies. The Pensions Manger confirmed that specific training can be arranged and particularly recommended Trustee training through the Pension Regulator's website with a certificate provided on conclusion of the course.

Concerning a further requirement for Board members to be conversant in the performance of outsourced service providers, the Pensions Manager advised the Board of an example of an outsourced employer that had significantly reduced active employees since their admission and that risk assessments had been carried out with a view to controlling pension liabilities.

Overall, the L B Bromley Pension Fund is performing well and further training for LPB Members is an area to be taken forward (**ACTION: Pensions Manager**).

9 PENSION FUND ANNUAL REPORT 2017-18

Board Members considered the L B Bromley Pension Fund Annual Report 2017/18, previously presented to the Pensions Investment Sub Committee at its meeting on 24th July 2018.

The annual report includes *inter-alia* the following documents:

- Governance Policy Statement
- Funding Strategy Statement
- Investment Strategy Statement
- Communications Policy Statement.

The report was provided to the Board for oversight purposes and attention was drawn to the analysis of pension overpayments, recoveries and amounts written-off (page 8 of the Annual Report). Of 65 overpayments to pensioners in 2017/18 totalling £25,231.93, a sum of £5,933.75 remained outstanding of which £351.71 related to death notifications received from January 2018. The level of overpayments had reduced from 2016/17 (at £39,974.48) as had the total outstanding (at £23,588.04 in 2016/17). It can be difficult to recover pension overpayments and sometimes families do not report the death of a pensioner. To help further reduce overpayments arising from this issue the Pensions Manager was exploring the possibility of introducing regular mortality screening for pensions in payment.

The contract with Aquila Heywood for software to administer the L B Bromley Fund had been renewed with provision for a five-year extension.

Reference was also made to the Fund's increased level of funding between 2013 and 2016. At the 31st March 2013 actuarial valuation the funding level stood at 82% compared to 91% for the 31st March 2016 valuation.

10 LOCAL PENSION BOARD DRAFT ANNUAL REPORT

Report FSD18081

Terms of Reference for the Board require production of an Annual Report.

Board members agreed the draft Local Pension Board Annual Report dated October 2018. This will now be provided for information to the L B Bromley Full Council meeting on 10th December 2018 via meetings of the Pensions Investment

Sub-Committee (7th November 2018) and General Purposes and Licensing Committee (27th November 2018).

RESOLVED that the draft LPB Annual Report appended to Report FSD18081 be approved.

11 LOCAL PENSION BOARD WORK PLAN

The Board agreed its Work Plan for the coming year as detailed at **Appendix B**.

For Task 1 concerned with reviewing monthly Pensions Administration Reports and Key Performance Indicators (KPI's), the reports are produced by the Pension Fund's third party administrator, Liberata, and are circulated by the Pensions Manager on a monthly basis to Board members (**ACTION: Pensions Manager**).

For Task 9, *Review the training requirements of Board members,* the Pensions Manager intends to send a self-assessment form to each Board member for self-assessment against standards expected of Board members (**ACTION: Pensions Manager**).

12 ANY OTHER BUSINESS

The Local Pension Board Terms of Reference allow the Board to meet up to four times a year and with the appointment terms ending in June 2019, the Board felt it would be beneficial to hold a meeting shortly after appointments are made for the new term of office.

As such it was agreed that the Board's next meeting will be held just after the appointment of Board Members for the next four-year term. To this end, provisional date options for the next meeting will be emailed to Board Members in due course (**ACTION: Democratic Services**).

13 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND FREEDOM OF INFORMATION ACT 2000

14 EXEMPT MINUTES OF PENSIONS INVESTMENT SUB-COMMITTEE MEETINGS HELD ON 22 MAY 2018, 24 JULY 2018, 13 SEPTEMBER 2018

The exempt (not for publication) minutes of the above Pensions Investment Sub-Committee meetings were noted.

In so doing, the Pensions Manager briefly outlined background to the London Collective Investment Vehicle and the Government's pooling agenda for Pension Funds of the LGPS.

The Meeting ended at 3.24 pm Chairman

Introduction to the Local Government Pension Scheme (LGPS)

Scheme Administration

- Defined Benefit Scheme
- National Scheme administered locally by 89 individual funds in England and Wales
- Administering Authority is responsible for maintaining a Pension Fund
- Employing Authorities are employers in a pension fund (i.e. London Borough of Bromley)

Public Sector Pension Schemes

There are two types of Public Sector Pension Schemes:

Unfunded Pension Schemes (NHS, Teachers' Pension Scheme, Civil Service etc)

- Contributions are collected and used to pay pensions
- There is no investment of contributions
- An increase of Pension Costs (current pensions in payment) causes the contributions to increase

Funded Pension Schemes (LGPS)

- Contributions are collected by and paid out by the 'Pension Fund'
- Assets in the fund are invested with the aim to ensure 100% funding (there are enough assets in the fund to pay for all promised benefits)

Benefits of the LGPS

- Guaranteed Pension
- Annual Pension payable for life
- Tax free lump sum on retirement
- Children's and Spouses/partners pension payable
- Ill health retirement payable
- Death in service grant payable to nominees
- Tax free contributions
- 50/50 Pension scheme
- Flexible Retirement
- Early retirement benefits payable

Scheme Changes

	LGPS 1997	LGPS 2008	LGPS 2014
Basis of Pension	Final Salary	Final Salary	Career Average Revalued Earnings (CARE)
Accrual Rate	1/80ths	1/60ths	1/49ths
Automatic Lump Sum	Yes	No	No
Revaluation Rate	Final Year's Salary	Final Year's Salary	Consumer Price Index
Contribution Rate	6%	5.5% - 7.5%	5.5% - 12.5%
Normal Retirement Age	65	65	Equal to State Retirement Age
Entitlement to Pension after	2 Years (until 2004)	3 Months	2 Years

Calculating Pension Entitlements

Benefits are calculated depending on which regulation was applicable at the time of the membership period.

Membership up to 1st April 2008:

Annual Pension = Final Salary **x** Years and days of service (pro rata for part-time) **x** 1/80

Automatic Lump Sum = Final Salary **x** Years and days of service (pro rata for part-time) **x** 3/80

Membership between 1st April 2008 and 31st March 2014:

Annual Pension = Final Salary **x** Years and days of service (pro rata forpart-time) **x** 1/60

Membership after 1st April 2014

Annual Salary **x** 1/49

Example Calculation of Benefits

Member joined scheme at 1st April 2002 working full-time on a salary of £25,000

Service from 1st April 2002 to 31st March 2008 = 6 Years

Annual Pension = 6 Years x 25,000 x 1/80 = **£1,875**

Lump Sum = **£5,625**

Service from 1st April 2008 to 31st March 2014 = 6 Years

Annual Pension = 6 Years x 25,000 x 1/60 = **£2,500**

Example Calculation of Benefits

Service from 1st April 2014 to 31st March 2020 = 6 Years

Year	Annual Salary	Pension Amount	Plus CPI	Annual Pension
April 2014	£25,000	£510.20	2.36%	£522.24
April 2015	£25,000	£510.20	0.99%	£1,042.66
April 2016	£25,000	£510.20	1.70%	£1,579.26
April 2017	£25,000	£510.20	3.59%	£2,164.47
April 2018	£25,000	£510.20	2.20%	£2,733.51
April 2019	£25,000	£510.20	1.0%	£3,276.15

Employee Contributions

Actual Pay	Contribution Rate
Up to £14,100	5.5%
£14,101 - £22,000	5.8%
£22,001- £35,700	6.5%
£35,701 - £45,200	6.8%
£45,201 - £63,100	8.5%
£63,101 - £89,400	9.9%
£89,401 - £105,200	10.5%
£105,201 - £157,800	11.4%
£157,801 +	12.5%

Employer Contribution Rate

Employer rates are calculated by the Scheme Actuary on a Triennial basis with the last valuation carried out at 1st April 2016. The next Valuation is due at 1st April 2019.

Other than community schools, which are paired with the Council, all employers have a rate individual to them.

The Council's employer rate between 1st April 2014 to 31st March 2017 was 15.3% plus £5.9M per annum

The Council's employer rate between 1st April 2017 to 31st March 2020 is 16.9% plus £2.1M per annum.

Ill Health Benefits

- **Tier 1**
  - Unlikely to be capable of gainful employment before Normal Retirement Date (NRD)
  - Full enhancement to NRD
  - Payable for life
- **Tier 2**
  - Unlikely to be capable of gainful employment within 3 years but likely to be capable before NRD
  - 25% enhancement to NRD
  - Payable for life
- **Tier 3**
  - Likely to be capable of gainful employment within 3 years
  - No enhancement
  - Reviewed after 18 months and ceases after 3 years

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London Borough of Bromley
Local Government Pension Scheme

Local Pension Board Annual Work-Plan

Task	Method	Frequency
1. Review monthly Pensions Administration Reports and Key Performance Indicators (KPI's). These are produced by our third party administrator and will be circulated on a monthly basis to all Board Members.	By consideration of the Pensions Administration Reports sent by email to Board members.	Monthly
2. Review the compliance of scheme employers (i.e. LBB, Schools, Academies & Admission Bodies) with their duties under the Regulations and relevant legislation.	By consideration of Pensions Administration Reports sent by email to Board members, together with attendance at General Purposes and Licensing Committee meetings where appropriate.	As and when required.
3. Assist in the development and review of scheme documentation as is required by the Regulations.	By consideration of draft documentation as and when it is produced or reviewed, together with attendance at and/or participation in Pensions Investment Sub-Committee meetings and General Purposes and Licensing Committees where appropriate.	As and when required.
4. Consider Fund Investment reports to ensure compliance with the published Statement of Investment Principals and relevant legislation.	By consideration of the Fund Investment reports sent to Board members, together with attendance at and/or participation in Pensions Investment Sub-Committee meetings.	In line with meetings of the Pension Investment Sub-Committee.
5. Assist with the development and review of scheme member communications, as required by the Regulations and relevant legislation.	By consideration of draft documentation produced by the Pensions Manager and/or Liberata UK Ltd, as and when produced or reviewed, at which time Board members will be invited to provide comments and recommend amendments.	As and when required.

6. Review the outcome of both internal and external audit reports for any issues of non-compliance.	By consideration of internal and external Audit reports together with the Annual Audit Letter.	Annually
7. Review of the Pension Fund Annual Accounts and Statutory Accounts.	Consideration of documents issued directly to Board members.	Annually
8. Monitor complaints relating to the Administration and Governance of the Scheme.	By consideration of the Pensions Administration Reports sent by email to Board members. Together with individual cases brought to the attention of the Board.	Monthly
9. Review the training requirements of Board members.	Self-assessment against the standards expected of Board members.	Ongoing
10. Any other activities within the stated purpose (i.e. assisting the Administering Authority) to secure compliance with the Regulations and other associated legislation.	By whatever means is appropriate to the task	As and when required.

GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held at 7.00 pm on 27 November 2018

Present:

Councillor Pauline Tunnicliffe (Chairman)

Councillors Gareth Allatt, Vanessa Allen, Robert Evans, Kira Gabbert, Russell Mellor, Alexa Michael, Keith Onslow, Tony Owen, Neil Reddin FCCA, Kieran Terry, Stephen Wells and Angela Wilkins

55 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillors Marina Ahmad, Nicholas Bennett, Mary Cooke, Melanie Stevens and Michael Turner. Councillors Angela Wilkins, Kieran Terry, Kira Gabbert and Keith Onslow substituted for Councillors Ahmad, Bennett, Cooke and Turner respectively. Councillor Julian Benington had been due to substitute for Councillor Melanie Stevens, but he had sent apologies.

56 DECLARATIONS OF INTEREST

There were no declarations of interest.

57 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 26 SEPTEMBER 2018 AND THE SPECIAL MEETING HELD ON 5TH NOVEMBER 2018

Councillor Angela Wilkins referred to minute 41 (Feedback on the 2018 Local Elections and Voter ID Pilot Scheme) and asked whether the detailed feedback sent by the Council to the Cabinet Office could now be made available to Members.

RESOLVED that the minutes of the ordinary meeting held on 26th September 2018 and the special meeting held on 5th November 2018 be confirmed.

58 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

59 UPDATES FROM SUB-COMMITTEE CHAIRMEN

In accordance with previous discussions, the Chairman invited Sub-Committee Chairmen to brief the Committee on the work of their Sub-Committees.

(A) Pensions Investment Sub-Committee

Councillor Keith Onslow described the work of the Pensions Investment Sub-Committee. The Sub-Committee's role was to monitor the Council's Pension Fund on behalf of the Council's employees, pensioners and deferred pensioners. The Local Pension Board had a different role, but its members were invited to attend all Pensions Investment Sub-Committee meetings. Councillor Onslow described the seven members of the Sub-Committee as active and fully engaged with the Sub-Committee's work; while many local authority pension funds were in deficit, Bromley had successfully achieved a fully-funded scheme.

The Sub-Committee reviewed asset allocation every three years - there was now an 80:20 split between equities and fixed income.

Councils were now encouraged to pool their pension funds into a small number of collective investment vehicles (CIVs), with the aim of improving investment performance and reducing the fees paid to fund managers. However, he was concerned that the London CIV was not performing effectively, and until it did Bromley would not be investing. He was liaising closely with colleagues in other boroughs to improve the performance of the CIV.

(B) Local Joint Consultative Committee

Councillor Russell Mellor explained that the Local Joint Consultative Committee (LJCC) was a forum for discussion between Councillors and staff. It had no decision-making powers, but useful discussions could be held on matters of concern to the staff. The staff side included the staff-side secretary, trade union representatives and departmental representatives (Dep Reps). Discussions were currently taking place about the quorum for LJCC meetings, as there had sometimes been problems with low attendance on the staff side.

Since the Council had come out of the national pay bargaining arrangements, it had consistently offered its officers higher pay increases than the national settlement, as well as offering additional merit awards.

(C) Audit Sub-Committee

Councillor Neil Reddin described the work of the Audit Sub-committee as overseeing audit, risk management and counter-fraud work. The Internal Audit Team was a small, dedicated team that, with some additional resources bought in from outside the Council, performed a vital role. All members of the team usually attended the Audit Sub-Committee's meetings. With expert assistance from Zurich municipal, the Council's risk management had been brought up to speed, and now PDS committees were scrutinising risks in their portfolios. Counter-fraud work, in partnership with the Royal Borough of Greenwich, was focussed on benefits and Council tax fraud, but there had

also been initiatives on Freedom Pass fraud and Blue Badge fraud. Successful prosecutions were always publicised.

Issues were referred to PDS Committees where appropriate to follow up concerns raised in internal audit reports. Members considered that it was important that PDS Committees followed up these issues.

The Chairman thanked the three Sub-Committee chairmen for their presentations.

60 TEACHER PAY POLICY - CENTRALLY BASED STAFF

At its special meeting on 5th November 2018, the Committee had received a report on pay policy for centrally based teaching staff. This covered 50 posts (39.02 fte's.)The Committee had deferred its decision to obtain further information on the services affected and the financial implications of each of the three options that had been presented for the implementation of the 2018 Teacher's Pay and Conditions document.

The Committee considered a further report with additional information. There were still three options, A, B and C, and most authorities had chosen option B. This allowed for slightly higher increases on the main pay range and for unqualified teachers, with lower increases for senior staff. It was confirmed that all staff received an annual review - most staff progressed to the top of their pay scales, but not automatically. The maximum cost of implementing option B would be £44k.

RESOLVED that

(1) The report be noted and Option B be implemented (apply the minimum and maximum statutory uplifts to the whole of the respective scales and allowances and allow managers to determine any additional pay and progression increase based on performance.)

(2) Officers be authorised to uplift the Pay Scales within the current Pay Policy accordingly and implement the new policy with effect from the 1st September 2018; there are no other required changes to the Policy this year.

61 ANNUAL COMPLAINTS REPORT AND LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN LETTER 2017/18

The Committee received the Council's Annual Complaints Report for 2017/18 and a summary of the Local Government and Social Care Ombudsman's (LG&SCO) annual review letter for 2017/18. During the year, 510 complaints had been received, a slight (3%) reduction from the previous year. The Council had recently moved to a one stage complaints process from a three stage process; the 2017/18 summary showed that there had been no adverse impacts in terms of more complaints being referred to the LG&SCO. 58% of complaints received a full reply within the 20 working day target. This was

slightly better than the previous year but still needed improvement, and additional training for managers was planned.

During 2017/18, 165 complaints had been referred to the LG&SCO, a slight increase on the 2016/17 figure of 158. Of these, 54 had been the subject of detailed investigation, and 30 (56%) had been upheld. This was a decrease on the previous year, when 60% of cases had been upheld, and was below the averages for the country and for London. It was difficult to measure performance against other local authorities in respect of stage one formal complaints, as no comparative data was published.

A Member stated that it would be useful to flag up where a complaint involved a contractor; another Member suggested introducing some indication of whether each complaint was relatively minor in nature or was a serious failure. A Member argued that statistics over a longer time period were needed (five years or more) to be able to analyse trends. Officers acknowledged this and explained that this comparable data would be built up year on year. It was noted that complaints on planning matters were not covered in the report below LG&SCO level - Members proposed that this should be addressed. No formal complaints had been received regarding the pilot voter ID scheme. Complaints against Councillors were dealt with under a separate process monitored by the Standards Committee.

RESOLVED that the contents of the report be noted.

62 GOVERNANCE AND ADMINISTRATION OF PUBLIC SERVICE PENSION SCHEMES
Report FSD18096

The Committee received a summary of the Pension Regulator's Code of Practice on governance and administration of public service pension schemes. This covered four core areas - governing the scheme, managing risks, administration and resolving issues. Officers tabled a completed self-assessment for the Council's pension arrangements - the RAG rating contained no reds. Plans were being put in place to ensure full compliance, primarily focussing on those areas not already rated green.

RESOLVED that

(1) It is noted that the Pensions Regulator has released a code of practice "Governance and administration of public service pension schemes" as a guide to good governance.

(2) The requirements on the Local Pension Board and the Scheme Manager as shown in the code of practice RAG checklist be noted.

63 LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) REGULATIONS 2018
Report FSD18095

The Committee received a report providing them with details of required amendments to the Council's published discretionary policies arising from the Local Government Pension Scheme (Amendment) Regulations 2018 and of a new requirement for exit credits to be paid to an employer leaving the scheme.

RESOLVED that

(1) The changes to the Local Government Pension Scheme Regulations and how they impact on employer discretions relating to early payment of retirement benefits be noted (section 3.2 of the report).

(2) The consultation from MHCLG regarding the intention of Regulations to pay early retirement benefits from age 55 rather than at age 55 be noted (paragraph 3.2.3.6 of the report).

(3) The updated discretionary policies arising from these changes be agreed as detailed in Appendix 2 to the report.

(4) The change in regulation that requires payment of exit credits to employers that exit the fund be noted (section 3.3 of the report).

64 LOCAL PENSION BOARD - ANNUAL REPORT
Report FSD18081

The Local Pension Board Terms of Reference required that an Annual Report was produced and provided to the Pensions Manager each year. In a report to the Pensions Investment Sub Committee, General Purposes and Licensing Committee and Council in February 2015, it was also confirmed that the Local Pension Board's Annual Report, would be provided to Council via the Pensions Investment Sub-Committee and this Committee.

RESOLVED that the contents of the Local Pension Board Annual Report October 2018 be noted and referred to full Council.

65 APPOINTMENTS TO OUTSIDE BODIES - BECKENHAM PAROCHIAL CHARITIES
Report CSD18169

The terms of office of three of the Council's six representatives on the Beckenham Parochial Charities were due to expire on 24th January 2019. The views of the charity had been sought on whether it wished these representatives to continue to serve, and the Charity had requested that Cllr Russell Mellor and Mr Robin Mitchell should be re-appointed. The third representative, Mrs Maureen Jessiman, had indicated that she wished to step down, and the charity had proposed Mrs Peggy Duffin, a long-standing co-opted trustee, to fill the vacancy.

Councillor Angela Wilkins suggested that as the charity's work also covered the Penge area, a Penge and Cator ward councillor should be invited to attend.

RESOLVED that

(1) Councillor Russell Mellor, Mr Robert Mitchell and Mrs Peggy Duffin be appointed to the Beckenham Parochial Charities for the four year term starting on 24th January 2019.

(2) The Committee's thanks to Mrs Maureen Jessiman for her work in support of the Beckenham Parochial Charities be recorded.

(Councillors Vanessa Allen and Angela Wilkins requested that their abstentions be recorded.)

66 WORK PROGRAMME
Report CSD18160

The Committee considered its work programme for 2018/19.

67 LOCAL JOINT CONSULTATIVE PANEL: MINUTES OF THE MEETING HELD ON 18TH JULY 2018

The draft minutes of the meeting of the Local Joint Consultative Committee meeting held on 18th July 2018 were received.

68 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 13TH SEPTEMBER 2018, EXCLUDING EXEMPT INFORMATION

The draft minutes of the meeting of the Pensions Investment Sub-Committee meeting held on 13th September 2018, excluding exempt information, were received.

69 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summary refers to matters involving exempt information

70 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT MINUTES - 13TH SEPTEMBER 2018

The draft exempt minutes of the meeting of the Pensions Investment Sub-Committee meeting held on13th September 2018 were received.

The Meeting ended at 9.14 pm

Chairman

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GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held at 7.00 pm on 12 February 2019

Present:

Councillor Pauline Tunnicliffe (Chairman)
Councillor Michael Turner (Vice-Chairman)
Councillors Marina Ahmad, Gareth Allatt, Vanessa Allen, Nicholas Bennett J.P., Kira Gabbert, Russell Mellor, Alexa Michael, Tony Owen, Neil Reddin FCCA, Melanie Stevens, Harry Stranger and Stephen Wells

71 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Mary Cooke, who was replaced by Councillor Kira Gabbert, and from Councillor Robert Evans.

72 DECLARATIONS OF INTEREST

There were no declarations of interest.

73 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

74 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 27 NOVEMBER 2018

RESOLVED that the minutes of the meeting held on 27th November 2018 be confirmed.

75 STAFF PAY AWARD 2019

Under the local terms and conditions of employment framework, the Committee was required to make a recommendation on the annual staff pay award to full Council. The pay award review was now part of the Council's budget planning process - this was a key driver for coming out of the national/regional pay negotiating frameworks.

Additional documents from the trades unions were circulated, including acceptance of the Council's pay offer from UNISON and the GMB.

A Member suggested that all staff could be brought up to London Living Wage levels relatively cheaply - the cost for the remaining 23 members of staff below this level was £26k. However, officers explained that the actual cost would be much higher because of the impact on other grades.

The issue of increasing workloads and the need for a reasonable work/life balance was raised. Officers considered that policies were in place to monitor and manage workloads, and it was up to managers to follow these policies. Staff could also raise issues with Human Resources if necessary. The social care caseload promise was an example of workload being closely monitored.

It was noted that annual monitoring information on the gender pay gap would be published after the end of March - the Committee requested that this information be circulated to them. A Member commented that there was no gender pay gap, in the sense that men and women were paid the same amounts for the same jobs.

A Member suggested that the Committee should receive a report on the working conditions of staff at a future meeting, to show what the Council was doing to improve working conditions and retain its staff.

RESOLVED that

(1) Full Council be recommended to approve the following:

(i) A flat 2.25% pay increase for all staff (excluding teachers who are covered by a separate statutory pay negotiating process)

(ii) A further increase for lower paid staff as follows inclusive of the flat rate 2.25% increase.

Spinal Points	Proposed increase inclusive of the flat rate pay award of 2.25%
4-17	6%
18	5%
19-22	4%
23-30	3%

(ii) That the Trade Union's pay claim for staff be rejected (see paragraph 3.7 of the report and the Appendices.)

(2) It is noted that, as in the previous years since coming out of the nationally/regionally negotiated frameworks, Bromley staff will receive the 2019/20 pay increase in time for the April pay.

(3) A report be made to a future meeting on the working conditions of staff.

76 PAY POLICY STATEMENT 2019/20

The Committee considered the council's draft Pay Policy Statement for 2019/20.

A Member asked whether the feedback from peers mentioned in relation to the appraisal process for chief officers in paragraph 3.6 of the report was

anonymous. The Director of Human Resources was requested to provide further information.

A Member commented that she had concerns about the merited pay awards, as these payments were not consolidated and therefore did not count towards staff pensions. Members were reassured that training and support was available for managers on appraisal processes. It was also confirmed that, where necessary, a market premium could be paid to attract and retain certain key staff.

RESOLVED that Council be recommended to approve the 2019/20 Pay Policy Statement.

77 MEMBERS ALLOWANCES SCHEME 2019/20
Report CSD19012

The regulations governing Members' Allowances required that, before the beginning of each financial year, the Council should make a scheme of allowances for that year, and the report detailed the proposed allowances for 2019/20. The allowances had remained frozen since 2009 due to the economic circumstances and the pressure on the Council's budgets, and most Members considered that it was now reasonable to allow an increase. The Chairman noted in particular that the allowances for the Leader and Portfolio Holders were considerably below the levels recommended by the 2018 London Councils Independent Panel recommendation.

The Mayoral and Deputy Mayoral Allowances were not part of the scheme, but were usually considered in conjunction with it. A Member commented that he believed that there was greater scope for Mayor to reclaim tax on their expenses as Mayor.

RESOLVED that Council be recommended to approve the Members Allowances Scheme 2019/20 and the Mayoral and Deputy Mayoral allowances, as set out in Appendix 2 to the report, with an increase in all allowances in line with the proposed increase in officer salaries of 2.25%.

(Note: At the Council meeting on 25th February 2019, the Members Allowances Scheme was approved as recommended but with an amendment that an allowance of £52 per meeting should be made to members of Plans Sub-Committees in place of the fixed annual allowance. There was also an error in the report - the proposed allowance for Chairmen of Plans Sub-Committees should have read £2,832. The Labour Group stated that they would give their increases to charity.)

78 EXECUTIVE ASSISTANTS - ANNUAL REPORT 2018/19
Report CSD19015

As part of its consideration of the Members Allowances Scheme, the Committee received reports from the Executive Assistants appointed by the

Leader for 2018/19. These reports were intended to illustrate the work undertaken by Executive Assistants, who were in receipt of an annual special responsibility allowance of £3,575. Councillor Gary Stevens, Executive Assistant for Resources, Commissioning and Contract Management, had not submitted a report, but he had, on 7th February 2019, attended the Executive, Resources and Contracts PDS Committee to be scrutinised on his work, and the draft minutes from that meeting were tabled.

It was suggested that the Constitution Improvement Working Group should examine the role of the Executive Assistant, and in particular whether they should have formal objectives and whether they should be delegated executive powers.

Members commented that they had heard about an officer-led Transformation Project, but they were not aware of any further detail. The Chairman stated that she had asked for more information on this.

A Member commented on the playgroup established by Councillors Nicky Dykes and Aisha Cuthbert, and inquired whether attendance was good. The report stated that the session was well attended, but the Chairman offered to find out more detail.

RESOLVED that

(1) The reports from Executive Assistants be noted.

(2) The Constitution Improvement Working Group be requested to consider whether Executive Assistants should have formal objectives set at the start of each Council year, and whether they should be allowed some measure of executive authority, and the outcome of their consideration be reported back to this Committee.

79 PROGRAMME OF MEETINGS 2019/20
Report CSD19014

The Committee considered the proposed Programme of Meetings 2019/20. The programme broadly followed previous years, and assumed no changes to the various committees and sub-committees that would be appointed by Members at the annual Council meeting.

Members proposed one change - to swap the Contracts and Commissioning Sub-Committee meeting on 9th July 2019 and the Education, Children and Families Select Committee meeting on 5th June 2019. The Chairman of the Development Control Committee requested that her Committee's dates be reconsidered to ensure that they were well placed throughout the year.

RESOLVED that

(1) Subject to the change outlined above, and to clarification of the dates for Development Control Committee, the Programme of Meetings 2019/20 be agreed.

(2) The Director of Corporate Services be authorised to adjust the programme in accordance with any changes made to committees by Members, and to make minor corrections to the programme as necessary.

(Note: An additional meeting of the Development Control Committee was agreed for 23rd July 2019.)

80 WORK PROGRAMME
Report CSD19015

The Committee considered its work programme for the 2018/19 Council year. It was noted that in paragraph 3.3 of the report, the words at the end of paragraph 3.3 relating to the current meeting should be deleted.

81 LOCAL PENSION BOARD: MINUTES OF THE MEETING HELD ON 6TH NOVEMBER 2018

The draft minutes of the Local Pension Board meeting held on 6th November 2018 were received.

82 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE MEETINGS HELD ON 7TH NOVEMBER 2018 AND 14TH JANUARY 2019, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Pensions Investment Sub-Committee meetings held on 7th November 2018 and 14th January 2019, excluding exempt information, were received.

83 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 14TH NOVEMBER 2018, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Audit Sub-Committee meeting held on 14th November 2018, excluding exempt information, were received.

84 APPEALS SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 14TH JANUARY 2019, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Appeals Sub-Committee meeting held on 14th January 2019, excluding exempt information, were received.

85 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summaries refer to matters involving exempt information

86 CESSATION OF ADMISSION BODY - DEFICIT REPAYMENT PLAN

The Committee agreed an indicative deficit repayment plan for an organisation ceasing to be a Pension Fund admission body.

87 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT MINUTES 7TH NOVEMBER 2018 AND 14TH JANUARY 2019

The draft exempt minutes of the Pensions Investment Sub-Committee meetings held on 7th November 2018 and 14th January 2019 were received.

88 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 14TH NOVEMBER 2018

The draft exempt minutes of the Audit Sub-Committee meeting held on 14th November 2018 were received.

89 APPEALS SUB-COMMITTEE: EXEMPT MINUTES - 14TH JANUARY 2019

Extracts from the draft minutes of Appeals Sub-Committee meeting held on 14th January 2019 were received.

The Meeting ended at 7.43 pm

Chairman

GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held at 7.00 pm on 16 May 2019

Present:

Councillor Pauline Tunnicliffe (Chairman)
Councillor Stephen Wells (Vice-Chairman)
Councillors Gareth Allatt, Vanessa Allen, Mary Cooke, Robert Evans, Kira Gabbert, Josh King, Christopher Marlow, Tony Owen, Neil Reddin FCCA, Melanie Stevens, Harry Stranger and Michael Turner

Also Present:

Councillor Angela Wilkins

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

The Chairman welcomed Councillors Kira Gabbert, Josh King and Christopher Marlow as new members of the Committee, and thanked Councillors Marina Ahmad, Nicholas Bennett and Alexa Michael, who had stepped down, for their work on the Committee.

Apologies were received from Councillor Russell Mellor.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 QUESTIONS

No questions had been received.

4 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 19 MARCH 2019

Councillor Josh King suggested that in minute 93 the wording should be amended to read “The Labour group requested that their intention to give the increase in the basic Member allowance to charity be noted in the minutes.”

RESOLVED that, subject to the amendment suggested by Cllr King, the minutes of the meeting held on 19th March 2019 be confirmed.

5 ELECTORAL REVIEW
Report CSD19078

The Local Government Boundary Commission for England (LGBCE) was undertaking a review of Bromley's electoral arrangements, which had been in place since the last review in 1999. The first stage of the Review was for the Commission to determine the overall number of Councillors to be elected for the borough in future, before moving on to consider the detail of ward boundaries and the number of councillors representing each ward. As part of this preliminary stage, the Commission had invited the Council and any other interested parties to make submissions on Council size before the end of May 2019.

The draft submission was included in the report, and amended versions of paragraphs 2.2, 2.3 and 2.8, and table 4, had been circulated.

A Member drew attention to the projections in the amended table 4 for reductions of voters between 2019 and 2024 in Copers Cope, Cray Valley East and Penge and Cator wards. She also queried whether the figures for Crystal Palace ward reflected developments currently taking place in the ward. The figures for these wards, which were drawn from a number of datasets, would be checked. The Director of Corporate Services also commented that, particularly with the Mayor's London Plan under consultation, it was difficult to make longer term predictions of electorate numbers.

RESOLVED that Council be recommended to approve the Council Size submission.

6 LOCAL PENSION BOARD - APPOINTMENT OF BOARD MEMBERS (PART 1)
Report FSD19047

The report set out proposals for the appointment of representatives to the Local Pension Board. Member representatives could be appointed by the Committee, but employer representatives needed to be appointed by full Council.

Expressions of interest in the roles from the four candidates were attached in a part 2 appendix.

RESOLVED that

(1) Lesley Rickards and Vinit Shukle be appointed as member representatives to the Local Pension Board for a period of four years from 1st July 2019.

(2) Council be recommended to appoint Emma Downie and Pinny Borg as employer representatives to the Local Pension Board for a period of four years from 1st July 2019.

7 APPOINTMENTS TO OUTSIDE BODIES
Report CSD19070

The Committee considered a report setting out the nominations from the party groups for Council representatives to serve on outside bodies and partnerships in 2019/20.

A schedule setting out the nominations had been circulated. Specific decisions were made in the following cases where there were more nominees than positions -

London Councils Transport and Environment Committee (deputy): Councillors Allen, Rowlands, Harmer, Terry and Hitchins nominated; Councillors Rowlands, Harmer, Terry and Hitchins appointed.

Greater London Employment Forum: Councillors Brooks and Tunnicliffe nominated; Councillor Tunnicliffe appointed.

Greater London Employment Forum (deputy): Councillors Brooks and Wells nominated; Councillor Wells appointed.

Bromley Economic Partnership: Councillors Allen and Morgan nominated; Councillor Morgan appointed

Bromley Y Project: Councillors Brooks, Ellis and Fortune nominated: Councillors Ellis and Fortune appointed.

Mentoring Steering Group: Councillors Cllr Jeal and Lymer nominated: Councillor Lymer appointed.

London Road Safety Council: Councillors Dunn and Terry nominated: Councillor Terry appointed.

It was also noted that an appointment was no longer needed to Age UK London.

RESOLVED that appointments to outside bodies for 2019/20 be as set out in the appendix to the report and as set out above where nominees exceed positions. (The appointments are set out in Appendix A to these minutes.)

8 WORK PROGRAMME AND MATTERS OUTSTANDING
Report CSD19075

The Committee received a report setting out its work programme for 2019/20. The Chairman proposed that member training sessions be held on Licensing after the 25th July meeting and on staff appeals after the 19th September meeting. It was suggested that these sessions should be open to all Members.

A Member suggested that the Committee should look again at the procedures for appeals and the chairman asked for a report to be made to either the 25th July or 19th September meeting.

A Member suggested that the Committee should review the scheme of delegation to officers; the chairman agreed that a report should be made to either the 25th July or 19th September meeting.

The usual report following an election would be made to the Committee - this would be to the September meeting if possible.

RESOLVED that the work programme be noted and updated as set out above.

9 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 26TH FEBRUARY 2019, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Audit Sub-Committee meeting held on 26th February 2019, excluding exempt information, were received.

10 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 5 MARCH 2019, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Pensions Investment Sub-Committee meeting held on 5th March 2019, excluding exempt information, were received.

11 APPEALS SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 25TH MARCH 2019, EXCLUDING EXEMPT INFORMATION

The draft minutes of the Appeals Sub-Committee meeting held on 25th March 2019, excluding exempt information, were received.

12 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the item of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summaries refer to matters involving exempt information

13 LOCAL PENSION BOARD - APPOINTMENT OF BOARD MEMBERS (PART 2)

Expressions of interest for four candidates for appointment to the Local Pension Board were received.

14 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 26TH FEBRUARY 2019

The draft exempt minutes of the Audit Sub-Committee meeting held on 26th February 2019 were received.

15 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT MINUTES - 5 MARCH 2019

The draft exempt minutes of the Pensions Investment Sub-Committee meeting held on 5th March 2019 were received.

16 APPEALS SUB-COMMITTEE: EXEMPT MINUTES - 25TH MARCH 2019

Extracts from the draft exempt minutes of the Appeals Sub-Committee meeting held on 25th March 2019 were received.

The Meeting ended at 7.16 pm

Chairman

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Appendix A

LONDON BOROUGH OF BROMLEY
ANNUAL APPOINTMENTS TO OUTSIDE BODIES
AND PARTNERSHIP BODIES 2019/20

(i) London Councils' Appointments

Leaders' Committee (S.101 Joint Committee)

(One Member and up to two deputies)

Cllr Colin Smith

Cllr Peter Fortune (deputy)

Cllr Kate Lymer (deputy)

Associated Joint Committee (London Councils Transport and Environment Committee)

(One Member and up to 4 deputies)

William Huntington-Thresher

Cllr Will Rowlands, Cllr Will Harmer, Cllr Kieran Terry & Cllr Colin Hitchins

Grants Committee (Associated Joint Committee)

(One Member and up to 4 deputies - must be on the Executive)

Cllr Colin Smith

Cllr Peter Fortune, Cllr Diane Smith, Cllr Kate Lymer & CllrWilliam Huntington-Thresher

Pensions CIV (Sectoral Joint Committee)

(One Member and up to 2 deputies)

Cllr Keith Onslow

Cllr Gareth Allatt & Cllr Simon Fawthrop (deputies)

Greater London Employment Forum

(One Member and one deputy)

Cllr Pauline Tunnicliffe

Cllr Stephen Wells (deputy)

Lead Members for London Councils

Children & Young People/Safeguarding & Schools: Cllr Peter Fortune

Skills & Employment: Cllr Peter Morgan

Economic Development/Business: Cllr Peter Morgan

Crime and Public Protection: Cllr Kate Lymer

Arts/Culture, Tourism, Sport & Leisure: Cllr Peter Morgan

Health and Social Care including Adult Services : Cllr Diane Smith

Housing & Regeneration: Cllr Peter Morgan

Planning/Infrastructure/Development: Cllr Alexa Michael

Finance & Corporate Services: Cllr Graham Arthur

(ii) Partnership Appointments

Safer Bromley Partnership Strategic Group

Cllr Kate Lymer

Safer Neighbourhood Board (3)

Cllr Kathy Bance, Cllr David Cartwright & Cllr Chris Pierce

Bromley Economic Partnership

Cllr Peter Morgan

(Cllr Vanessa Allen & Cllr Julian Benington to receive papers.)

Adult's Safeguarding Board (2)

Cllr Colin Smith & Cllr Diane Smith

Children's Safeguarding Board (2)

Cllr Peter Fortune & Cllr Colin Smith

(iii) Adult Care & Health Appointments

AgeUK (Greater London)

Appointment no longer required.

(iv) Education, Children & Families Appointments

Management Committee of Wood Lodge Living Skills Centre

Cllr Kira Gabbert

Early Years Development & Child Care Partnership

Cllr Peter Fortune

Bromley "Y" Project

Cllr Judi Ellis & Cllr Peter Fortune

Mentoring Steering Group

Cllr Cllr Kate Lymer

Cllr David Cartwright (deputy)

(v) Environment Appointments

London Road Safety Council

Cllr Cllr Kieran Terry

(vi) Renewal and Recreation Appointments

Bromley Arts Council (4)

Cllr Kim Botting, Cllr Robert Mcilveen & Cllr Alexa Michael (one vacancy)

The Crystal Palace Community Development Trust

(Crystal Palace Ward Councillor)

Cllr Marina Ahmad

Greater London Enterprise

Cllr Peter Morgan

London Youth Games

Cllr Graham Arthur

Proactive Bromley (2)

Cllr Peter Fortune & Cllr Michael Rutherford

(vii) General Appointments

Biggin Hill Airport Consultative Committee

Representative of the Council as freeholder:

Cllr Peter Morgan (deputy Cllr Harry Stranger)

Representative of Biggin Hill Ward:

Cllr Melanie Stevens (deputy Cllr Julian Benington)

Representative of Darwin Ward:

Cllr Richard Scoates (deputy Cllr Simon Fawthrop)

Bromley Town Twinning Association (3)

Cllr Kathy Bance, Cllr Kim Botting & Cllr Mary Cooke

Community Links Bromley (2)

Cllr Peter Fortune & Cllr Gareth Allatt

Leadership Committee of the Bromley Community Fund

Cllr Pauline Tunnicliffe

Clarion Housing Group South London Regional Scrutiny Committee
(Remainder of three year term to June 2021.)

Cllr Aisha Cuthbert

PENSIONS INVESTMENT SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 7 November 2018

Present

Councillor Keith Onslow (Chairman)
Councillor Russell Mellor (Vice-Chairman)
Councillors Gareth Allatt, Simon Fawthrop, Simon Jeal, David Jefferys and Gary Stevens

Also Present

John Arthur, M J Hudson Allenbridge Investment Advisers

63 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies.

64 DECLARATIONS OF INTEREST

Interests were declared by virtue of deferred membership of the Local Government Pension Scheme as per those previously notified (for the Register of Interests).

65 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 13TH SEPTEMBER 2018 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION

The Minutes were agreed.

In so doing two matters were raised. The first concerned the LCIV receiving any additional permissions under their Phase 3 of development which could lead to investments being managed on behalf of boroughs. The Chairman explained that the LCIV's Financial Plan had been raised in principle at the October Meeting of the LCIV Shareholder's Committee.

The second matter concerned the LCIV's Depositary. With the LCIV Interim CEO previously confirming Northern Trust as the LCIV's Depositary, it was minuted that a check would be necessary on whether a copy of the Depositary's report could be provided. This remained outstanding and it was agreed that the matter should be reflected as a continuing action point for the current minutes **(ACTION: LCIV/Director of Finance)**.

66 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

There were no questions.

67 PENSION FUND PERFORMANCE Q2 2018/19

Report FSD18086

Details were provided of the Fund's investment performance for the second quarter of 2018/19. Additional detail was provided in an appended report from the Fund's external advisers, MJ Hudson Allenbridge.

The market value of the Fund ended the September quarter at £1,045.5m (£1,017.9m at 30th June). The quarter total fund return was +2.84% against the benchmark of +3.36%. Detail on performance by individual fund managers was appended to Report FSD18086.

The Fund's medium and long-term returns remain very strong overall - the Fund ranking third in the PIRC LGPS universe for the year to 31st March 2018, first over three years, second over five years, first over ten years and second over 20 and 30 years. In addition to winning the LGPS Investment Performance of the Year in 2017, the Fund has also recently won the LGPS Fund of the Year (assets under £2.5bn) in 2018, recognising the consistent high performance of the Fund.

Information on general financial and membership trends of the Pension Fund was also outlined along with summarised information on early retirements. Final outturn details for the 2017/18 Pension Fund Revenue Account were included as was the second quarter position for 2018/19 and fund membership numbers. A cash surplus for the Fund of around £3m is expected for the year.

For the Sub-Committee's meeting on 5th March 2019, it was proposed to invite Baillie Gifford (global equities and fixed income) with MFS invited to the Sub-Committee's following meeting (currently set for 23rd May 2019).

John Arthur (M J Hudson Allenbridge) commented on the Fund's performance for the quarter. Reference was made to the Fund's increased value although underperformance from Baillie Gifford's Global Equity portfolio (accounting for over 40% of the Fund's assets) returned at 3.4% over the quarter leading to the Fund underperforming its benchmark by 0.5%. The quarter had not favoured Baillie Gifford's approach to investment growth and they had now underperformed over a couple of quarters. In view of the economic/market outlook, Baillie Gifford could be expected to struggle a little in future (but long term the portfolio had performed very well and continued to hit its long term performance target).

Conversely, MFS outperformed during the quarter on the Fund's other Global Equity portfolio and MFS were now more stable following a period of poor

performance (MFS invests in a different manner to Baillie Gifford and was selected because of this diversification of investment philosophy and approach).

On economic outlook, a period of falling growth and rising inflation will be difficult for equities and fixed rate bonds. Events can happen to take the economy into different phases (e.g. Stagflation, Reflation, Deflation, increased productivity) causing uncertainty. In the U.S. The President tended to act specifically for the U.S. and economic growth. Mr Arthur was optimistic of having economic growth; however, recession was further away but when it occurs it could be more extreme.

The Fixed Interest portfolios and their value were discussed. Fixed interest provided diversification and returns will rise in a deflationary cycle when returns from equities reduce. Mr Arthur referred to removing some duration from fixed interest and explained how Fidelity can achieve a higher yield in such a difficult market (involving the purchase of Government debt). Provided a procurement process is not necessary, this was worth exploring, and a meeting could be arranged with Fidelity. Fidelity can then bring a proposal to the Sub-Committee's meeting on 5th March 2019. The Chairman questioned the value of the current Fixed Interest allocation and if Mr Arthur's approach looked possible, he suggested Members consider any better mandate. Although from an actuarial perspective it might not be appropriate to take too much from Fixed Interest, it would be a good area to look at given the market volatility. Supporting the approach, another Member asked to see information on U.S. default rates and securitised debt. It was highlighted that some 6.4% of Schroder's Alternatives portfolio is allocated to Securitised Debt and Mr Arthur indicated that (U.S.) default rates are particularly low.

A Member wanted to see the investment income that is paid to the Council from MAI and property funds to see how the return is spent. The Director advised that a memorandum summary can be produced in future with the quarterly Fund performance report **(ACTION: Director of Finance)**.

Concerning Baillie Gifford's under-performance, Mr Arthur did not expect the portfolio to fall much further and commented on the exceptional run of good performance (over recent years). Noting that Fixed Income is in line with benchmark, a Member suggested that passive is also looked at if Fixed Interest is reviewed. Mr Arthur indicated that he would not naturally put forward a passive investment in Fixed Interest.

RESOLVED that the contents of Report FSD18086 be noted.

68 PENSION FUND - INVESTMENT REPORT

Representatives from Schroders (Multi-Asset Fund Manager and Client Director) attended to present their investment report.

The Schroders ISF Global Multi-Asset Income (MAI) fund sets out to achieve a sustainable, stable investment outcome with an income objective of 4 to 6%

p.a. over a market cycle and an expected volatility of 5 to 7% p.a. The Fund had returned 4% p.a. since inception (GBP hedged).

The previous three months had been challenging for performance. At 30th September 2018, the Year to Date (YTD) contribution to return for Schroders MAI fund provided a 0.3% portfolio return in U S Dollars (Gross of Fees) and a return of -1.0% in GBP (Gross of Fees). Broken down, equity contributed 0.7% return, Fixed Income contributed -0.4%, Alternatives contributed 0.4% and cash and currency contributed -0.3%. Equities had been a driver for the marginal returns but fixed interest is challenging as interest rates are rising. Alternatives behave differently from other classes and are inexpensive, providing good returns in October. For cash and currency, sterling was a little difficult in view of Brexit but the risk had been managed.

Details were provided of current allocation and yield by asset class (allocations at 31st October 2018 and yields at 30 September 2018). Over the next four years, a yield of between 4% and 6% was expected. The presentation also illustrated the current portfolio composition with 26.9% allocated to equities, 49.6% to fixed income, 18.9% to alternatives and 4.5% to cash.

Although asset class returns for 2017 exceeded Schroders expectations, 2018 is proving more difficult. In 2017 only one asset class failed to return above 0% (US dollar) but so far in 2018 seven asset classes are failing to return with just five asset classes doing so i.e. US Tech Equities (9.8%), Oil (8%), US dollar (5.4%), US Equities (3%) and High Yield Debt (0.9%). October in particular had proved negative with only the US dollar asset class (2.1%) and Gold (2%) positively returning.

Concerning Schroder's view of global growth, this was forecast to be 3.3%for 2018 and 3% for 2019. Risk cycle trend data from 1978 to date for both the Business Cycle Indicator (BCI) and a US output gap model also suggested that an expansion stage is currently being experienced (particularly in the U.S.). However, this was not good for fixed income with global inflation gradually rising (and inflation rising faster in the U.S.). Central banks were also starting to raise interest rates slowly and Quantitative Easing had ended. With interest rates rising, Schroder's needed to be more creative (in obtaining returns). The presentation also showed that monetary policy is normalising with details provided on how value is being sought in equities (US equity valuations look extended and assets are inexpensive in the U.S). Buying cheaper assets was thought beneficial. Further details showed how a granular approach is being taken to fixed income (capitalising on market dislocations and inefficiencies).

Information was also provided on: alternative assets; current risk adjusted yield for the Global MAI strategy against other asset classes set against volatility; and a diagrammatic (dynamic) analysis of what can happen to the global economy (stagflationary, reflationary, deflationary and productivity boost) set against certain scenarios. A number of further slides were also appended to the Schroders presentation.

Concerning infrastructure, this had produced wealth but there were now challenges including those around Brexit. Longer term, the Multi-Asset Fund Manager considered infrastructure attractive, particularly in terms of what is available globally, but short term investment in infrastructure (over one to three years) was not considered so attractive.

On income, a 4.5% to 5% return was currently expected for the next 12 months with overachievement expected in the following 12 months (in the order of 5%). Four months previously, income was about 4% and to generate 5% at that point would have meant Schroders taking undue risk.

In regard to Brexit, the Fund Manager had a positive view on sterling, noting that UK data had surprised since the referendum vote. Against the U.S. dollar, sterling was particularly cheap leading to tentative moves back into sterling. The UK equity market was starting to look cheap and apart from infrastructure, UK assets are looking quite attractive.

In October, global equities fell some 7% to 8% and it was thought that this was due to the markets being too optimistic rather than a result of economic weakness. Schroders were 'parking' investments into alternative assets where real yield is obtainable; it would then move back into the market when it was more attractive. Reference was also made to dollar exposure to manage risk but more broadly Schroders sought to increase investment in alternatives.

Uncertainty was causing jitters (a Member noted developments concerning a U.S./China trade war, U.S. inflation, concerns over Italy, and the German Chancellor having given notice of leaving office) and the level of panic in markets during October had been considerable. The Fund Manager predicted the start of a negative period (a U.S./China trade war starting and more volatility) and Schroders needed to be more creative and move to other assets. China was worrying; official data indicated that the economy is well managed but non-official reports suggest a fall in electricity demand. The Fund Manager felt that a number of analysts are too optimistic and it is necessary to prepare now for the future.

Noting a 3.3% investment allocation to infrastructure (within a total alternatives allocation of 18.9%), the Director of Finance questioned whether the allocation should be more like 10% rather than 3.3% and whether any increased allocation would be non-U.K (any future nationalisation under a new Government would remove the attraction of U.K. based infrastructure). The Fund Manager considered 3.3% low but access can be difficult with infrastructure investment and an element of liquidity is necessary. She indicated that investment would be non-UK but preferred a 5% allocation to infrastructure rather than an increase to 10%.

A question was asked on how the allocation of assets is decided and whether fees are paid annually or quarterly. Schroders took a diversified approach (on allocation); should one asset not perform, others will perform and the sequence of returns mattered to create a stability (of income return).

Schroders have a qualitative process to focus on the value of assets in the economic cycle. Harnessing an algorithm and human input (for sentiment) combined to make a judgement. The Client Director indicated that fees are 0.35% of the value of an investment with invoices provided quarterly.

Although Schroders manage a £70bn sterling mandate which they had won, along with managing an additional £60bn, the Fund Manager confirmed there would be no disruption to the portfolio (in performance management) and her team would continue to focus on their current mandate for L B Bromley.

Following the discussion, and with the representatives having left the room, all Members agreed that an excellent presentation had been provided and the Chairman asked that the Sub-Committee's feedback be provided to the Schroders representatives **(ACTION: Director of Finance)**.

69 LOCAL PENSION BOARD - ANNUAL REPORT

Report FSD18081

Members noted the Annual Report of the Local Pension Board.

RESOLVED that the contents of the Local Pension Board Annual Report (dated October 2018) appended to Report FSD18081 be noted.

70 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summaries refer to matters involving exempt information

71 CONFIRMATION OF EXEMPT MINUTES OF THE MEETING HELD ON 13TH SEPTEMBER 2018

Members received Part 2 minutes of the Sub-Committee's previous meeting and the Chairman requested that future Sub-Committee meetings include "Chairman's Update" as a regular item **(ACTION: Democratic Services).**

The opportunity was also taken at this point to apprise the Sub-Committee on certain matters under Part 2 proceedings of the meeting.

72 LONDON CIV - PENSION RECHARGE AND GUARANTEE AGREEMENTS

The report for this item had been withdrawn. It was considered too soon to look at recommendations for L B Bromley to enter into a Pension Guarantee Agreement (requested by the LCIV and City of London) and Pension Cost Recharge Agreement (requested by the LCIV) related to the pension liability of LCIV employees in the LGPS scheme. Further legal information was necessary and the matter would not be considered at the present time.

The Meeting ended at 9.55 pm

Chairman

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PENSIONS INVESTMENT SUB-COMMITTEE

Minutes of the special meeting held at 6.30 pm on 14 January 2019

Present:

Councillor Keith Onslow (Chairman)
Councillor Russell Mellor (Vice-Chairman)
Councillors Gareth Allatt, Simon Fawthrop, Kira Gabbert, Simon Jeal and Gary Stevens

Also Present:

John Arthur, MJ Hudson Allenbridge Investment Advisors

73 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor David Jefferys, who was replaced by Councillor Kira Gabbert.

Apologies for lateness were received from Councillor Gary Stevens.

74 DECLARATIONS OF INTEREST

There were no declarations of interest.

75 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summaries refer to matters involving exempt information

76 DUE DILIGENCE REVIEW OF LONDON CIV BAILLIE GIFFORD GLOBAL ALPHA GROWTH FUND

The Sub-Committee considered a report on the due diligence review of the London CIV Global Alpha Growth Fund commissioned from the Council's independent advisor.

77 CESSATION OF ADMISSION BODY - DEFICIT REPAYMENT PLAN

The Sub-Committee agreed to consider an urgent report regarding the cessation of an admission body, and agreed recommendations for a decision by General Purposes and Licensing Committee.

The Meeting ended at 7.30 pm

Chairman

PENSIONS INVESTMENT SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 5 March 2019

Present

Councillor Keith Onslow (Chairman)
Councillor Russell Mellor (Vice-Chairman)
Councillors Gareth Allatt, Simon Fawthrop, Simon Jeal and David Jefferys

Also Present

John Arthur, M J Hudson Allenbridge Investment Advisers
Joanne Job, M J Hudson Allenbridge Investment Advisers

78 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for non-attendance were received from Cllr Gary Stevens. Apologies were also received from Cllr David Jefferys for late arrival.

79 DECLARATIONS OF INTEREST

Cllr Russell Mellor and Cllr Simon Fawthrop each declared an interest as deferred members of the Local Government Pension Scheme.

80 MINUTES OF THE MEETINGS HELD ON 7TH NOVEMBER 2018 AND 14TH JANUARY 2019 (SPECIAL MEETING)

The minutes for both meetings were agreed subject to the final sentence of Minute 67 (7th November 2018 meeting) being amended to read:

"Mr Arthur indicated that he would not naturally put forward a passive investment in Fixed Interest."

81 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

There were no questions.

82 CHAIRMAN'S UPDATE

The Chairman had no update on matters under Part 1 of the agenda.

83 PENSION FUND PERFORMANCE Q3 2018/19

Report FSD19034

Details were provided of the Fund's investment performance for the third quarter 2018/19. Additional detail was provided in an appended report from the Fund's external advisers, MJ Hudson Allenbridge.

The market value of the Fund ended the December quarter at £963.7m (£1,045.5m at 30th September). Market conditions led to a significant negative performance for the Fund in Quarter 3 (echoed around the country) with year to date return at 7.94% against a 5.94% benchmark. Details of fund manager performance against benchmarks for the quarter, year to date, 1, 3 and 5 years, and since inception were appended to Report FSD19034. Medium and long-term returns remain particularly strong with the Fund ranking third against the 61 funds in the PIRC LGPS universe for the year to 31st March 2018 (first over three years, second over five years, first over ten years and second over 20 and 30 years).

To implement the revised asset allocation strategy agreed on 5th April 2017 all Diversified Growth Funds and Global Equity assets held by Blackrock would be sold. At 31st January 2019, the Blackrock Global Equity Fund balance amounted to £10,953,304 and in line with the Sub-Committee's resolution on 14 December 2017 ("*the balance of the Blackrock sale, less £3m required to meet the cash-flow shortfall that had occurred during 2017/18, be invested in the Fixed Income Portfolio*"), Members were asked to confirm that the balance of the Blackrock fund be invested in the Baillie Gifford Fixed Income portfolio.

Recommendation 2.1(b) of Report FSD19034 sought agreement to invest the balance of the Blackrock Global Equity Fund in Baillie Gifford's Fixed Income Portfolio. However, it was suggested instead that the balance (£10,953,304) be transferred to the investment type suggested by Mr Arthur, providing a test case for the investment. Options could be looked at to invest the sum and Mr Arthur would meet Fidelity on 7th March. The Chairman suggested keeping the sum in Blackrock equities to retain options and for a final decision on the balance to be delegated to himself and Director in consultation with Mr Arthur. Options for alternative fixed interest investments can come back to the Sub-Committee from Mr Arthur's discussions with Fidelity. As such, Members agreed not to press ahead in selling the Blackrock global equities balance but to await the outcome of the review by MJ Hudson Allenbridge into alternative fixed interest options (for the Sub-Committee's May meeting). Should something urgent come forward In the meantime it was agreed to delegate any decisions to the Chairman, Vice-Chairman, and Director (in consultation with Mr Arthur).

Following WM Company (State Street) ceasing (from 2016) to provide performance measurement services to clients for whom they are not custodian, the Council's main custodian, BNY Mellon, has provided performance measurement information with Pensions & Investment Research Consultants Ltd (PIRC) providing LA universe comparator data. The performance

measurement contract with BNY Mellon expires in June 2019 and with no company offering performance measurement, or performance measurement and accounting without custody, approval was sought to agree an award of contract to BNY Mellon for a further three years at an estimated value of £30k per annum via an exemption to competitive tendering and subject to annual review.

Information on general financial and membership trends of the Pension Fund was also appended to Report FSD19034 including final outturn details for the 2017/18 Pension Fund Revenue Account, the third quarter position 2018/19, and fund membership numbers. A cash surplus for the Fund of around £3m is expected for the year. Following the merger of Bromley College and Greenwich Community College in 2016 and transfer of assets/liabilities to the Local Pensions Partnership, a final balancing transfer payment of £529k was made on 7th December 2018.

Summarised information on early retirements was also appended to Report FSD19034 and additionally approval was sought on Fund Manager attendance at future Sub-Committee meetings.

In discussion, Mr Arthur commented on investment performance for the Fund last quarter and outlined reasons for market volatility in the quarter which saw a major fall in markets. The Fund under-performed by more than 2% against the benchmark in the quarter, with Government Bonds the only positive area. The U.S. Federal Reserve raised interest rates with economic news of the slowdown. Equity markets bottomed out around 28th December, following more cautious messages from the Fed. Risk assets have shown some recovery. Although Mr Arthur expected further volatility going forward, and for it to be potentially more severe, it remained necessary to take investment risk even though returns will be low. Mr Arthur suggested diversified assets to counter volatility.

Mr Arthur highlighted three issues to account for the Fund's underperformance last quarter. As covered in the MJ Hudson Allenbridge quarterly report these comprised:

- the Fund entering the quarter overweight in equities against its Strategic Benchmark with a 65% exposure against the benchmark at 60% and correspondingly underweight in Bonds, Multi Asset Income, and Property;

- the multi asset income portfolios having an absolute benchmark related to short term interest rates generating a positive return for each quarter even if markets fall; and

- Baillie Gifford, managing most of the Fund's global equities, underperforming in the quarter.

Asset allocation changes over the last nine months, including a 60% strategic benchmark for equities, had mitigated the effect. The former allocation to equities was reduced by firstly funding the departure of Bromley College purely with equities and then by allocating 20% of the Fund to Multi Asset

income and 5% to UK property, both of which performed better than equities in the final quarter of the year and since inception last year. As the moves are reflected in the Strategic Benchmark, their benefit is not captured in the Fund's relative performance against its benchmark. However, they have had a beneficial impact on the total value of the Fund and therefore the funding level when the next actuarial revaluation starts in March. The Chairman felt the approach is on the right track and the changes had mitigated the downturn. Parameters were also thought necessary which can be reviewed every two years or so on the basis that should the number of asset classes increase there is a deviation from the fixed strategic benchmark. However, it is best to see how the latest asset allocation changes proceed rather than have more formal changes. Suggesting the Fund would not want to be too overweight in equities, a Member questioned how much risk it is necessary to take and where funds should be placed, if not in equities. Mr Arthur indicated that while we do not want to be too overweight in equities, the fund has been balanced by the reductions. Mr Arthur suggested MAI and bonds and to transfer low and high risk into medium risk. The Director suggested a red flag in monitoring reports to highlight any investment class moving to an underweight or overweight position. A Member welcomed this for the Sub-Committee's next meeting and would like to see any risk parameters that might be proposed. With more volatility, the Chairman thought it necessary to look at this area more regularly. An actuarial review will commence in March and the Asset Allocation Strategy could be reviewed once the outcome is known.

A Member urged caution about any future sale of the Fund's investments in equities. Long term equities are reliable and their benefit would be lost if underweight in the class. The position can be reviewed and monitored. Corporate Bonds and gold were suggested. Gold would not yield a dividend, but could be used as an asset. There should be no rush to sell (equities) and invest in Fixed Income – the outcome of the Actuarial Valuation should be awaited. Supporting this view, the Chairman highlighted that transitional costs would also be incurred with any change and he assured Members that no change would take place until after a review of the asset allocation strategy.

Predicting a volatile couple of years ahead, another Member referred to being at the end of a long economic cycle, reinforcing a need for active management. With a period of uncertainty it is necessary to be smarter. Currency could also unravel and reduce the Fund's value and it might be necessary to have more diversification. The Chairman indicated that he would be more worried if the Fund had not achieved the level of growth it had. The Chairman supported looking wider and encouraged MJ Hudson Allenbridge to provide any further thoughts.

On Fidelity's Fixed Income, Mr Arthur would discuss how to improve the low yield. Should interest rates rise, bonds are likely to fall in performance and Mr Arthur suggested corporate credit assets (multi-asset credit) as an example of a better way to generate returns. Mr Arthur will talk to Fidelity and bring further detail/proposals to the Sub-Committee's May meeting.

Mr Arthur brought forward a proposal from Schroders. Mr Arthur advised that the Schroders Multi-Asset Income (MAI) Portfolio is currently U.S. Dollar funded and it is then hedged back to Sterling (Sterling – Dollar – Sterling). When sterling and dollar interest rates are similar this did not matter. But now it is not cost efficient, Schroders had offered a new sterling based fund which would be more efficient and provide a marginally better return. It would take a couple of months to establish and Mr Arthur felt it would be sensible for the Fund to take advantage of the offer. The Bromley Fund would be the only holder of the units (probably making selling more complex). The Chairman favoured the product and Members supported the proposal. Another Member highlighted a real estate opportunity related to the lease of an Npower site in Solihull which expired in December 2018. The site comprises 75,000 sq.ft and Mr Arthur would investigate.

RESOLVED that:

(1) the contents of Report FSD19034 be noted;

(2) sale of the Blackrock Global Equity Fund be deferred whilst awaiting the outcome of a review, by the Sub-Committee's financial adviser, of alternative income products;

(3) the further award of the Pension performance measurement contract via an exemption to competitive tendering (as set out at paragraph 3.3.3 of Report FSD19034) be agreed;

(4) the programme of Fund Manager attendance (paragraph 3.7.1 of Report FSD19034) be agreed as follows -

- **15th May 2019 – MFS (global equities) - rescheduled**
- **24th July 2019 – Fidelity (fixed income, multi-asset income and property)**
- **27th August 2019 – Schroders (multi-asset income)**
- **3rd December 2019 – Baillie Gifford (global equities and fixed income)**

(5) the proposal to switch the current Schroders dollar fund to a sterling fund, brought forward by the Sub-Committee's financial adviser for the Schroders Multi-Asset Income Fund, be agreed.

84 PENSION FUND - INVESTMENT REPORT

Baillie Gifford presented their investment report covering management of the company's Global Equities and Fixed Income portfolios for the Fund. At 31st December 2018 the total value of both portfolios stood at £426,457,260 which had since risen to some £460m by 28th February 2019.

Baillie Gifford's Global Equity portfolio under-performed against benchmark in the past 12 months (a volatile period) but over three years, five years, and since inception it has outperformed the benchmark. Stock is selected for the long-term with Baillie Gifford looking at the fundamentals of companies when selecting. A period of volatility provides a particular opportunity for this

approach long term and stocks in Naspers, Prudential and Ryanair were provided as examples. Baillie Gifford often look at companies where conviction is high but their share price has dropped.

To 31st December 2018, Fixed Income under-performed against benchmark over periods of five and three years and 12 months (the latter showing the greatest difference against benchmark). Against falling Fixed Income yields solid returns had been provided but recent periods were more challenging. Relative returns have also been impacted by emerging market holdings. However, over the long term there has been a positive selection in corporate bonds. Currently, the Fixed Income is allocated neutrally (50%/50%) between Gilts (government bonds) and corporate bonds.

Although Baillie Gifford's portfolio performance was volatile there is evidence the market is recovering and its value rose in early 2019. The long term benefit (of Baillie Gifford's approach) had proved successful for the Fund. The Chairman considered Baillie Gifford a good example of active management and the Director of Finance indicated that £95m has been returned for the Fund through (Baillie Gifford's) active management.

On active managers being able to perform well during future volatility and recession, stock market returns are driven by big winners with rapid growth. Baillie Gifford also invests in stable companies such as Prudential. On global factors e.g. China (US/China trade war, slowing economy, reduced GDP etc), Japan adopting a "Japan First" approach, and considerations related to India, Baillie Gifford looked at fundamentals. China is urbanising, the number of patents has doubled, and there is growth in Artificial Intelligence (AI). China's economy (2nd largest market), remains structurally strong and it was thought they will become the largest economy at a future point; Baillie Gifford will look at China more in 2019 and plan to open a Shanghai office.

Concerning reliance on algorithms (with no real understanding of sentiment), Bailie Gifford saw an important human judgement aspect to what they are doing. It is also necessary to consider governance matters. Baillie Gifford management teams use intuition. However, Baillie Gifford is not complacent and use AI for assistance. On concerns about cyber hacking (e.g. of foreign governments and possibly world markets), this is tracked for companies in which they invest. Concerning any Chinese state interference in the stock of Chinese companies, Baillie Gifford understood the risk but there can be market opportunities if a Chinese company is supported by their state.

On the Fixed Income under-performance, Baillie Gifford had difficulties concerning overseas emerging market government bonds. It was particularly recent performance where Baillie Gifford had struggled and steps had been taken to remedy the position (an individual with macro experience had been recruited as well as someone for active decisions). Baillie Gifford suggested it will take about two to three years to see a change in performance.

When asked about future investment for the L B Bromley Fund, Baillie Gifford considered that equities provide the best returns (long- term), ten-years

providing a best indicator of yield. Over shorter time, there are benefits in diversification if interest rates stay low. Baillie Gifford has a range of Fixed Income Bonds; reference was made to looking at Corporate Bonds that outperform the market.

Mr Arthur understood the Baillie Gifford's Fixed Income Fund underperformance, but this provides an appropriate balance. Baillie Gifford had other ways to help with Fixed Income and the Chairman encouraged Baillie Gifford to come back with their thoughts. The Chairman referred to the sound relationship Bromley's Fund has with Baillie Gifford and he offered his thanks and appreciation to Baillie Gifford for what they are doing for the Fund. Baillie Gifford also highlighted their Investment and Training seminar for LGPS funds from 9th to 10th October 2019 in Edinburgh.

85 LBB RESPONSE TO DRAFT LGPS STATUTORY GUIDANCE ON ASSET POOLING CONSULTATION

Report FSD19032

Concerning the Government's consultation document *"Local Government Pension Scheme – Statutory Guidance on Asset Pooling",* appended to Report FSD19032, a proposed Council response was also appended to the report.

The guidance will replace the section at pages 7 to 8 of Part 2 of the *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 will also replace the *Local Government Pension Scheme: Investment Reform Criteria and Guidance*, issued in November 2015.

Overall, the guidance is statutory but will require different levels of adherence. It uses *'should'* or *'may'* or *'are expected'* and the statutory nature of some of the guidance is indicated by sections where pool members or pool companies '*are required'* or '*must'* comply. The draft guidance includes some aspects which reflect legislation or regulation and compliance with these is mandatory. Other aspects of the statutory guidance must be complied with, unless there are compelling reasons not to do so, which must be considered against the overall government framework for the LGPF. Some elements will be general guidance which must be considered and should be complied with unless there is good reason not to do so.

The Chairman encouraged Members to provide their comments on the draft response and to respond soon by email to himself and the Director. The Chairman, Vice-Chairman and Director would then meet to consider the responses before submitting the Council's formal response.

A Member commended the Director for the draft response as presented.

RESOLVED that:

(1) the response to the consultation document *"Local Government Pension Scheme – Statutory Guidance on Asset Pooling"* at Appendix 1 to Report FSD19032 be noted;

(2) the consultation document *"Local Government Pension Scheme – Statutory Guidance on Asset Pooling"* at Appendix 2 to Report FSD19032 be noted;

(3) Sub-Committee Members email their comments on the draft response to the Chairman and Director of Finance;

(4) the Director of Finance, in consultation with the Chairman and Vice-Chairman, submits the formal consultation response which will incorporate views expressed by the Sub-Committee; and

(5) the final consultation response is to be emailed separately to all Members of the Pensions Investment Sub-Committee and to Mr John Arthur, MJ Hudson Allenbridge, as investment advisor for the Fund.

86 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

The following summaries refer to matters involving exempt information

87 EXEMPT MINUTES OF THE MEETINGS HELD ON 7TH NOVEMBER 2018 AND 14TH JANUARY 2019 (SPECIAL MEETING)

The exempt minutes of both meetings were agreed.

88 CHAIRMAN'S UPDATE ON EXEMPT MATTERS

The Chairman reported back on the LCIV Shareholder meeting, 31st January 2019. Members also commented on a number of issues under Part 2 proceedings.

89 OPERATIONAL DUE DILIGENCE REVIEW OF LONDON CIV

Report FSD19031

Having previously considered a report on the due diligence investment review of the London CIV related to their *Global Alpha Growth Fund*, Members considered the report of an operational due diligence review on the London CIV. Both reviews were undertaken by the Council's independent investment adviser.

(Democratic Services Note: as the time was approaching 10pm, a vote was taken at the Chairman's initiative on whether to adjourn or continue the meeting. Upon a vote, a majority of Members voted to continue the meeting and conclude the Sub-Committee's business on the agenda).

RESOLVED that the commissioned MJ Hudson Operational Due Diligence Review of the LCIV be noted.

90 DUE DILIGENCE REPORT FROM LONDON CIV's DEPOSITORY (NORTHERN TRUST)

As depository for the LCIV, Northern Trust provides an independent oversight of assets to protect investors' interests and provide confidence to them. At the Sub-Committee's meeting on 13th September 2018, the LCIV's Interim CEO, Mark Hyde-Harrison, indicated that it would be necessary to check whether a copy of the Depository's report can be provided to Sub-Committee Members. Upon L B Bromley following up the matter, the LCIV's Chief Operating Officer confirmed that the LCIV would be able to provide copies of the Northern Trust's current annual Depository Review of the LCIV under private (exempt) proceedings of the meeting.

The LCIV Chief Operating Officer, Mr Brian Lee, attended for the item and copies of the Depository Review were circulated to Sub-Committee Members at the start of the item. As previously agreed with the LCIV, and as a condition for Northern Trust agreeing to provide the report, the copies circulated for Member reference were collected upon conclusion of the item for custody by Mr Lee. Mr Lee also attended to answer questions as Compliance Officer of the LCIV.

91 LCIV - CHANGE OF BUSINESS DESCRIPTION LETTER

Report FSD19033

Members agreed that there appeared no reason for this report to have been published under exempt (Part 2) proceedings and accordingly it was agreed to consider the matter under Part 1 (public) proceedings of the meeting.

At their meeting on 31st January 2019, the LCIV General Meeting passed a resolution to amend the clause within the LCIV shareholder agreement to vary the LCIV's 'business purpose definition'. This was to reflect the evolution of the pooling concept. The LCIV summarised the proposal as follows:

The change in the legal definition of business purpose in clause 2 is "simple but important". It achieves consistency with current expectations of pooling. London CIV will now be defined as "the FCA authorised company" rather than the "FCA authorised operator of an ACS".

The current wording of Clause 2, of the shareholder agreement is "The business of the Company shall (unless and until otherwise determined in accordance with this Agreement) be confined to acting as the FCA authorised operator of an ACS to provide a collaborative platform through which the Administering Authorities of the LGPS funds can aggregate their pension monies and other investments. The Company will be branded as "London CIV".

The proposed wording of Clause 2, of the shareholder agreement is "The business of the Company shall (unless and until otherwise determined in accordance with this Agreement) be confined to acting as the FCA authorised company to provide a collaborative platform through which the Administering Authorities of the LGPS funds can aggregate their pension monies and other investments. The Company will be branded as "London CIV".

The report to the LCIV General Meeting provided context and was appended to Report FSD19033. It was also requested at the General Meeting that all LCIV shareholders sign a letter (copy appended to Report FSD19033) confirming approval to amend the Shareholder Agreement in the way described in the letter and report to the LCIV General Meeting. The LCIV articles and Shareholder Agreement regulate operation of the LCIV.

Although the agreement is not prescriptive on who should sign a document on behalf of shareholders it is common practice for the shareholder representative to have authority to sign such agreements. The shareholder representative can also seek the Sub-Committee's view prior to any final authorisation. The Chairman confirmed that he would sign the document (Appendix 1 to Report FSD19033).

RESOLVED that:

(1) the LCIV letter of 31st January 2019 requiring signature (Appendix 1 to Report FSD19033) be noted;

(2) the report to the LCIV General Meeting on 31st January 2019 (Appendix 2 to Report FSD19033) be noted; and

(3) the Council's LCIV shareholder representative be authorised to sign the LCIV letter.

On concluding the meeting, the Chairman thanked Members and officers for their involvement on the Sub-Committee during the previous year. The Chairman also thanked MJ Hudson Allenbridge and a Member offered his thanks to the Chairman.

The Meeting ended at 10.43 pm

Chairman

Ministry of Housing,
Communities &
Local Government

Local Government Pension Scheme: Fair Deal – Strengthening pension protection

Policy consultation

January 2019
Ministry of Housing, Communities and Local Government

This document/publication is also available on our website at www.gov.uk/mhclg

If you have any enquiries regarding this document/publication, complete the form at http://forms.communities.gov.uk/ or write to us at:

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January 2019

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Contents

Scope of the consultation

Topic of this consultation:	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: 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). 2. Proposals that would automatically transfer LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover.
Scope of this consultation:	MHCLG is consulting on changes to the regulations governing the Local Government Pension Scheme (LGPS).
Geographical scope:	These proposals relate to the Local Government Pension Scheme in England and Wales only.
Impact Assessment:	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. 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.

	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. 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.

Basic Information

To:	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. 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.
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 LGPensions@communities.gov.uk.
How to respond:	Please respond by email to: LGPensions@communities.gov.uk Alternatively, please send postal responses to: LGF Reform and Pensions Team Ministry of Housing, Communities and Local Government 2nd Floor, Fry Building 2 Marsham Street London SW1P 4DF When you reply it would be very useful if you could make it clear which questions you are responding to. Additionally,

	please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include: - 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[1] 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[2], 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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[1] https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations
[2] 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[3]. 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

[3] 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[4]. 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.

[4] 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[5], 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

[5] 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 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

STATUTORY INSTRUMENTS

2019 No.

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Amendment) Regulations 2019

Made - - - -	***
Laid before Parliament	***
Coming into force - -	***

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([a]).

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([b]) are amended in accordance with regulations 3 to 6.

3. After Regulation 3A([c]) (civil servants etc engaged in probation provision) insert the following regulations—

([a]) 2013 c. 25.
([b]) 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.
([c]) 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([a]) 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([b]) 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—

([a]) Section 1 of the Local Government Act 1999 (c. 27) designates the bodies which are best value authorities.
([b]) 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([a])(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; ".

(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"

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.

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.

LGF Reform and Pensions Team
Ministry of Housing, Communities and Local Government
2nd Floor
Fry Building
2 Marsham Street
London
SW1P 4DF

1st April 2019

Local Government Pension Scheme : Fair Deal - Strengthening pension protection

This letter sets out the London Borough of Bromley's formal response to the consultation issued on the "New" Fair Deal:

New Fair Deal – Draft Regulations

The London Borough of Bromley remains concerned with regard to pension protection arrangements for employees transferring to independent providers under TUPE Regulations. We previously expressed the view that retaining access to the LGPS, and no longer permitting the use of a broadly comparable scheme, would continue to impact on our ability to outsource work to external providers.

As identified previously, although outside the specific scope of this consultation response, Bromley remains concerned about the cost to employers of the new LGPS 2014. Details were provided in the "LGPS 2014 Proposals – Employer Consultation Form" and the response concluded that there was a missed opportunity to provide a more affordable and sustainable solution. The proposals on "Fair Deal" potentially widens the scope even further. Continuing pension protection on transfer with the scope widened will have a greater detrimental impact on the Council's ability to outsource work to external providers who may be unwilling or unable to take on the financial implications of staff retaining the right to remain in the LGPS. Indeed, we are already seeing this with some of our outsourcing proposals. Action to more effectively address both of these matters would have ultimately reduced the strain on pension funds with resultant reductions in costs for Council tax payers whilst supporting the required transformation agenda. These are key matters that we would want to be addressed to enable a more sustainable solution to be found.

Our response to individual questions is provided below:

Protected transferees

Q1. Do you agree with this definition? (points 15 – 18)

We agree with the definition as this broadly in line with the current position. We however do not agree with Regulation 3B (7) extending this definition to allow Fair Deal Employers and service providers to treat non-transferring employees protected status.

Fair Deal Employers

Q2. Do you agree with this definition of a Fair Deal Employer? (points 19 to 23)

We agree with the definition of a Fair Deal Employer.

Transitional arrangements

Q3. Do you agree with these transitional measures? (points 24 to 26)

We agree with the transitional protections offered to protected transferees which are broadly in line with current regulation but eliminate broadly comparable schemes being considered.

Q4. Do you agree with our proposals regarding the calculation of inward transfer values? (point 26)

We agree with the calculation of inward transfers for members transferring back in from broadly comparable schemes.

The 'deemed employer' approach

Q5. Do you agree with our proposals on deemed employer status? (points 27 to 39)

We agree with the deemed employer status as this removes some of the administrative complexities and costs of setting up an Admission Body in the fund.

We do however feel that further clarity is required in certain incidents of outsourcing. An example is where the Council is currently the deemed employer (i.e. School staff), who would become a deemed employer where a service is outsourced? Would this now be the School or would it continue to be the Council?

We also feel that a pass-through arrangement should be a default position with the deemed employer retaining the pension risk as passing a pension risk to an outsourcing employer would again require a risk assessment and a Bond/guarantor to be in place. It would then be up to the deemed employer and the outsourcing employer to agree their own arrangements in their services contract.

For administrative ease, all pension cost (ill-health, redundancy, early retirement strain costs etc) should be the responsibility of the deemed employer and how the deemed employer recovers these should be in the services contract between the deemed employer and the outsourcing employer.

Q6. What should advice from the scheme advisory board contain to ensure that deemed employer status works effectively? (points 27 to 39)

The SAB needs to provide clear guidance for both deemed employers and outsourcing employers on how this model would work in practice including highlighting responsibilities of both. The guidance needs to clearly set out the employer responsibilities to the Administrating Authority and include guidance on how the pass-through arrangements could be structured.

Responsibilities for employers

Q7. Should the LGPS Regulations 2013 specify other costs and responsibilities for service provider where employer status deemed is used? (points 40 to 41)

Regulations should specify costs that would be covered by the deemed employer and should include specific reference to all pension costs (except contributions) are to be paid to the Administrating Authority by the deemed employer.

The deemed employer and the outsourcing employer should agree any pass-through arrangements in their services contract.

Existing arrangements

Q8. Is this the right approach? (points 42 to 43)

We agree on the principle of the approach but do not agree with the decision process. We feel the decision on admitting on a deemed employer or Admitted Body basis should be the Administering Authorities rather than an employer decision.

Timely consideration of pension issues

Q9. 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? (points 44 to 46)

Current TUPE Regulations should ensure that pensions is an early consideration with the option for Administrating Authorities to fine failures to meet all administrative requirements set by the SAB guidance/Administrating Authority.

Q10. 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?

We are not aware of any impact of on equalities by these proposals.

Transferring pension assets and liabilities

Q11. Is this the right approach? (points 48 to 53)

We feel this is the right approach and covers what is currently done through legal agreements.

However, where there is a transfer of assets and liabilities between funds, this should be by agreement of the receiving fund as it would be the receiving fund that would be taking on risks associated with receiving large transfers.

Q12. Do the draft regulations effectively achieve our aims?

We feel that regulation should be clearer on the decision making process of transfer of assets and liabilities between funds with both involved in the decision making and the receiving fund making the final decision whether to accept or reject a transfer after considering the addition risk they take on due to a transfer.

Q13. What should guidance issued by the Secretary of State state regarding the terms of asset and liability transfers?

Guidance needs to be clear for transfers between funds and there should be no undue pressure for a fund to accept a transfer in, where there is a risk associated with it.

Actuarial guidance should also be standardised on the actuarial factors used to calculate the value of the asset and liability transfers between funds.

On behalf of the London Borough of Bromley:

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

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