



Purpose: For Decision

# Committee Report

Committee	<b>PENSION FUND COMMITTEE</b>
Date	<b>23 NOVEMBER 2022</b>
Title	<b>CMA ORDER: ANNUAL COMPLIANCE STATEMENT</b>
Report of	<b>PENSION FUND MANAGER</b>

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## EXECUTIVE SUMMARY

1. In June 2019, the Competition and Markets Authority (CMA) issued the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 (the order), which included the setting of strategic objectives for investment consultants, and a requirement that a compliance statement to be submitted annually, confirming that the fund has complied with the relevant parts of the order.
2. In June 2022, the Government published draft regulations transposing the provisions of the order into law, and for private sector scheme, transferring the responsibility for monitoring compliance from the CMA to the Pensions Regulator. The Department for Levelling Up, Housing and Communities (DLUHC) is expected to consult on the provisions of the CMA Order in respect of the LGPS in the near future. In the meantime, it is presumed that the original provisions continue to apply to LGPS funds.
3. This report presents the draft annual compliance statement for the period 10 December 2021 to 9 December 2022.

## RECOMMENDATION

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| <ol style="list-style-type: none"><li>4. That the committee note the current objectives for the fund's investment consultants, contained at appendix 1.</li><li>5. That the committee confirm the fund's compliance with the requirements of Parts 3 and 7 of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019.</li><li>6. That the authorise the chairman of the committee to sign the annual compliance statement after 9 December 2022, to be submitted before 6 January 2023.</li><li>7. That a report be brought to the February 2023 committee confirming submission of the compliance statement.</li></ol> |
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## CONFIDENTIAL / EXEMPT ITEMS

8. This covering report is not deemed exempt from publication however, both appendices are deemed to be exempt from disclosure by virtue of paragraph 3 of part 1 of schedule 12A of the Local Government Act 1972 (as amended) as it “relates to financial or business affairs of any particular person”, (including the authority holding that information). The public interest in maintaining confidentiality outweighs the public interest in disclosing it. Disclosing the information could place the council at risk of legal challenge from individuals or other bodies identified in the report.

## BACKGROUND

9. At its meeting on 15 November 2019, the committee received a report on the requirements of the order, including the setting of objectives for the fund’s investment consultants. The agreed objectives are reported in appendix 1 to this report.
10. The fund has previously two annual compliance statements for the periods ending 9 December 2020 and 9 December 2021. These were submitted on 5 January 2021 and 21 January 2022 respectively.
11. In the absence of regulations implementing an alternative requirement, it is proposed that the fund submit a similar statement of compliance for the period ending 9 December 2022.

## EVIDENCE OF COMPLIANCE 2021-22

12. Part 3 of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 (the order) requires pension funds to undertake full competitive tenders when appointing fiduciary managers and investment consultants.
13. The fund has always followed public procurement rules when selecting investment managers to deliver its strategic investment allocation. During the period of this statement, the fund did not undertake any new investment manager appointments.
14. In addition, the fund used the National Local Government Pension Scheme (LGPS) Framework for Investment Management Consultancy Services in July 2018 when it appointed Hymans Robertson LLP as investment consultant.
15. Part 7 of the order requires pension funds to set strategic objectives for the investment consultants. This was completed at the 15 November 2019 committee meeting in accordance with the timetable set out in the order.
16. Part 9 of the order sets out the monitoring and compliance requirements. It states that after 12 months and 4 weeks of the implementation date (10 December 2019), and annually thereafter, the fund must submit a compliance statement confirming the extent to which each of the relevant parts of the order (namely, parts 3 and 7) have been complied with during the period.

17. In addition, a statement is required that the above compliance statement has been prepared in accordance with the requirements of the order, and that the fund has complied with all aspects of the order during the period and reasonably expects to continue to do so.
18. Appendix 2 to this report contains the draft compliance statement for the period 10 December 2021 to 9 December 2022. Members are asked to confirm the fund's compliance with the requirements of the order to date, and to authorise the chairman of the committee to sign the letter before the deadline for submission.
19. A report confirming the submission will be provided at the committee's next meeting in February 2023.

## CORPORATE PRIORITIES AND STRATEGIC CONTEXT

### Corporate Aims

20. There is nothing contained in this report which directly contributes to the priorities contained in the [Corporate Plan 2021 - 2025](#).

### Pension Fund Strategic Aims

21. The primary objective of the fund is to provide pension and lump sum benefits for members on their retirement and/or benefits on death, before or after retirement, for their dependents, in accordance with the Local Government Pension Scheme (LGPS) regulations and statutory provisions. The committee aims to operate the fund in such a manner that, in normal market conditions, all accrued benefits are fully covered by the value of the fund's assets and that an appropriate level of contributions is agreed by the employer to meet the cost of future benefits accruing.
22. In addition, the fund has set additional investment and governance objectives, to which compliance with the CMA order contributes, including:

#### Investment governance:

- (a) External advice from parties such as an investment consultant helps planning, risk management and decision making.

#### Governance:

- (b) Ensure compliance with the LGPS Regulations, other relevant legislation and the Pensions Regulator's Codes of Practice.
- (c) Ensure Fund is managed, and its services provided, by people with the appropriate knowledge and understanding

## FINANCIAL / BUDGET IMPLICATIONS

23. There are no direct financial implications in complying with the CMA order.

## LEGAL IMPLICATIONS

24. Part 1 of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 (the order) issued by the Competition and Markets

Authority (CMA) confirms that the order is applicable to the Local Government Pension Scheme (LGPS) by virtue of section 1(2)(c) of the Public Service Pensions Act 2013.

25. Until such time as DLUHC consult on amended regulations transposing the CMA order into legislation for the LGPS, it is presumed that the fund should continue to comply with the requirements of the original order.
26. The completion and submission of the compliance statements contained in appendix 2 to this report will ensure compliance with paragraphs 15 and 16 of part 9 of the order.

## EQUALITY AND DIVERSITY

27. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
28. Compliance with the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 has no implications for any of the protected characteristics.
29. Appendix 1: (confidential) Agreed objectives for the fund investment consultants 2019.
30. Appendix 2: (confidential) Draft annual compliance statement for the period ended 9 December 2022.

## BACKGROUND PAPERS

31. Competition and Markets Authority (CMA): The Investment Consultancy and Fiduciary Management Market Investigation Order 2019.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/812046/Order\\_investment\\_consultants.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/812046/Order_investment_consultants.pdf)
32. Isle of Wight Pension Fund Committee 15 November 2019, Paper D - CMA Order: Objectives for Investment Consultants.  
<https://www.iow.gov.uk/Meetings/committees/IW%20Pension%20Fund/15-11-19/PAPERD.pdf>

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