

Report to: Pension Committee

Date of meeting: 25 November 2019

By: Chief Financial Officer

Title: Competition and Market Authority Report on Engagement with Investment Consultants

Purpose: To provide Members with an update on the recent Competition and Market Authority Report on Engagement with Investment Consultants.

RECOMMENDATIONS: The Pension Committee is recommended to approve the investment objectives set out in this Report for the Fund's investment consultant (Hymans Robertson).

1. Background

1.1 The Competition and Markets Authority ("CMA") investigated the investment consultancy and fiduciary management market following a referral made by the Financial Conduct Authority (FCA) in September 2017. Trustees of occupational pension schemes are among the largest institutional investors that use these services in the UK. The CMA therefore focused on trustees as customers in this market. In December 2018, the CMA published its report following this review of the investment consulting and fiduciary management markets.

1.2 On 10th June the CMA published the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 ('the Order') placing new obligations on service providers and pension schemes 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.

1.3 The specific remedies that apply to trustees are as follows:

Remedy 1: Requirement to tender for fiduciary management services when 20% or more of scheme assets are delegated; and,

Remedy 7: Requirement to set strategic objectives for providers of investment consultancy services.

1.4 Since then the DWP have published a consultation entitled Trustee oversight of investment consultants and fiduciary managers which seeks to enact the obligations placed on schemes under Parts 3 and 7 of the Order. Also The Pensions Regulator has published a set of draft guides on engaging with investment consultants and fiduciary managers. The CMA requirements stipulate that trustees should set objectives for their investment consultants prior to appointment, or by 10 December 2019.

2. Impact on Local Government Pension Schemes

2.1 Although the Order appeared to clearly include the LGPS as set out in parts 1 and 2 of the Order. In particular by including in the definition of Pension Scheme Trustees the managers of occupational schemes including LGPS scheme managers (administering authorities). Subsequent draft Department of Work and Pensions Regulations seem to have 'clarified' the intention with regard to the LGPS of it only being in scope for Part 7 (and Part 9 insofar as it relates to Part 7). Such clarification is in line with correspondence received from the CMA that in spite of the wording of the Order it was never the intention for LGPS scheme managers to be required to tender FM services provided by 'in house' pool companies. Furthermore CMA stated that they would not seek to enforce the Order in a way as would result in such a tender exercise.

2.2 The draft Department of Work and Pensions regulations (29th July 2019) cites within Scope of Part 6 that a relevant trust scheme includes a public service pension scheme and further, that LGPS scheme managers should note Chapter 2(1) of the consultation document which states, “The CMA order prescribes that all registrable defined benefit and defined contribution occupational pension schemes with 2 or more members are in scope of both remedy 1 and 7 with a number of exceptions including...public service pension schemes (PSPSs) as defined by the Pensions Act 2004, although local government pension scheme (LGPS) are in scope for remedy 7.”

2.3 It is therefore understood that LGPS scheme managers are not in scope for Part 3 of the Order (Remedy 1) but are in scope for Part 7, and Part 9 insofar as it relates to Part 7, (Remedy 7). Chapter 2(3) It goes on to state, “Our regulations do not therefore apply to the LGPS. In particular, we have made no provision for applying remedy 7 to the LGPS, as regulations and guidance in relation to the LGPS are a matter for Ministry of Housing, Communities and Local Government.”

2.4 Therefore it would appear that Part 7 (and Part 9 insofar as it relates to Part 7) of the Order will apply until such time as MHCLG make changes to the ISS statutory guidance which implements remedy 7 into the LGPS. Such changes are not expected until after the outcome of the appeal to the Supreme Court by the Palestinian Solidarity Campaign is known (due late November).

3. Provider of Investment Consultancy (IC) Services

3.1 An IC Service is the provision of advice, this includes advice on which investments are to be made, advice that the scheme manager is required by law to take (for LGPS this includes proper advice under regulation 7(1) of the Investment Regulations 2016), advice on investment strategy and advice on manager selection.

3.2 Part 2 of the Order defines IC Service as:

‘Investment Consultancy Services’ means the provision to Pension Scheme Trustees of services where the provider advises the Pension Scheme Trustees in relation to one or more of the following:

- (a) Investments that may be made or retained by or on behalf of the Pension Scheme Trustees;
- (b) Any matters in respect of which the Pension Scheme Trustees are required by law to seek advice in relation to the preparation or revision of the statement of investment principles;
- (c) Strategic asset allocation;
- (d) Manager selection.

The reference to the term ‘advises’ means the provision of advice on the merits of the Pension Scheme Trustees taking or not taking a specific course of action and includes a recommendation or guidance to that effect.

3.3 Under this definition the Fund has determined that Hymans Robertson constitute an IC under this order and will need to define some strategic objectives for this contract by 10 December.

4. Proposed Strategic Objectives

4.1 We have considered what the Funds requirements are likely to be in order to deliver on our long term objectives and we have used these as the basis for the proposed objectives against which to assess Hymans Robertson.

4.2 Proposed Objectives

East Sussex Pension Fund requirements	Investment Consultant objectives	Desired outcomes / measurement
Ensure members' benefits are met as they fall due	Advise on a suitable investment strategy, and amendments to the strategy, to deliver the required investment returns from the Fund's investments to ensure the pension liabilities of the Fund are met and support progress towards a long term steady state of funding, whilst insuring the appropriate level of risk is utilised to achieve these outcomes.	Returns from the investment strategy over time are in line with or exceed the assumptions within the Funding Strategy Statement and the funding level remains within the expected range of outcomes
Support a long term funding approach that is consistent with a stable and affordable contribution approach from the employers	Deliver an investment approach that reflects the Fund's cashflow position, and likely evolution, and minimises the risk of forced disinvestment.	The Fund has sufficient cash flow to allow members benefits to be paid when due
Ensure the Fund's approach is aligned with the objectives of pooling and associated guidance	Advise on the cost efficient implementation of the Fund's investment strategy as required, taking into account the evolution of the ACCESS pool.	Evolve our performance monitoring and reporting to reflect the investment of assets through the ACCESS pool
Ensure cost efficient implementation of the Fund's investment strategy	Provide clear information so that the Committee is able effectively to monitor the underlying strategies it is invested in. Provide oversight and scrutiny of the ACCESS Investments.	Ensure a focus on key risk / return priorities Any areas of poor performance highlighted, challenged and solutions identified
Ensure the Fund's approach reflects relevant regulatory and legislative requirements	Ensure our advice complies with relevant pensions regulations, legislation and supporting guidance. Advise and support the Committee in developing the Committee's policies and beliefs, including those in relation to Responsible Investment.	No instances of non-compliance with relevant regulations Evidence that the Fund's investment arrangements are consistent in all respects with the Committee's set of investment beliefs
Develop the Committee's Responsible Investment policy and ensure this is reflected in ongoing governance and decision making processes	Ensure our advice reflects the Committee's own policies and beliefs, including those in relation to Responsible Investment considerations.	Committee very satisfied with level of support provided

East Sussex Pension Fund requirements	Investment Consultant objectives	Desired outcomes / measurement
<p>Ensure the Fund's investment objectives are supported by an effective governance framework</p>	<p>Provide relevant and timely advice.</p> <p>Help the Committee develop knowledge and understanding by providing appropriate training. Assist with identifying topics where further training may be beneficial to the Committee on matters that are not our specialist area.</p> <p>Our services to support your ongoing governance shall be proportionate and competitive in terms of costs relative to our peer group.</p>	<p>All reports and advice delivered within prescribed timescales</p> <p>Committee Knowledge and Understanding on investment matters has increased</p> <p>Committee are very satisfied with the value of money represented by the services provided</p>

5. Conclusion and reasons for recommendations

5.1 The proposed objectives set out in this report will ensure that the Fund will meet the requirement of the CMA order remedy 7. These objectives have been devised to ensure that Hymans Robertson as IC provider will be contributing to the achievement of the scheme's overall investment objectives.

5.2 The Pension Committee is recommended to approve or amend the strategic objectives for Hymans Robertson as the provider of investment consultancy advice to the East Sussex Pension Board.

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Background Documents