Hackney

REPORT OF THE GROUP DIRECTOR, FINANCE AND CORPORATE RESOURCES		
London CIV – Guarantee and Recharge Agreement **Pensions Committee** **21st March 2018**	**Classification** **PUBLIC** **Ward(s) affected** **ALL**	**Enclosures** **Three**

1. INTRODUCTION

1.1 This report sets out two draft legal agreements between the London CIV and its member authorities, relating to London CIV's (LCIV) participation in the LGPS as an admission body. LCIV's pension arrangements are provided through the City of London Pension Fund as an Admitted Body; the first agreement covers a guarantee in favour of the City of London whilst the second covers LCIV's FRS102 accounting liability. Both parties have been working together to develop these arrangements and LCIV now requests that its member authorities formalise these by signing the agreements.

2. RECOMMENDATIONS

2.1 The Committee is recommended to:

- **Approve the signing of the Recharge Agreement, subject to written confirmation from LCIV that within 6 months, they will produce a formal remuneration policy with specific reference to the eligibility of staff to join the LGPS and any maximum limits on pensionable pay.**
- **Approve the signing of the Guarantee Agreement.**

3. RELATED DECISIONS

3.1 Pensions Committee 24th June 2015 – Approval to invest regulatory capital in London CIV, required to facilitate the setting up of the Fund

4. COMMENTS OF THE GROUP DIRECTOR, FINANCE AND CORPORATE RESOURCES

4.1 The guarantee agreement ensures that, in the event that LCIV's admission agreement with the City of London Pension Fund terminates (or if it otherwise ceases to have any active members left in the Fund) and the company fails to pay any exit payment due, each of the Shareholders will pay their 'proportionate share' of the unpaid exit payment. The agreement can therefore only be called upon in certain limited circumstances where London CIV has failed to meet its obligations to the City of London Fund.

4.2 The recharge agreement provides a mechanism for the shareholders to reimburse London CIV (not the Fund) for the pension costs the company has to pay to the Fund, including its regular monthly employer contributions due under its rates and adjustment certificate, any one-off contributions such as strain costs payable on redundancy or ill health early retirement and any exit payment arising on termination of the admission agreement (or if London CIV otherwise ceases to have any active members left in the Fund).

4.3 It therefore allows an asset to be created on LCIV's balance sheet which can be used to counter any balance sheet liability representing any pension deficit (as calculated on an accounting basis) resulting from LCIV's participation in the City of London Pension Fund as an admission body. A balance sheet liability of this nature could affect the level of regulatory capital LCIV is required to hold to satisfy the FCA; whilst signing the agreement is cost neutral for the Hackney Pension Fund, failure to do so could result in a requirement to provide significant additional regulatory capital to LCIV.

5. COMMENTS OF THE INTERIM DIRECTOR, LEGAL

5.1 Approval to admit LCIV to the City of London Pension Fund was granted on 21st February 2018 by the Secretary of State at the Ministry for Housing, Communities and Local Government. Approval was granted under paragraph 1(e) of Part 3 of Schedule 2 to the Local Government Pension Scheme Regulations 2013 ("the Regulations"), which permits access for bodies providing a public service in the United Kingdom and approved in writing by the Secretary of State for the purpose of admission to the LGPS. LCIV did not qualify for admission on any other basis.

5.2 The guarantee agreement is drafted to ensure payment of a 'proportionate share' of any unpaid exit payment by each member authority should LCIV fail to meet its obligations to the City of London Pension Fund. Each authority's liability under the guarantee agreement is several rather than joint and several. All authorities need to sign the guarantee agreement for it to be legally binding.

5.3 The pension cost recharge agreement allows an asset to be created on LCIV's balance sheet which can be used to counter any balance sheet liability representing any pension deficit (as calculated on an accounting basis) resulting from LCIV's participation in the City of London Pension Fund as an admission body

6. BACKGROUND TO REPORT

6.1 The appendices to this report set out the proposal in detail, with Appendix 1 providing a summary of the two agreements, and Appendices 2 and 3 setting out the text of the guarantee and recharge agreements respectively.

6.2 The guarantee agreement obliges member authorities to pay a proportionate share of any unpaid exit costs (e.g. 1/32) if LCIV ceases as a member of the City of London Pension Fund. It can only be called upon in certain limited circumstances, whereby the CIV is unable to meet its obligations to the City of London Pension Fund on ceasing. The failure of funds to sign the guarantee agreement will result in a bond being requested by the City of London, for which member authorities will be liable.

6.3 The recharge agreement provides for shareholders to reimburse London CIV (not the Fund) for the pension costs the company has to pay to the Fund, including its regular monthly employer contributions due under its rates and adjustment certificate, any one-off contributions such as strain costs payable on redundancy or ill health early retirement and any exit payment arising on termination of the admission agreement (or if London CIV otherwise ceases to have any active members left in the Fund). This agreement is essentially cost neutral for member authorities, as these costs would otherwise need to be met through the fee structure.

6.4 Using the recharge agreement allows LCIV to create a balance sheet asset to offset its FRS102 defined benefit balance sheet liability. This is permissible under FRS102 28.28, whereby if London CIV is virtually certain that another party or parties will reimburse some or all of the expenditure required to settle a defined benefit obligation then the company can recognise its right to that reimbursement as a separate asset in its annual financial statements and shall treat that asset in the same way as its share of the Fund assets.

6.5 Failure to sign the recharge agreement could leave member authorities liable for the provision of significant additional regulatory capital to LCIV, as the inclusion on its balance sheet of the defined benefit liability under FRS102 could mean that the levels held no longer satisfy the FCA’s criteria. The Committee is therefore recommended to agree the signing of the recharge agreement, pending written confirmation that a formal remuneration policy will be produced within 6 months. Any such policy must include reference to the eligibility of staff to join the LGPS and include details of any maximum cap on LGPS pensionable pay.

Appendices:

Appendix 1 – Eversheds Summary
Appendix 2 – Guarantee Agreement
Appendix 3 – Recharge Agreement

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