

## REPORT OF THE GROUP DIRECTOR, FINANCE & CORPORATE RESOURCES

### CMA Order - Assessing Performance Against CMA Objectives for Investment Consultants

Pensions Committee  
14th January 2021

Classification  
**PUBLIC**

Ward(s) affected

**ALL**

Enclosures  
Two

**AGENDA ITEM NO.**

**5**

#### 1. INTRODUCTION

- 1.1 This report presents the Fund's first formal assessment against the objectives it set for its investment consultant 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 requirements of the order, an analysis of actions over the last year in respect of the objectives set and recommends that the Committee approves submission of the required statement to the CMA confirming it has complied with the requirements of the Order.

#### 2. RECOMMENDATIONS

##### 2.1 The Pensions Committee is recommended to:

- Note the assessment of the performance against the objectives set in December 2019 as set out in appendix 1.
- Approve the submission of the statement at Appendix 2 to the CMA in line with requirements.

#### 3. RELATED DECISIONS

- 3.1 Setting of objectives for the Fund Investment Consultant - December 2019

#### 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 should benefit from the CMA Order either directly, through clarifying and strengthening the requirements for its investment consultant, and

indirectly via improved competition within the investment consultancy market and lower possibly lower fees.

4.3 This report sets out an analysis of the work undertaken by the Investment Consultants over the last year in relation to the objectives set for them in December 2019.

4.4 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 must set strategic objectives for investment consultants according to the CMA Order published in June 2019. The Committee agreed an interim set of objectives in December 2019 and is now required to confirm on an annual basis that it has complied with the requirements of the Order. The statutory deadline for the submission of the annual statement is 7th January, however, the Fund has sought and been granted a week extension to this date in order that the Committee can consider the statement.

5.2 The amended legislation from the DWP is still awaited and not expected until after the end of Q1 2021, however until then the CMA Order requirements must be followed. This report helps to demonstrate that the Fund has complied with its obligations by the 10th December deadline.

5.3 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 and subsequent monitoring against them 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 placed new obligations on service providers and pension

schemes with regard to fiduciary management and investment consultancy Services.

- 6.3 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, amendments to MHCLG's Investment Strategy Statement statutory guidance would eventually implement remedy 7 (obligation to set strategic objectives for Investment Consultants).
- 6.4 The requirements of remedy 7 are set out in Part 7 of the Order which came into force from 10th December 2019. These stated 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.”*
- 6.5 LGPS authorities will be obliged to implement strategic objectives once the revised statutory guidance is in force. This is still awaited but 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 2019 and it was therefore prudent to set objectives to meet that date.
- 6.6 Officers of the Fund worked together with Hymans Robertson to develop an interim set of objectives, which were agreed by the Committee at its December 2019 meeting. The fund is required to certify that it has complied with the order on an annual basis by submitting a compliance statement to the CMA. A suggested statement is included at Appendix 2 to this report for the Committee's consideration and approval ahead of its submission by the Fund's officers.
- 6.7 The report also includes an assessment of the performance of the investment consultants, Hymans Robertson, against the objectives set. Officers have reviewed this evidence and are content that it properly reflects the work undertaken. This assessment is included at Appendix 1 for the Committee's consideration and comment.
- 6.8 Members should note that officers have sought and been granted a one week extension by the CMA to 14th January 2021 for the submission of the compliance statement. This allows for the consideration of the statement and assessment of performance at the January Committee.

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## **Appendices**

Appendix 1 - Assessment of Performance against objectives

Appendix 2 - Compliance Statement Submission