

REPORT OF THE GROUP DIRECTOR, FINANCE & CORPORATE RESOURCES		
CMA Order - Investment Consultancy Objectives Pensions Committee 18th December 2019	Classification PUBLIC <small>Ward(s) affected</small> ALL	Enclosures None AGENDA ITEM NO.

1. INTRODUCTION ¶

- 1.1 This report presents the Fund's first set of formal objectives for its investment consultant set under Remedy 7 of the Competition and Markets Authority's (CMA) Investment Consultancy and Fiduciary Management Market Investigation Order 2019. The report sets out the background for the order and recommends that the Committee reviews these objectives as part of the investment strategy review in spring 2020.

2. → RECOMMENDATIONS¶

- 2.1 The Pensions Committee is recommended to:
- Note the agreed interim objectives for the Fund's investment consultant, Hymans Robertson
 - Agree that these objectives will be formally reviewed as part of the Fund's investment strategy review in spring 2020

3. → RELATED DECISIONS¶

- 3.1 N/A

4. → COMMENTS OF THE GROUP DIRECTOR OF FINANCE & CORPORATE RESOURCES¶

- 4.1 The CMA Order is intended to help address competition issues within the investment consultancy and fiduciary management markets. Although the Fund does not currently make use of a fiduciary manager, it does use an investment consultant to fulfil its obligation under the LGPS (Management and Investment of Funds) Regulations 2016 to obtain proper advice.
- 4.2 The Fund could benefit from the CMA Order either directly, through clarifying and strengthening the requirements for its investment consultant, or indirectly via improved competition within the investment consultancy market and lower fees.

4.3 There are no immediate financial implications arising from this report

5. → **COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES**

5.1 LGPS administering authorities will be obliged to implement strategic objectives for investment consultants once revised statutory guidance from MHCLG is in place; this is not expected until 2020. However, guidance from the LGPS Scheme Advisory Board recommends that funds be aware that they may be subject to challenge under Part 7 of the CMA Order from 10th December; this report helps to demonstrate that the Fund has complied with its obligations by the 10th December deadline.

5.2 The Pensions Committee's Terms of Reference state that one of the Committee's functions is 'To make arrangements for the appointment of and to appoint suitably qualified pension fund administrators, actuaries, advisers, investment managers and custodians and periodically to review those arrangements'. Given this role in appointing and reviewing the Fund's investment consultant, the setting of objectives for the consultant would appear to properly fall within the Pensions Committee's remit.

6. → **BACKGROUND TO THE REPORT**

6.1 In September 2017, the Financial Conduct Authority (FCA) requested that the Competition and Markets Authority (CMA) carry out a market investigation of the supply and acquisition of investment consultancy services and fiduciary management services to and by institutional investors and employers in the UK. 2. The CMA published its report (Investment Consultants Market Investigation Final Report) on the matter in December 2018.

6.2 In the report, the CMA found that both the investment consultancy and fiduciary markets had features that restricted or distorted competition and that the CMA ought to take action to remedy, mitigate or prevent these issues. A draft order was issued in early 2019 with the final order being issued in June 2019. The Order places new obligations on service providers and pension schemes with regard to fiduciary management and investment consultancy Services.

6.3 There has been some uncertainty over the applicability of the order to the LGPS, given that an exemption was initially in place for public service schemes. Remedy 1 posed a particular problem, as it would potentially require funds to go out to full tender for fiduciary management services, even where these were provided by their asset pool; as such, it had the potential to undermine the asset pooling programme.

6.4 On 15th October 2019, the LGPS Scheme Advisory Board published an update on the CMA order stating that, following clarification from the DWP and MHCLG that Remedy 1 (obligation to tender Fiduciary Management service) would NOT apply to the LGPS but that amendments to MHCLG's Investment Strategy

Statement statutory guidance would implement remedy 7 (obligation to set strategic objectives for Investment Consultants).

- 6.5 The requirements of remedy 7 are set out in Part 7 of the Order which comes into force from 10th December 2019. These state that unless LGPS authorities set strategic objectives for their investment consultants they must not “*enter into a contract with an Investment Consultancy Provider for the provision of Investment Consultancy Services or continue to obtain Investment Consultancy Services from an Investment Consultancy Provider.*”
- 6.6 LGPS authorities will be obliged to implement strategic objectives once the revised statutory guidance is in force. However as guidance is not planned to be published prior to the appeal to the Supreme Court by the Palestinian Solidarity Campaign, the Scheme Advisory Board recommends that funds should be aware that they may be subject to challenge under Part 7 of the Order from 10th December and it may therefore be prudent to set objectives to meet that date.
- 6.7 Officers of the Fund have worked together with Hymans Robertson to develop an interim set of objectives, which were circulated to the Committee by email and agreed by 10th December. The objectives are set out at Appendix 1 to this report. The Committee will formally review these objectives as part of its investment strategy review in Spring 2020 to ensure that they are fully aligned with the updated investment objectives for the Fund.

Group Director of Finance & Resources

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Appendices

Appendix 1 - Interim Investment Consultant Objectives