



Resources
7 Newington Barrow Way
London N7 7EP

Report of: Corporate Director of Resources

Meeting of: Pensions Sub-Committee

Date: 5 December 2022

Ward(s): n/a

Appendix 1 attached is exempt and not for publication as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

SUBJECT: REVIEW OF OBJECTIVES SET FOR PROVIDERS OF INVESTMENT CONSULTANCY SERVICES

1. Synopsis

- 1.1 This report updates Members on the performance of the Fund's Investment Consultant, Mercer against the strategic objectives set and agreed at their meeting of 3rd December 2019 and reviewed in November 2021, for our Investment Consultancy providers in accordance with the requirements of the Competition and Markets Authority (CMA) Investment Consultancy and Fiduciary Management Market Investigation Order 2019 (the 'Order').
- 1.2 As of the 1st October 2022 the CMA Order is no longer in force and has been replaced by the Occupational Pensions Schemes (Governance and Registration) (Amendment) Regulations 2022. The new Pensions Regulations have integrated the Order into pensions legislation and transferred the responsibility for regulatory oversight and compliance from the CMA to the Pensions Regulator (TPR).

2. Recommendations

- 2.1 To note that the legal requirement for trustees of occupational pensions (including LGPS) to set strategic objectives for investment consultancy providers, came into effect from 10 December 2019.

- 2.2 To note the objectives agreed in November 2021, and agree the performance rating of our investment consultancy provider as set out in Exempt Appendix 1.
- 2.3 To agree to review these objectives at least annually and / or where there is a change in the fund's requirements.
- 2.4 To delegate to the Corporate Director of Resources, in consultation with the Director of Law and Governance, authority to report on compliance via the TPR's annual scheme return.

3. Background

- 3.1 The Pensions Regulator (TPR) is the UK regulator of occupational pension schemes. They are a non-departmental public body established under the Pensions Act 2004. Their sponsoring body is the Department for Work and Pensions (DWP) and Parliament sets the legislative and regulatory framework within which they work.
- 3.2 Following an investigation into the investment consultancy and fiduciary management market, the Competition and Markets Authority (CMA) introduced new duties for trustees and managers of occupational pension schemes, that took effect from 10 December 2019.
- 3.3 It appears that the only Remedy applicable to the LGPS is the requirement for Administering Authorities to set strategic objectives for their IC provider. Whilst we await the MHCLG guidance and legislation, the TPR's consultation on guidance contained roles of an investment consultant and a case study of a pension fund setting objectives and agreeing a performance monitoring scorecard. The link to the full consultation is <https://www.thepensionsregulator.gov.uk/en/document-library/consultations/draft-guidance-consultation-in-response-to-cma-recommendation>
- 3.4 Members considered and agreed a set of strategic objectives for their IC Provider at their 3 December 2019 meeting. These objectives and performance were reviewed at the 23 November 2021. Members also agreed to review the objectives at least annually and or where there is a change in the Funds requirements.
- 3.5 On 1 October 2022, the Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022 (the "**Sun-setting Regulations**") came into force. These Regulations brought an end to the **Order** which the Competition & Markets Authority ("**CMA**") made on 10 June 2019 following its investigation into the operation of the fiduciary management and investment consultancy markets insofar as it applies to trustees of private sector occupational pension schemes.
 - 3.5.1 Trustees must now have regard to pensions legislation as amended by the Sun-setting Regulations, instead of the CMA Order. The Order (including obligations to report compliance to the CMA) continues in force for investment consultancy firms, fiduciary managers and joint consultancy-FM firms.
- 3.6 **Performance**
Exempt Appendix 1 attached, details the Fund requirements and objectives set for the investment consultant provider Mercer, against which the consultant's performance has

been assessed and reviewed. A commentary has been assigned to each strategic objective and then rated from excellent to poor. Mercers' ratings are from excellent to good reflecting the high standard of service received over the year.

- 3.6.1 Members are asked to consider whether the objectives still meet the fund requirements or should be amended and to review and agree the performance ratings.
- 3.7 The CMA Order included a requirement for LGPS funds to submit an annual compliance statement confirming compliance with Part 7. The categories of "registerable information" in the Scheme Return Regulations have been extended to include details in relation to trustees' use of ICs and FMs. Trustees now need to report on these matters to the Pensions Regulator via their annual scheme return, rather than to the CMA in an annual compliance statement and certificate.

4. Implications

4.1 Financial implications

None applicable to this report. Financial implications will be included in each report to the Pensions Sub-Committee as necessary.

4.2 Legal Implications

On 10th June 2019, the Competition and Market's Authority (CMA) made the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 placing new obligations on service providers and pension scheme trustees with regard to Fiduciary Management (FM) and Investment Consultancy (IC) Services. The Order implements the CMA's recommended remedy 1 (tendering for FM services) in Part 3 and remedy 7 (Setting objectives for IC) in Part 7 which came into force on 10 December 2019.

- 4.3 As of the 1st of October 2022 the CMA Order is no longer in force and has been replaced by the Occupational Pensions Schemes (Governance and Registration) (Amendment) Regulations 2022. The new Pensions Regulations have integrated the Order into pensions legislation and transferred the responsibility for regulatory oversight and compliance from the CMA to the Pensions Regulator (TPR). Going forward these Regulations will need to be applied and adhered to by LGPS ; the strategic objectives are now defined as objectives under the new Pensions Regulations however the obligation to review these objectives at least annually and/or where there is a change in the fund's requirements remains the same. As previously under the Order, under the new Pensions Regulations, the council is still required to submit an annual Compliance statement, now to the TPR not the CMA. Appropriate guidance is being issued by the TPR and we will update the members as appropriate.

4.4 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030:

None applicable to this report. Environmental implications will be included in each report to the Pension Board Committee as necessary. The current agreed investment strategy statement for pensions outlines the policies and targets set to April 2022 to reduce the current and future carbon exposure by 50% and 75% respectively compared to when it was measured in 2016 and also invest 15% of the fund in green opportunities. The link to the full document is <https://www.islington.gov.uk/~media/sharepoint-lists/public->

4.5 Equality Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding”.

4.6 An equalities impact assessment has not been conducted because this report is seeking opinions on a government policy document and therefore no specific equality implications arising from this report.

5. Conclusion and reasons for recommendation

5.1 Members are asked to review fund requirements and objectives and agree performance ratings attached as Exempt Appendix 1, and agree to delegate authority to the Corporate Director of Resources, in consultation with the Director of Law and Governance to report

Appendices: Exempt Appendix 1

Background papers:

None

Final report clearance:

Signed by:

Corporate Director of Resources

Date: 23 November 2022

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