

# Croydon Council

<b>REPORT TO:</b>	<b>Local Pension Board</b> <b>1 December 2016</b>
<b>AGENDA ITEM:</b>	<b>7</b>
<b>SUBJECT:</b>	<b>The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (SI 2016 No. 946).</b>
<b>LEAD OFFICER:</b>	<b>Nigel Cook Head of Pensions and Treasury</b>
<b>CABINET MEMBER</b>	<b>Councillor Simon Hall</b> <b>Cabinet Member for Finance and Treasury</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> Sound Financial Management: This report is update the Board on the new duties introduced by the 2016 Regulations.	
<b>FINANCIAL SUMMARY:</b> There are no financial considerations arising from this report.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A	

## **1. RECOMMENDATIONS**

- 1.1 The Board is invited to comment on the extent to which its views on social, environmental and corporate governance factors should impact upon the Pension Committees investment decisions.

## **2. EXECUTIVE SUMMARY**

- 2.1 This report sets out the most recent government guidance on social, environmental and corporate governance factors and how these should impact upon the Pension Committees investment decisions.

## **3 DETAIL**

- 3.1 On 23 September 2016, new Regulations affecting the management and investment of Local Government Pension Scheme (LGPS) funds in England and Wales were laid before Parliament. The Regulations will dispense with the current, explicit limits on specified types of investment and, instead, charge administering authorities with determining the appropriate mix of investments for

their funds according to a Prudential Framework approach, such as applies to the affordability of the Council's capital investment programme. The quid pro quo for more freedom in the formulation of investment strategies is an obligation upon administering authorities to adhere to official guidance and broad powers allowing the Government to intervene if they do not.

- 3.2 At the time of drafting this report the revised regulations had not been enabled due to the tabling of an Early Day Motion debate. However Guidance from the Department for Communities and Local Government has been published.
- 3.3 Regulation 7(2) (e) discusses how social, environmental or corporate governance considerations should be taken into account in the selection, non-selection, retention and realisation of investments. As this section makes specific reference to the role of the Local Pensions Board it is set out in some detail here.
- 3.4 'When making investment decisions, administering authorities must take proper advice and act prudently. In the context of the local government pension scheme, a prudent approach to investment can be described as a duty to discharge statutory responsibilities with care, skill, prudence and diligence. This approach is the standard that those responsible for making investment decisions must operate.
- 3.5 'Although administering authorities are not subject to trust law, those responsible for making investment decisions must comply with general legal principles governing the administration of scheme investments. They must also act in accordance with ordinary public law principles, in particular, the ordinary public law of reasonableness. They risk challenge if a decision they make is so unreasonable that no person acting reasonably could have made it.
- 3.6 'The law is generally clear that schemes should consider any factors that are financially material to the performance of their investments, including social, environmental and corporate governance factors, and over the long term, dependent on the time horizon over which their liabilities arise.
- 3.7 'However, the Government has made clear that using pension policies to pursue boycotts, divestment and sanctions against foreign nations and UK defence industries are inappropriate, other than where formal legal sanctions, embargoes and restrictions have been put in by the Government. Although schemes should make the pursuit of a financial return their predominant concern, they may also take purely non-financial considerations into account provided that doing so would not involve significant risk of financial detriment to the scheme and where they have good reason to think that scheme members would support their decision.
- 3.8 'Investments that deliver social impact as well as a financial return are often described as "social investments". In some cases, the social impact is simply in addition to the financial return; for these investments the positive social impact will always be compatible with the prudent approach. In other cases, some part of the financial return may be forgone in order to generate the social impact. These investments will also be compatible with the prudent approach providing administering authorities have good reason to think scheme members share the concern for social impact, and there is no risk of significant financial detriment to

the fund.'

3.9 The guidance then sets out a specific duty for the Board:

***In formulating and maintaining their policy on social, environmental and corporate governance factors, an administering authority should explain the extent to which the views of their local pension board and other interested parties who they consider may have an interest will be taken into account when making an investment decision based on non-financial factors.***

3.10 It is evident from this that it is now considered a requirement for the Pension Board to form a view on social, environmental and corporate governance factors that relate to investment decisions and the extent to which that interest should influence investment decisions. As the next Pension Committee meets on 7 March 2017, and will have to sign off on this piece of work, there is only a limited window of opportunity to feed into this process.

#### **4. RECOMMENDATIONS**

4.1 The Board is invited to comment on the extent to which its views on social, environmental and corporate governance factors should impact upon the Pension Committees investment decisions.

#### **5 FINANCIAL CONSIDERATIONS**

5.1 There are no further financial considerations flowing from this report.

#### **6. OTHER CONSIDERATIONS**

6.1 Other than the considerations referred to above, there are no customer Focus, Equalities, Environment and Design, Crime and Disorder or Human Rights considerations arising from this report

#### **7. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

7.1 .The Acting Council Solicitor comments that there are no additional legal considerations arising from the recommendations within this report beyond those set out within the highlighted sections and the referenced regulations and guidance.

(Approved for and on behalf of Jacqueline Harris-Baker, Acting Council Solicitor and Acting Monitoring Officer)

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**CONTACT OFFICER:**

Nigel Cook, Head of Pensions Investment and Treasury,  
Resources department, ext. 62552.

**BACKGROUND DOCUMENTS:**           None