

COMMITTEE: Pensions Committee	DATE: 18 November 2010	CLASSIFICATION: Unrestricted	REPORT NO.	AGENDA NO.
REPORT OF: Corporate Director of Resources		TITLE: Report on LGPS (Management and Investment of Funds) Regulation 2009		
ORIGINATING OFFICER(S): Oladapo Shonola – Chief Financial Strategy Officer		Ward(s) affected: N/A		

Lead Member	
Community Plan Theme	All
Strategic Priority	One Tower Hamlets

1. SUMMARY

- 1.1 This report outlines the requirements of the Local Government Pension Scheme (LGPS) (Management and Investment of Funds) Regulation 2009 which came into effect on 01 January 2010, and its impact on the operation of Pension Fund assets.
- 1.2 The regulations are primarily good housekeeping as it consolidates the LGPS (Management and Investment of Funds) Regulation 1998 with the numerous instruments which have amended them since they were made and also to update the 1998 Regulation.

2. DECISIONS REQUIRED

- 2.1 Members are recommended
 - 2.1.1 To approve the operation of a separate bank account to hold monies held and received on behalf of the Pension Fund to ensure pension fund cash assets are clearly ring-fenced from other monies of the Council
 - 2.1.2 To agree that pension fund cash assets to continue to be co-mingled with Council Treasury assets to ensure efficient and effective treasury management
 - 2.1.3 To agree to pension fund cash assets being invested on co-mingled basis to ensure that pension fund cash enjoys the same economic rights and return as Council cash assets

3. REASONS FOR DECISIONS

- 3.1 The Council being the administering authority for the London Borough of Tower Hamlets Pension Fund is required to adopt requirements set out in the LGPS (Management and Investment of Funds) Regulation 2009. The majority of the requirements are process that are already in place or do not require the Committee to make a decision.

- 3.2 This report seeks approval to implement the requirements of the Regulation as set out in section 2 above.

4. ALTERNATIVE OPTIONS

- 4.1 The Council as the administering authority for the London Borough of Tower Hamlets Pension Fund is bound by the LGPS (Management and Investment of Funds) Regulation 2009.
- 4.2 Members could chose to take a different approach to the commingling of funds approach set out in section 2 above and have complete separation of pension fund cash assets from Council cash assets for treasury management purposes.
- 4.3 This approach is not considered to be the most efficient as it is likely to increase cost to the Pension Fund and is also likely to yield less return.

5. BACKGROUND

- 5.1 These Regulations are primarily a good housekeeping measure. The existing equivalent regulations, the 1998 Regulations, were made over 10 years ago, have been subject to numerous amendments since, and user have asked for there to be updated and where appropriate clarified.
- 5.2 The Minister also took the opportunity to make more changes that had been suggested by the Chartered Institute of Public Finance and Accountancy (CIPFA), Audit Commission and trade unions representing LGPS scheme members.
- 5.3 Pension Funds in the past have been able to pool and invest pension fund cash assets in line with treasury management strategy. Furthermore, by virtue of 1998 Regulation, the administering authority is allowed to pay the pension fund a specified minimum rate of interest. This was deemed at odds with current legislation because administering authorities tends to be one of the employers participating in the pension fund.
- 5.4 The Regulation (2009) puts this right by the requirement to have a separate bank account and also to ensure equal status is given to pension fund and Council cash assets when co-mingled.
- 5.5 Co-mingling in this sense relates to the pooling of pension fund cash and council cash assets for the purposes of treasury management. Although, assets are pooled, there will be in place robust framework for accounting for the Pension Fund assets being invested and thus the returns on investment too.
- 5.6 The co-mingling process can be likened to a cash unit trust arrangement that the pension fund is invested into, but managed by the Council and would most likely have the larger proportion of assets held by the trust. However, return on investment is shared equally in proportion to percentage of assets held by the investors.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 6.1. The comments of the Corporate Director Resources have been incorporated into the report.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

7.1 The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (“the 2009 Regulations”) came into force on 1 January 2010, repealing a number of statutory instruments, including the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (“**the 1998 Regulations**”).

7.2 In terms of the management of the pension fund, the 2009 Regulations –

- Specify sums which the Council as an administering authority must pay or credit to and may pay from the pension fund which it administers.
- Places a restriction on the extent to which the Council may borrow where the borrowing is to be repaid out of the pension fund. The Council may only borrow by way of temporary loan or overdraft from a bank sums required for paying benefits due under the scheme or to meet investment commitments arising from the implementation of a decision to change the balance between different types of investment. The Council may only do this if at the time of borrowing it reasonably believes that the sum can be repaid within 90 days of the date of the borrowing. The Council is required to pay interest on pension fund money used to repay borrowings.
- Requires the Council from 1 April 2011 to hold monies for the purposes of the pension fund in a separate bank account.

7.3 In terms of investments for the pension fund, the 2009 Regulations –

- Provide that the Council may, in accordance with the 2009 Regulations, appoint one or more investment managers to manage and invest fund money, or any part of such money on its behalf.
- Specify the terms on which the Council must appoint investment managers.
- Require the Council to keep an appointed investment manager’s performance under review.
- Require the Council to formulate a policy for the investment of its fund money, to invest fund money that is not needed immediately to make payments from the fund, obtain advice at reasonable intervals about its investments and consider such advice in taking steps in relation to its investments.
- Require the Council, after consultation, to prepare, maintain and publish a written statement of the principles governing its decisions about the investment of fund money.
- Places restrictions on the types of investments the Council may make.

7.4 The provisions in the 2009 Regulations about investments reflect the previous contents of the 1998 Regulations.

8. ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 The employer's contribution is a significant element of the Council's budget and consequently any improvement in investment performance will reduce the contribution and increase the funds available for other corporate priorities.
- 8.2 A viable pension scheme also represents an asset for the recruitment and retention of staff to deliver services to the residents.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 9.1 There is no Sustainable Action for A Greener Environment implication arising from this report.

10. RISK MANAGEMENT IMPLICATIONS

- 10.1 Any form of investment inevitably involves a degree of risk.
- 10.2 To minimise risk the Panel aims to achieve a diversified portfolio. This diversification relates to both asset classes and management styles.

11. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 11.1 There are no any crime and disorder reduction implications arising from this report.

12. EFFICIENCY STATEMENT

- 12.1 The monitoring arrangement for the Pension Fund and the work of the Pension Fund Investment Panel should ensure that the Fund optimises the use of its resources in achieving the best returns for members of the Fund.

LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D

LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background papers"

***Name and telephone number of holder
And address where open to inspection***

*LGPS (Management & Investment of Funds) Regulation
2009, Explanatory Memorandum to Regulation*

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