

REPORT TO:	PENSION COMMITTEE 25 May 2021
SUBJECT:	Reconsideration of Decision to Transfer Property from Croydon Affordable Homes and Croydon Affordable Tenures to the Pension Fund.
LEAD OFFICER:	Nigel Cook Head of Pensions and Treasury
CORPORATE PRIORITY/POLICY CONTEXT:	
This is a matter for the Pension Committee relating to the level of contributions from the Council as the principal employer and the future viability of the Croydon Local Government Pension Scheme.	
FINANCIAL SUMMARY:	
This report considers the factors impacting on the decision to allow in principle for assets to transfer from Croydon Affordable Homes and Croydon Affordable Tenures to the Pension Fund and concludes that this decision should be rescinded.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1	RECOMMENDATIONS
1.1	The Committee is asked to rescind the decision taken by the Pension Committee on the 21st November 2018 (a) to receive into the Pension Fund 346 housing properties leased to Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP from Croydon Council between November 2057 and April 2059 and (b) to adjust the Council's employer contribution rates to take account of the future transfer of the properties; and
1.2	To RECOMMEND to full Council that it rescind the decision taken on 28th January 2019 to transfer, at the break of the leases in 40 years, the 346 housing properties leased to Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP identified in the report to the Pension Fund.

2 EXECUTIVE SUMMARY

- 2.1 This report considers the decision to in principle to allow the future transfer of properties leased to Croydon Affordable Homes and Croydon Affordable Tenures, considered by the Pension Fund Committee on the 21st November 2018 in the light of changed circumstances. The report notes that the performance of the portfolio of investments means that the Croydon Fund should be considered typical and not an outlier, nationally or locally. The report notes the number of enquiries from aspects of the regulatory framework. Reference is made to the risk appetite of the Fund and the complexities inherent in this project. The change of circumstances strongly suggests that it is appropriate to reconsider the Committee's approach.

3 DETAIL

- 3.1 The decision in principle to allow the future transfer of properties leased to Croydon Affordable Homes and Croydon Affordable Tenures was considered by the Pension Fund Committee on the 21st November 2018 and then by the Council at its meeting on 28th January 2019. For various technical reasons this project has not moved to completion. A change of circumstances and the effluxion of time means that it is now appropriate to reconsider this approach.
- 3.2 The Croydon Local Government Pension Scheme Fund (the Fund) has performed well over a number of recent years. The funding level, that is to say the proportion of assets available to meet current and future anticipated liabilities, has improved from 66% in 2010 to 88% as reported in the 2019 Triennial Actuarial Valuation. Compared to our peers at the 2010 and 2013 valuations, the Fund were one of the poorest funded LGPS funds in England and Wales, however based on the recent reporting by the Government's Actuary's Department (GAD), the Fund is now nearer the middle of the pack both nationally and in London. Overall, the LGPS as a national scheme and at the local, Croydon, level is in a better position to meet its liabilities (i.e. more assets held versus benefits owed to members). The factors that supported a riskier and innovative approach are therefore less attractive. On the basis of the stronger funding position of the Fund alone the orthodox and prudent approach would be to review our funding objectives and consider reducing the level of risk within the portfolio.
- 3.3 There have been a number of enquiries and comments to the adoption of this approach. Although the reports considered by the Pension Committee, Cabinet and the Pension Board were supported by input from professional independent advisors and legal opinion was provided, this approach is novel and innovative and without precedent (the only other example is different in key aspects). The external auditor has carefully scrutinised this approach. Both the Ministry of Housing, Communities and Local Government (MHCLG) and the Pensions Regulator have both expressed interest in the approach proposed to be adopted by the Council, although no formal response has been received from either body.
- 3.4 In the light of the time since the initial decision was taken it is prudent that the original decision be reviewed and either confirmed or rescinded. In balancing the likelihood of being able to meet current and future liabilities against an appropriate forecast of investment returns and contributions from Scheme employers, a prudent approach is required by the LGPS Regulations. The funding approach therefore needs to be driven by a measure of risk and not simply expenditure of cash. As flagged above, the Pension Fund is in a healthier position now than was the case when the assumptions underpinning the proposal for the property transfer were put together. As described above there is a significant amount of uncertainty built into this proposal particularly in terms of future value and this uncertainty does not fall into the usual categories of risk that the Fund is usually exposed to, such as that related to: interest rates,; currency; liquidity; government policy; and so forth. These risks are quantifiable and comprise the Fund's risk appetite. Uncertainty leads to undue risk without the reward that normally would be associated with risk.
- 3.5 Another factor to be considered is the inherent operational complexity of managing this exercise. As mentioned above this proposal is unique and the associated time scale, of 40 years, brings challenges. It is unusual for a Fund of this size to manage

a large residential property portfolio in-house and maintaining these assets as investments rather than as social housing is outside the scope of current housing teams. One of the reasons for the delay in executing this proposal has been the difficulty in valuing the proposal and projecting that valuation into a future net value.

3.6 In summary therefore, circumstances have changed since this proposal was formulated in 2016. The Pension Fund is performing well, reducing the need for riskier investments. More is known about the risks associated with this scheme, more attention has been focused on this proposal and the technical challenges have been highlighted.

3.7 To conclude: it is very important to understand that there is nothing illegal in this proposed scheme, the Council could chose to undertake this proposal should it wish to . However, the Council has seen a change in circumstances which means there is a level of risk that the Pension fund in the view of the Section 151 officer should not be comfortable with. There are other ways of achieving the outputs desired which are considered elsewhere on this agenda and the associated risks of these alternatives are better understood and easier to measure and monitor. On that basis it is recommended that the original decision be rescinded.

4 CONSULTATION

4.1 Officers have fully consulted with the Pension Fund's advisers in preparing this report.

5 FINANCIAL CONSIDERATIONS

5.1 This report deals exclusively with the assets of the Council's Pension Fund.

Approved by: Chris Buss, Interim Director of Finance, Investment and Risk, S151 Officer.

6. LEGAL CONSIDERATIONS

6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance and Deputy Monitoring Officer that the Council is the 'administering authority' for the Croydon Pension Fund which forms part of the Local Government Pension Scheme. As such the Council is responsible for administering, maintaining and investing the Fund in accordance with the Local Government Pension Scheme Regulations 2013 and The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. The Council is also a 'scheme employer' in relation to the Fund.

6.2 External specialist legal advice was secured on the legal powers to enter into a transfer of significant property assets into the Pension Fund in 40 years' time in exchange for a reduction in employer contributions and how best this could be accomplished which advice was provided to Members in 2018. Issues and considerations for the Council to consider were also presented. Options to achieve the proposal were considered by Members. Ultimately full Council resolved on 28th

January 2019 on the recommendation of this Committee to transfer 346 homes leased to Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP from the General Fund into the Croydon Pension Fund or any successor body in 40 years' time in order to give effect to the future gift of the assets to the Fund

- 6.3 The Council's Constitution provides in Part 4A paragraph 1.14 restrictions on the Council's power to move a motion to rescind or amend a resolution. Such a restriction relates to resolutions passed in the previous six months. The resolutions of this committee and full Council were made in 2018 and 2019 respectively and as such these provisions will not restrict the rescission or amendment of those resolutions should Members be minded to agree the recommendations in this report.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Interim Director of Law and Governance and Deputy Monitoring Officer.

7. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

- 7.1 This report contains only information that can be publicly disclosed.

8. HUMAN RESOURCES IMPACT

- 8.1 There are no direct workforce implications arising from the recommendations within this report.

Approved by: Sue Moorman, Director of Human Resources

9. EQUALITIES IMPACT

- 9.1 There are no equalities impacts arising from this report.

10. ENVIRONMENTAL IMPACT

- 10.1 There are no environmental impacts arising from this report.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There are no crime and disorder impacts arising from this report.

12. DATA PROTECTION IMPLICATIONS

- 12.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

- 12.2 The Director of Human Resources comments that this report relates to matters relating to the administration of the LGPS and the Croydon Pension Fund.

Approved by: Sue Moorman, Director of Human Resources

CONTACT OFFICER:

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BACKGROUND DOCUMENTS:

None

Appendices:

There are no appendices.