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Pensions Committee

Date:	**Wednesday, 13 January 2010**
Time:	**6.00 pm**
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer:	Trevor Brassey
Tel:	0151 691 8492
e-mail:	trevorbrassey@wirral.gov.uk
Website:	http://www.wirral.gov.uk

AGENDA

1. **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

   Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

2. **MINUTES (Pages 1 - 4)**

   To receive the minutes of the meeting held 17 November 2009.

3. **MERSEYSIDE PENSION FUND - AUDIT OPINION PLAN 2009-2010 (Pages 5 - 8)**

4. **2009-2010 AUDIT OPINION PLAN - 13 JANUARY 2010 (Pages 9 - 32)**

5. **PENSION FUND BUDGET 2010 - 2011 (Pages 33 - 38)**

6. **LGPS REFORM UPDATE (Pages 39 - 52)**

7. **TREASURY MANAGEMENT POLICY AND STRATEGY 2010/11 (Pages 53 - 68)**

8. **THE LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2009 (Pages 69 - 88)**

9. **MEMBERS' TRAINING 2010 (Pages 89 - 92)**

10. TRUSTEE TRAINING FUNDAMENTALS REFRESHER COURSE (Pages 93 - 96)

11. INVESTMENT SEMINAR - PRESENTATION BY ROBERT WESTCOTT (Pages 97 - 100)

12. SEMINAR - FUTURE OF GOVERNANCE IN PUBLIC SECTOR PENSIONS (Pages 101 - 106)

13. DRAFT LGPS (MISCELLANEOUS) REGULATIONS 2010 (Pages 107 - 122)

14. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

    The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

15. REVIEW OF SCHEME ADDITIONAL VOLUNTARY CONTRIBUTIONS (AVC) ARRANGEMENTS - CHOICE OF FUNDS TO BE OFFERED (Pages 123 - 160)

16. APPOINTMENT OF INDEPENDENT PROPERTY VALUER (Pages 161 - 164)

17. TRANSFEREE ADMISSION BODY APPLICATION - RESEARCH MACHINES (Pages 165 - 166)

18. INDEPENDENT ADVISERS (Pages 167 - 168)

19. CROMWELL HOUSE, HOOK, HAMPSHIRE - REFURBISHMENT (Pages 169 - 172)

20. WRITE OFF OF PROPERTY RENTAL ARREARS (Pages 173 - 182)

21. MINUTES OF THE INVESTMENT MONITORING WORKING PARTY MEETING HELD 24 NOVEMBER 2009 (Pages 183 - 192)

22. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

PENSIONS COMMITTEE

Tuesday, 17 November 2009

Present:	Councillor	AR McLachlan (Chair)	
	Councillors	G Watt	H Smith
		T Harney	F Doyle
		W Duffey	R Moon
		D Knowles	P Johnson (for C Povall)
	Councillors	R Oglethorpe, Liverpool City Council	
		G Pearl, St Helens Council	
In attendance:		Paul Wiggins	UNISON
		Phil Goodwin	UNISON
Apologies		G Davies	A Ibbs J Brown
		N Keats	

66 **MINUTES**

The Director of Law, HR and Asset Management submitted the minutes of the meeting held on 22 September 2009.

Resolved – That the minutes be approved.

67 **MEMBERS' CODE OF CONDUCT – DECLARATIONS OF INTEREST**

Members of the committee were asked whether they had any personal or prejudicial interests in connection with any application on the agenda and, if so, to declare them and state the nature of the interest.

No declarations were made.

68 **LGPS REFORM UPDATE**

The Director of Finance submitted a report informing Pensions Committee of developments and outstanding issues following the introduction of the revised New Look LGPS on 1 April 2008 by the Department for Communities and Local Government (DCLG).

Resolved – That the report be noted.

69 **PAYMENT OF PENSIONS OVERSEAS**

The Director of Finance submitted a report outlining changes to the arrangements for paying pension benefits to pensioners with overseas bank accounts.

Resolved –

That the new banking arrangements with Citibank for processing the payment of pension benefits to overseas bank accounts with effect from 1 January 2010 be agreed.

70 **PENSION ADMINISTRATION STRATEGY STATEMENT**

The Director of Finance submitted a report informing Members of the results of consultation with stakeholders on the introduction of a Pensions Administration Strategy Statement intended to improve standards of administration and quality of service provided to scheme members.

Resolved - That the draft Pensions Administration Strategy Statement now submitted be approved.

71 **IIGCC STATEMENT ON A GLOBAL AGREEMENT ON CLIMATE CHANGE**

The Director of Finance submitted a report providing Pensions Committee with an update on the activity of the IIGCC in the run-up to the United Nations Climate Change Summit at Copenhagen in December 2009.

Resolved - That this Pensions Committee continues to support the work of the IIGCC.

72 **LGC PENSION FUND INVESTMENT CONFERENCE**

The Director of Finance submitted a report requesting Pensions Committee to consider if it wished to be represented at the Pension Fund Investment Conference organised by the Local Government Chronicle to be held in Chester on 25 and 26 February 2010.

Councillors Tom Harney, Harry Smith and Geoffrey Watt indicated that they would wish to attend the conference.

Resolved –

That Councillors; Tom Harney, Harry Smith and Geoffrey Watt attend the conference.

73 **LOCAL GOVERNMENT CHRONICLE (LGC) AWARDS 2009**

The Director of Finance submitted a report informing Pensions Committee of the submission of an entry for the LGC Awards 2009 and recommended attendance at the awards ceremony as the Authority had been short-listed.

The Chair congratulated all officers of the Pensions Fund involved on reaching the final.

Resolved -

That attendance at the ceremony to be held 25 November 2009 be agreed for those members of the Pensions Committee who wished to attend.

74 EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

Resolved – That the public be excluded from the meeting on the grounds that the following matters to be considered contain exempt information by virtue of paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

75 APPOINTMENT OF STRATEGIC PROPERTY ADVISER

The Director of Finance submitted a report recommending the appointment of CB Richard Ellis Real Estate Finance (CBRE) for a four year mandate as Strategic Property Adviser.

Resolved

That the appointment of CB Richard Ellis Real Estate Finance as Strategic Property Adviser for a period of four years from 1 January 2010 with an option to extend for a further two years be approved.

76 MANAGEMENT OF JAPANESE, PACIFIC RIM AND EMERGING MARKETS EQUITIES

The Director of Finance submitted a report requesting agreement by Pensions Committee to the commencement of a procurement exercise to appoint investment managers for Japanese, Pacific Rim, and Emerging Markets equities.

Resolved - That the commencement of the procurement exercise to select investment managers for Japanese, Pacific Rim and Emerging Markets equities be approved.

77 MINUTES OF INVESTMENT MONITORING WORKING PARTY HELD ON 14 OCTOBER 2009

The Director of Finance submitted the minutes of the Investment Monitoring Working Party held on 14 October 2009.

Resolved – That the minutes of the Investment Monitoring Working Party held on 14 October 2009 be agreed.

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

MERSEYSIDE PENSION FUND - AUDIT OPINION PLAN 2009-2010

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to comment on the Audit Commission Audit Opinion Plan for the financial year 2009-2010.The Plan is included elsewhere on this agenda.

2. BACKGROUND

2.1 The Opinion Plan has been produced to give Members an early indication of the scope, range, purpose, process, timescales and planned outputs for the audit and opinion on the closure of accounts for the current financial year.

2.2 Whilst following certain standard approaches, the Plan reflects the outcome of detailed discussions with the MPF.

2.2.1 MPF is obliged to advise the Auditor of any additional risks arising, or expected to arise during the year of audit. After six months of the current financial year, MPF migrated to a new accounting and budgeting system using the Oracle financial package as its basis. All accounting records therefore required transferring to this system on 1 October 2009, involving extensive reconciliations. In recognition of this, a provisional estimate was made of the additional audit time required for confirming that all balances had been transferred accurately. In addition, some preliminary work may be required on the Triennial Valuation as at 31 March 2010.

2.2.2 The Auditor has agreed other amendments to the draft report, which now indicates the levels of materiality and triviality, and also recognises that there may be various adjustments to the initial draft accounts during the course of the audit to reflect further information not previously available.

2.3 At the time of writing final guidance has not been received from the Department for Communities and Local Government regarding the content of the Annual Report. If and when received, this may impact on the audit plan.

3. FEE LEVELS

3.1 The approach of the Audit Commission is to refer to a “scale fee”, based on a number of variables, including the type, size and location of the audited body. For MPF this is set at £70,900. This compares with the planned fee of £61,750 for 2008-2009.

3.2 However this scale free does not take account of any additional work, either to examine these new risks, or where any other assumptions regarding availability and access to information are not met. In such cases, where an addition to the fee may be required, the Audit Commission indicates the process that will be followed.

4. FINANCIAL IMPLICATIONS

4.1 I have included in the budget proposals elsewhere on this agenda a provisional charge of £73,700 for the audit and opinion on the accounts for the year ended 31 March 2010. This represents a 4% increase above the scale fee, to reflect an estimate of the additional work resulting from the mid-year transition to the more efficient accounting and budgeting system referred to in paragraph 2.2.1.

4.2 No information is available regarding the likely level of budget provision required for the financial year 2010-2011. This is likely to be dependent, in part, on the outcome of the audit of the accounts for the current financial year.

5 STAFFING IMPLICATIONS

5.1 There are none directly arising from this report.

6. EQUAL OPPORTUNITY IMPLICATIONS

6.1. There are none arising from this report.

7. COMMUNITY SAFETY IMPLICATIONS

7.1. There are none arising from this report.

8. HUMAN RIGHTS IMPLICATIONS

8.1 There are none arising from this report.

9. LOCAL AGENDA 21 IMPLICATIONS

9.1. There are none arising from this report.

10. PLANNING IMPLICATIONS

10.1. There are none arising from this report.

11. MEMBER SUPPORT IMPLICATIONS

11.1. This report has no particular implications for any Members or wards.

12. BACKGROUND PAPERS

12.1 Audit Opinion Plan Merseyside Pension Fund - Audit Commission - December 2009.

13. RECOMMENDATION

13.1 That Members note the Audit Opinion Plan for the financial year 2009-2010.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/353/09

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Audit Opinion Plan

Merseyside Pension Fund

2009/10

Date **December 2009**

Contents

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/ members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Introduction

1 This plan sets out the audit work we propose to undertake in relation to the audit of financial statements 2009/10 for Merseyside Pension Fund. The plan is based on the Audit Commission's risk-based approach to audit planning which assesses:

- current national risks relevant to your local circumstances; and
- your local risks and improvement priorities.

2 I will discuss and agree this plan, and any reports arising from the audit, with the Pensions Committee as those charged with the governance of the Pension Fund. However, as the pension fund accounts remain part of the financial statements of Wirral Council as a whole, the Audit and Risk Management Committee will retain ultimate responsibility for receiving, considering and agreeing the audit plan, as well as receiving and considering any reports arising from the audit.

3 The audit planning process for 2009/10, including the risk assessment, will continue as the year progresses and the information and fees in this plan will be kept under review and updated as necessary.

Responsibilities

4 The Audit Commission's Statement of Responsibilities of Auditors and of Audited Bodies sets out the respective responsibilities of the auditor and the audited body. The Audit Commission has issued a copy of the Statement to every audited body.

5 The Statement summarises where the different responsibilities of auditors and of the audited body begin and end, and our audit work is undertaken in the context of these responsibilities.

6 We comply with the statutory requirements governing our audit work, in particular:

- the Audit Commission Act 1998; and
- the Code of Audit Practice.

7 Specifically, the work of auditors on pension fund accounts is defined by the Auditing Practices Board practice note 15 on the audit of pension fund accounts.

Fee for the audit of financial statements

8 The indicative fee for the audit is £70,900. The details of the structure of scale fees are set out in the Audit Commission's work programme and fee scales for 2009/10. Scale fees are based on a number of variables, including the type, size and location of the audited body.

9 The annual audit fee was approved on 23 April 2009 and presented to the Audit and Risk Management Committee on 30 June 2009 (see Appendix 1). The basis for the fee is explained in more detail at Appendix 2.

10 The Audit Commission scale fee for a multi employer Pension Fund is £70,900. The fee proposed for 2009/10 is therefore at the scale fee.

11 In setting the fee, we have assumed that:

- no significant audit risks are identified
- the Pension Fund has a sound control environment
- the auditor is provided with complete and materially accurate financial statements
  - with supporting working papers, and
  - within agreed timeframes

12 Where these assumptions are not met, I will be required to undertake additional work which is likely to result in an increased audit fee. Where this is the case, we will discuss this in the first instance with the Director of Finance and we will issue supplements to the plan to record any revisions to the risk and the impact on the fee.

Specific actions Merseyside Pension Fund could take to reduce its audit fees

13 The Audit Commission requires its auditors to inform audited bodies of specific actions it could take to maintain its audit fees at scale. As in previous years, we will work with staff to identify any specific actions that the Pension Fund could take and to provide ongoing audit support.

Auditors report on the financial statements

14 I will carry out the audit of the financial statements in accordance with International Standards on Auditing (UK and Ireland) - ISA (UK&I) - issued by the Auditing Practices Board (APB).

15 I am required to issue an audit report giving my opinion on whether the pension fund accounts give a true and fair view of the financial position of the Authority as at 31 March 2010.

16 I am also required to review the pension fund annual report in accordance with the LGPS regulations 1997.

Identifying opinion audit risks

17 As part of our audit risk identification process we need to fully understand the audited body to identify any risk of material misstatement (whether due to fraud or error) in the financial statements. We do this by:

- identifying the business risks facing the Pension Fund, including assessing your own risk management arrangements;
- considering the financial performance of the Pension Fund;
- assessing internal control - including reviewing the control environment, the IT control environment and Internal Audit; and
- assessing the risk of material misstatement arising from the activities and controls within the Pension Fund information systems.

Audit Commission FRS17 protocol

18 To avoid unnecessary duplication of work required to provide opinion assurance in respect of FRS17 entries in the accounts of admitted body authorities for which the Audit Commission nominates the appointed auditor, the Audit Commission requires the auditors of Pension Funds to undertake a programme of work provided for in a protocol and report to those admitted body auditors on their findings.

19 The specified programme of work includes:

- Reviewing the actuary's analysis of the Fund's assets to establish whether the asset value attributed to the admitted bodies concerned are consistent with the total scheme assets considered in the audit of the Fund's accounts, and

- Making enquiries of the actuary in relation to their work in calculating FRS17 assets and liabilities.

Assertions

When considering the risk of material misstatement we consider what the Director of Finance is stating when he signs the financial statements. An audited body's management is responsible for the preparation and presentation of financial statements which give a true and fair view of the nature and activity of the Pension Fund for the period. In doing so, management is making statements regarding the recognition, measurement, presentation and disclosures of various elements of the financial statements and related disclosures.

20 These representations from management are referred to as assertions about financial statements in ISA (UK&I) 500. The ISA states that we have to ascertain that the financial statements are free from material misstatement at the assertion level. The ISA splits out the assertions and considers their applicability in respect of:

- Fund Account items;
- Net Assets Statement items; and
- Disclosures and presentational elements of the financial statements.

21 Table 1 below details the relevant assertions for these three categorisations, showing which assertions we need to consider by area of the financial statements.

Table 1 Assertions

We are required to test whether the financial statements are free from material misstatement at the assertion level

Assertion	What does it mean	Fund Account	Net Assets Statement	Disclosure
Accuracy	Is it recorded at the right amount and are the details right? Has it been coded correctly?	✓		✓
Classification	Is it in the right place, under the right headings in the accounts?	✓		✓
Completeness	Is everything that should be in the statements all there?	✓	✓	✓
Cut-off	Is it in the right year?	✓		
Existence	Does the asset or liability exist and is it still owed or owing at		✓	

Assertion	What does it mean	Fund Account	Net Assets Statement	Disclosure
	the end of the year?			
Occurrence	Has it happened and does it relate to the Pension Fund?	✓		✓
Rights and obligations	Does it belong to the Pension Fund?		✓	✓
Valuation and allocation	Is it included at an appropriate amount and properly recorded in the right place?		✓	✓

ISA (UK&I) 500

22 As appointed auditors we calculate materiality to set a tolerance level around the accuracy of the opinion that we issue. A material item within the financial statements is one which would affect the reader's view of the accounts.

23 In considering the risk of material misstatement we are required to report all errors that are not clearly trivial, which in common with other auditing firms is set at 1% of materiality.

24 Table 2 below sets out the materiality and triviality levels used last year and although these will change for 2009/10 they are shown here to provide a general indication of likely levels.

Table 2 Materiality and triviality thresholds

Indicative materiality and triviality values based on 2008/09 accounts

Thresholds	Investment Assets within Net Assets Statement and change in market value of investments in Fund Account	Fund Account and Current Assets and Liabilities in Net assets Statement
Materiality	£35.242 m	£2.46 m
Triviality	£352 k	£24 k

ISA (UK&I) 320

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Identification of specific risks

25 We have considered the specific risks that are appropriate to the current opinion audit and have set these out below. During our audit we will assess the impact of these risks on our fee and agree any changes with the Director of Finance.

Table 3 Specific risks

Specific opinion risks identified

Risk Area	Assertions	Audit response
New General Ledger A new general ledger accounting system was implemented at Merseyside Pension Fund with effect from 1st October 2009. Risk that the balances are not accurately transferred between systems Risk that effective controls will not be in place in the new system	Accuracy Completeness Classification Valuation and Allocation	We will review: • the arrangements put in place by the Fund to ensure that balances are correctly transferred from the outgoing AXISe system to the new Oracle system and, • the adequacy of controls in place in the new system and testing of the effectiveness of those controls as necessary.
Investment Ledgers A new investments ledger maintained by the State Street Bank, the Fund's global custodian, was introduced with effect from 1st April 2008. However, for the preparation of the 2008/09 accounts the Fund's officers relied on a combination of the SSB Investment Ledger and data from the former Shareholder Investment Ledger system. Risk that sourcing the accounts from two *i*nvestment *l*edger systems operating in parallel will lead to inaccuracy, duplication or omission from the financial statements.	Completeness Valuation and Allocation	We will review the arrangements in place for the operation of the investment ledger and monitor the progress made by the Fund in resolving the issues which necessitated the use of two systems.

Risk Area	Assertions	Audit response
Internally Managed Investments The system used to monitor and control internally managed investments (Shareholder) was replaced by the OpenAir.system with effect from 1 October 2009. Risk that the balances were not accurately transferred between systems, and Risk that effective controls are not in place in the new system	Accuracy Completeness Classification Valuation and Allocation	We will review: • the arrangements put in place by the Fund to ensure that balances were correctly transferred from the outgoing Shareholder system to the new Openair system and, • the adequacy of controls in place in the new system and testing of the effectiveness of those controls as necessary
Triennial Review The Fund will complete a Triennial Actuarial Valuation Review reflecting the position of the Fund at 31 March 2010. Whilst this is not a direct audit opinion risk, it is a key issue as regards the ongoing governance of the Fund.	Governance	We will review the arrangements in place to gather data provided to the actuary to facilitate the Triennial Review and test its accuracy as necessary. We will review the actuarial assumptions agreed with the actuary for use in the review.
2008/09 errors A total of 16 (non trivial) errors and adjustments were identified and corrected during the 2008/09 audit, including 5 material errors arising from the misclassification of cash held by investment managers and sums due to and from stockbrokers. We also identified 4 errors in the disclosure notes, one of which was a material adjustment. The material corrections related to errors in the application of the new Statement of Recommended Practice for Pension Fund accounts introduced for the 2008/09 accounts which was not properly applied by the Fund.	All	The errors identified in 2008/09 will be specifically considered in 2009/10 We will review the arrangements for verifying the accounts are SORP compliant.
Related party transactions The 2008/09 audit identified a failure by a member to provide the necessary related party disclosure declaration.	Completeness	Audit procedures will be put in place for a timely review the required declarations.

Identification of specific risks

Risk Area	Assertions	Audit response
Risk of non disclosure of politically sensitive related party relationships or transactions.		
Economic climate Increased risk of fraudulent financial reporting due to the current economic climate and increased financial pressures	All	Ongoing discussion with senior Pension Fund officers regarding controls that mitigate the risk of fraud. Letters of Assurance to be obtained from those charged with governance. Ongoing monitoring of the Pension Fund's investment management and performance arrangements. Completion of a fraud Risk Assessment Review of the Letter of representation
Closedown and audit timetable The Pension Fund and Council must produce its accounts by the end of June and we have planned for most of our work to be completed during July 2010. Consequently, a delay in producing either the accounts or necessary supporting working papers will impact on our ability to complete the audit by the deadline and report to members.	All	Key milestones and timetable detailed in Table 4 of this report.

Testing strategy

26 On the basis of risks identified above we will produce a testing strategy which will consist of testing key controls and/or substantive tests of transaction streams and material account balances at year end.

27 Our testing can be carried out both before and after the draft financial statements have been produced (pre- and post-statement testing).

28 Wherever possible, we will complete some substantive testing earlier in the year before the financial statements are available for audit. We have identified the following areas where substantive testing could be carried out early.

- Review of accounting policies.
- Bank reconciliation.
- Contributions.
- Investments – ownership, existence and valuation.
- Year end feeder system reconciliations.

29 Where other early testing is identified as being possible this will be discussed with officers. We will also discuss areas where we may be able to rely on Internal Audit testing of financial systems.

Key milestones and deadlines

30 The Pension Fund and Council are required to prepare their financial statements by 30 June 2010. We are required to complete our audit and issue our opinion by 30 September 2010. The key stages in the process of producing and auditing the financial statements are shown in Table 4 below.

31 We will agree with you a schedule of working papers required to support the entries in the financial statements.

32 During the post statements audit we will meet with the key contact fortnightly and review the status of all queries. If appropriate, we will meet at a different frequency depending upon the need and the number of issues arising.

Table 4 Proposed timetable

The following timetable will be kept up to date during the audit

Task	Deadline
Agreement of Opinion Plan with officers	Draft by early December 2009 Final by end December 2009
Progress meetings - pre statements	quarterly
Presentation of Opinion Plan to members Finance to present covering report including explanation of the final accounts process and the respective roles of Pensions and Audit and Risk Management Committees	Pensions Committee 13 January 2010 (papers by 21 December 2009) ARMC 18 January 2010 (papers by 29 December 2009)
ISA+315 work - understanding the entity	January 2010
Pre statements control and early substantive testing	February/March 2010
Planning of and arrangements for FRS17 assurance work	March 2010
Pre statements testing of Investment Valuation and initial FRS17 assurance work	Late May/early June 2010
Working papers provided to auditors	By16 June 2010
Receipt of pre audit accounts by auditor	By 16 June 2010
Pensions Committee to challenge accounts and make recommendations to ARMC	Before ARMC meeting (by 30 June 2010)
ARMC to challenge and approve Council	By 30 June 2010

Task	Deadline
accounts, including Annual Governance Statement and Pension Fund Statements.	(papers out by 16 June)
Start of detailed post statements testing	late June 2010
Progress meetings	fortnightly
Completion of fieldwork on statements	mid August 2010
Agreement of Errors and Uncertainties	20 August 2010
Draft MPF Annual Report provided to auditors	20 August 2010
Draft Annual Governance Report from Audit Commission to officers	3 September 2010
Meeting with officers to agree final AGR (AGR will highlight any outstanding issues that will be updated at meetings with members)	Meetings by 8 September 2010 Final AGRs by 13 September 2010
Final version of Annual Report available for audit agreement	17 September 2010
Pensions Committee - to consider the Pension Fund AGR and any action plan, any amendments to statements and the Letter of Representation - to make recommendations to ARMC	Before ARMC meeting below (by 30 September 2010) Papers out by 13 September
ARMC to receive Annual Governance Report, including any verbal update on outstanding issues	By 30 September 2010 Papers out by 13 September 2010
Final check of post-audit statements and annual report	By 30 September 2010
Issue of opinion by District Auditor	By 30 September 2010
Annual Report published	by 1 December 2010

The audit team and key contacts

33 The key members of the audit team for the 2009/10 audit are shown in the table below.

Table 5 Audit team

Name	Contact details	Responsibilities
Mike Thomas District Auditor	m-thomas@audit-commission.gov.uk 0844 7987043 or 07879 667712	Overall delivery and reporting of the audits of the Wirral Council and Merseyside Pension Fund including quality and outputs. Signing the opinion, conclusion and certificate. Liaison with the Director of Finance and Chief Executive.
Liz Temple Murray Audit Manager	l-temple-murray@audit-commission.gov.uk 0151 666 3483	Manages, quality assures and coordinates the different elements of the audit work on Wirral Council (including liaison with the Pension Fund Audit Manager). Key point of contact for the Director of Finance, Head of Finance, Head of Pensions and Chair of the Audit and Risk Management Committee. Annual Governance Report for Wirral Council.
Caroline Davies Audit Manager (from January 2010)	caroline-davies@audit-commission.gov.uk 0151 666 3481	Supports the Audit Manager on Wirral Council. Manages, quality assures and coordinates the different elements of the audit work on Merseyside Pension Fund, including FRS17. Key point of contact for the Head of Pensions, the Financial Controller and the Chair of the Pensions Committee. Annual Governance Report for Merseyside Pension Fund.
Danny Baxter Audit Team Leader	d-baxter@audit-commission.gov.uk 0151 666 3486	Leads fieldwork and audit team on opinion and FRS17 work. Key point of contact for and liaison with the Head of Pensions and the Financial Controller.

Independence and objectivity

34 I am not aware of any relationships that may affect the independence and objectivity of the District Auditor and the audit staff, which we are required by auditing and ethical standards to communicate to you.

35 I comply with the ethical standards issued by the APB and with the Commission's requirements in respect of independence and objectivity as summarised at Appendix 2.

36 Wirral Council and Merseyside Pension Fund key officer contacts for the opinion audit are set out in the table below.

Table 6 Wirral Council and Merseyside Pension Fund key officer contacts

Key officers of the Wirral Council and Merseyside Pension Fund team

Name	Contact details	Responsibilities
Stephen Maddox Chief Executive	stephenmaddox@wirral.gov.uk 0151 691 8589	Accountable Officer Governance framework and signing the Annual Governance Statement.
Ian Coleman Director of Finance	iancoleman@wirral.gov.uk 0151 666 3056	Section 151 Officer Preparation and certification of accounts that present a true and fair view of the financial position of the Council and Merseyside Pension Fund at 31 March 2010. Agreement of final AGR.
Bill Norman Director of Law, Asset Management and HR	billnorman@wirral.gov.uk 0151 691 8498	Monitoring Officer Considering the legality of transactions.
Peter Wallach Head of Pensions	peterwallach@wirral.gov.uk 0151 242 1309	Preparation and quality assurance of accounts that present a true and fair view of the financial position of Merseyside Pension Fund at 31 March 2010. Agreement of draft AGR for Merseyside Pension Fund.
Gerard Moore Financial Controller	gerardmoore@wirral.gov.uk 0151 242 1307	Preparation of accounts and coordination and liaison during the audit.
Dave Garry Chief Internal Auditor		Review of and assurance on risk management, corporate governance and financial control.

Wirral Council

37 Wirral Council and Merseyside Pension Fund key member contacts for the opinion audit are set out below:

Table 7 Wirral Council and Merseyside Pension Fund key member contacts

Key members involved in the financial statements

Name	Contact details	Responsibilities
Councillor Steve Foulkes Leader of the Council	stevefoulkes@wirral.gov.uk	Governance framework and signing the Annual Governance Statement.
Paula Southwood Chair of the Audit & Risk Management Committee	paulasouthwood@wirral.gov.uk	Approves and signs the accounts on behalf of the Council.
Councillor A McLachlan Chair of Pensions Committee	annmcLachlan@wirral.gov.uk	Makes recommendations for the Chair of ARMC to approve and sign the accounts and the Letter of representation.

Wirral Council

38 In addition, all members of the Pensions Committee are responsible for:

- challenging the pre-audit Pension Fund accounts
- putting forward recommendations for the Chair of ARMC to approve and sign the accounts
- considering the post audit Annual Governance Report and the Letter of representation

39 All members of the Audit & Risk Management Committee are responsible for

- The approval of the Council's accounts, including the Pension Fund's statements of account
- The responsibilities of the Council under section 151 of the Local Government Act 1972 to make proper provision for its financial affairs.

Quality of service

40 We are committed to providing you with a high quality service. The quality of our service is monitored by the Audit Commission which has recently published the Audit Practice annual quality report (November 2009) . This report summarises the results of

the quality review of the work of the Commission's own staff as auditors to local government and NHS bodies, including the views of the Audit Inspection Unit that carried out an independent review of our work.

41 The publication of the Audit Commission's audit practice annual quality report is one of a range of measures aimed at demonstrating our commitment to delivering audit quality. It assures audited bodies and stakeholders about the arrangements in place and the underlying strength of the Commission's audit practice and compares our audit practice with the firms and the other audit agencies.

42 If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact the North West Head of Operations, Terry Carter: t-carter@audit-commission.gov.uk .

43 If we are unable to satisfy your concerns, you have the right to make a formal complaint to the Audit Commission. The complaints procedure is set out in the leaflet 'Something to Complain About' which is available from the Commission's website or on request.

Planned outputs

44 Reports will be discussed and agreed with the appropriate officers before being issued to the Audit and Risk Management Committee and/or Pensions Committee.

Table 8 Planned outputs

Planned output	Indicative date
Opinion audit plan	31 December 2009
Update to opinion audit plan and feedback on interim audits (if required)	March 2010
Annual governance report	30 September 2010
Auditor's report giving an opinion on the financial statements	30 September 2010
Final accounts memorandum (if required)	30 November 2010

45 We will agree final dates with you as the audit progresses.

Sustainability

46 The Audit Commission is committed to promoting sustainability in our working practices and we will actively consider opportunities to reduce our impact on the environment. This will include:

- reducing paper flow by encouraging you to submit documentation and working papers electronically;
- use of video and telephone conferencing for meetings as appropriate; and
- reducing travel.

Appendix 1 – Fees Letter

26 April 2009

Direct line 0844 798 7043

m-thomas@auditcommission.gov.uk

Ian Coleman
Director of Finance
Merseyside Pension Fund
Treasury Building
Cleveland Street
Birkenhead
CH41 6BU

Dear Ian

Annual audit fee 2009/10

Further to our previous discussions about the form of the audit fee letter, I am writing to confirm the audit work that we propose to undertake for the 2009/10 financial year at Merseyside Pension Fund. The fee is based on the risk-based approach to audit planning as set out in the Code of Audit Practice and work mandated by the Audit Commission for 2009/10.

As I have not yet completed my audit for 2008/09, the audit planning process for 2009/10, including the risk assessment will continue as the year progresses and fees will be reviewed and updated as necessary.

The total indicative fee for the audit for 2009/10 is for £70,900 (excluding VAT), which compares to the planned fee of £61,750 for 2008/09 (15% increase).

The Audit Commission has published its work programme and scales of fees 2009/10. The Audit Commission scale fee for Merseyside Pension Fund is £70,900. The fee proposed for 2009/10 is at the scale fee and will be billed in monthly instalments.

In setting the fee at this level, I have assumed that the general level of risk in relation to the audit of the financial statements is not significantly different from that identified to 2008/09. A separate plan for the audit of the financial statements will be issued in November 2009. This will detail the risks identified, planned audit procedures and any changes in fee. If I need to make any significant amendments to the audit fee during the course of the audit, I will first discuss this with you and then prepare a report outlining the reasons why the fee needs to change for discussion with the Pensions Committee.

I will issue a number of reports relating to my work over the course of the audit. These are listed at Appendix 1.

The above fee excludes any work requested by you that the Commission may agree to undertake using its advice and assistance powers. Each piece of work will be separately negotiated and a detailed project specification agreed with you.

The key members of the audit team for the 2009/10 are:

Audit Manager – Liz Temple-Murray 0151 666 3483

Team Leader – Danny Baxter 0151 666 3486

I am committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact the Terry Carter, the North West Region Head of Operations: t-carter@audit-commission.gov.uk.

Yours sincerely

Mike Thomas
District Auditor

cc Peter Wallach, Head of Pensions

cc Gerard Moore, Financial Controller

cc Ann McLachlan, Chair of the Pensions Committee

Appendix 2 – Basis for fee

1 The Audit Commission is committed to targeting its work where it will have the greatest effect, based upon assessments of risk and performance. This means planning work to address areas of risk relevant to our audit responsibilities and reflecting this in the audit fees.

2 The risk assessment process starts with the identification of the significant financial and operational risks applying to the Pension Fund with reference to:

- our cumulative knowledge of the Council;
- planning guidance issued by the Audit Commission;
- the specific results of previous and ongoing audit work;
- interviews with Council officers; and
- liaison with Internal Audit.

Assumptions

3 In setting the fee, I have assumed that:

- the level of risk in relation to the audit of the financial statements is not significantly different from that identified for 2008/09; however, we still need to assess any impact of the risks at Table 3 above and agree any changes to the fee with the Director of Finance;
- you will inform us of significant developments impacting on the audit;
- Internal Audit meets the appropriate professional standards;
- good quality working papers and records will be provided to support the financial statements by 16 June 2010;
- requested information will be provided within agreed timescales;
- prompt responses will be provided to draft reports; and
- additional work will not be required to address questions or objections raised by local government electors.

4 Where these assumptions are not met, I will be required to undertake additional work which is likely to result in an increased audit fee.

Appendix 3 – Independence and objectivity

1 Auditors appointed by the Audit Commission are required to comply with the Commission's Code of Audit Practice and Standing Guidance for Auditors, which defines the terms of the appointment. When auditing the financial statements, auditors are also required to comply with auditing standards and ethical standards issued by the Auditing Practices Board (APB).

2 The main requirements of the Code of Audit Practice, Standing Guidance for Auditors and the standards are summarised below.

3 International Standard on Auditing (UK and Ireland) 260 (Communication of audit matters with those charged with governance) requires that the appointed auditor:

- discloses in writing all relationships that may bear on the auditor's objectivity and independence, the related safeguards put in place to protect against these threats and the total amount of fee that the auditor has charged the client; and
- confirms in writing that the APB's ethical standards are complied with and that, in the auditor's professional judgement, they are independent and their objectivity is not compromised

4 The standard defines 'those charged with governance' as 'those persons entrusted with the supervision, control and direction of an entity'. In your case, the appropriate addressee of communications from the auditor to those charged with governance is the Pension Fund Committee and the Audit and Risk Management Committee. The auditor reserves the right, however, to communicate directly with the Council on matters which are considered to be of sufficient importance.

5 The Commission's Code of Audit Practice has an overriding general requirement that appointed auditors carry out their work independently and objectively, and ensure that they do not act in any way that might give rise to, or could reasonably be perceived to give rise to, a conflict of interest. In particular, appointed auditors and their staff should avoid entering into any official, professional or personal relationships which may, or could reasonably be perceived to, cause them inappropriately or unjustifiably to limit the scope, extent or rigour of their work or impair the objectivity of their judgement.

6 The Standing Guidance for Auditors includes a number of specific rules. The key rules relevant to this audit appointment are as follows.

- Appointed auditors should not perform additional work for an audited body (ie work over and above the minimum required to meet their statutory responsibilities) if it would compromise their independence or might give rise to a reasonable perception that their independence could be compromised. Where the audited body invites the auditor to carry out risk-based work in a particular area that cannot otherwise be justified as necessary to support the auditor's opinion and conclusions, it should be clearly differentiated within the Audit and Inspection Plan as being 'additional work' and charged for separately from the normal audit fee.
- Auditors should not accept engagements that involve commenting on the performance of other auditors appointed by the Commission on Commission work without first consulting the Commission.
- The District Auditor responsible for the audit should, in all but the most exceptional circumstances, be changed at least once every five years.
- The District Auditor and senior members of the audit team are prevented from taking part in political activity on behalf of a political party, or special interest group, whose activities relate directly to the functions of local government or NHS bodies in general, or to a particular local government or NHS body.
- The District Auditor and members of the audit team must abide by the Commission's policy on gifts, hospitality and entertainment.

WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

PENSION FUND BUDGET 2010-2011

1. EXECUTIVE SUMMARY

1.1. This report outlines the proposed Pension Fund budget incorporating the administration and investment costs for 2010-11, and also shows a revised budget for 2009-10. The Committee is requested to approve the budget.

2. PROBABLE OUTTURN 2009-2010

2.1 The Probable Outturn for 2009-10 shows a projected overspending of £670,000 on a budget of £11.7m, primarily reflecting the increased ad valorem fees payable to fund managers due to the significant increase in value of the Fund during the current financial year.

2.2 Staffing budgets expected to be marginally underspent.

2.3 The probable outturn figures also reflect the development of a new accounting system based on the Oracle platform.

2.4 There is a projected £64,000 underspending on supplies and services, including furniture (£25,200), and use of external services, including consultants (£20,000).

3 BUDGET 2010-2011

3.1 Final guidance from the Department for Communities and Local Government is still awaited regarding the content of Pension Fund Annual Reports. This may contain elements which relate to the content of annual budgets, particularly with regard to the payment of benefits, transfer values and contributions. Such elements have never previously featured in Pension Fund budgets. Their main impact is on an individual employer basis as part of the Triennial Valuation, which sets contribution rates for each employer. In the absence of this guidance the budget for 2010 – 2011 is being set, as previously, to reflect the administrative and investment management costs of the Pension Fund, and excludes benefits, transfer values and contributions.

3.2 The budget also excludes certain costs which are, or are expected to be, reflected in increases in the value of the Fund. This includes payments to tax advisers who are assisting with the pursuit of further recoveries of UK tax, European Withholding Tax and USA tax. Performance payments to managers to exceed their out-performance targets are deemed to be covered by the related change in Fund value, and hence are not explicitly budgeted for.

3.3 The proposed budget is shown as the appendix to this report, and totals £13,826,100. It reflects decisions previously taken by the Pensions Committee, and items elsewhere on this agenda, including the following:

- Custodian monitoring
- Implementation of the new Pensions Administration System, which has a one- off additional cost of £163,000 in 2010-2011.
- Manager selection costs for the Japanese, Far East and Emerging Markets mandates
- Award of the property strategy manager and independent property valuer contracts.
- A reduction in the budget for Independent Advisors.

3.4 Increases Linked to the Value of the Fund:-

a. There is an increase in the budget for investment management expenses, which are estimated to total £7,918,500 in 2010-2011. These are ad valorem fees which vary according to the value of each portfolio. The increase reflects the increase in such values over the last twelve months, and assumes a further increase in the Fund during 2010- 2011.

b. Custodian fees will also increase, as the basic custody element is also charged on an ad valorem basis.

3.5 The budget for rental charges for the use of Castle Chambers has increased as a result of the major refurbishment. The equivalent income is retained by the Fund.

3.6 There is an increase in budget for actuarial costs to reflect the work associated with the Triennial Valuation as at 31 March 2010. The budget is temporarily increased every three years to reflect this exercise.

3.7 Budget reductions are proposed in the following areas:
- Furniture and office equipment: £12,900 – as a result of the new contracts negotiated by the Procurement Team
- Other supplies and services: £2,700

4. FINANCIAL IMPLICATIONS

4.1. The estimates cover the administrative costs of MPF together with the investment management costs. The totals of the actual, rather than estimated costs of administering the Pension Fund are recoverable from employers by inclusion in their contributions and currently amount to around 0.5% of the employer contribution rate. The next revision of contribution rates will follow the Triennial Valuation scheduled for March 2010, for implementation in April 2011.

5. STAFFING IMPLICATIONS

5.1. There are none arising from this report.

6. EQUAL OPPORTUNITY IMPLICATIONS

6.1. There are none arising directly from this report.

7. HUMAN RIGHTS IMPLICATIONS

7.1. There are none arising directly from this report.

8. COMMUNITY SAFETY IMPLICATIONS

8.1. There are none arising directly from this report.

9. LOCAL MEMBER SUPPORT IMPLICATIONS

9.1. There are none arising directly from this report.

10. LOCAL AGENDA 21 IMPLICATIONS

10.1. There are no implications in this report.

11. PLANNING IMPLICATIONS

11.1. There are none arising directly from this report.

12. BACKGROUND PAPERS

12.1 None were used in the preparation of this report.

13. RECOMMENDATION

13.1. That Members approve the estimates for 2010-2011.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/358/09

APPENDIX

	ESTIMATE 2009-10 £	PROBABLE 2009-10 £	ESTIMATE 2010-11 £
Employees			
Pay, NI and Pension	2,757,000	2,679,200	2,898,100
Training	38,000	38,000	41,000
Other staffing costs	17,200	90,200	17,200
	2,812,200	2,807,400	2,956,300
Premises			
Rents	107,200	107,200	130,300
	107,200	107,200	130,300
Transport			
Public transport	9,900	21,200	21,200
Car Allowances	3,500	2,100	2,200
	13,400	23,300	23,400
Supplies			
Furniture and office equipment	70,800	35,600	57,900
Printing, stationery literature and employer/ee liaison	153,500	158,000	158,500
Computer Development and hardware	130,700	101,000	76,000
Postages and telephones	138,100	138,100	141,800
External Audit - Stamp Duty	60,100	73,700	75,200
Consultants Fees	218,100	198,800	226,500
Conference and subsistence expenses	33,700	33,700	33,700
Subscriptions	208,600	213,200	254,500
Other	21,400	19,200	18,700
	1,035,000	971,300	1,042,800
Third Party			
Bank charges	18,400	18,400	18,400
Investment Management Fees	6,176,700	6,900,000	7,918,500
Custodian Fees	461,200	461,200	467,000
Actuarial Fees	136,400	136,400	166,000
Other Hired & Contracted Services	244,400	244,400	387,700
	7,037,100	7,760,400	8,957,600
Transfers			
Payments for devolved administration	176,000	176,000	177,800
Support			
Central Support - I T Charges	348,600	348,600	355,600
Central Support - Other Charges	253,500	253,500	258,600
	602,100	602,100	614,200
Total Expenditure	**11,783,000**	**12,447,700**	**13,902,400**
Income			
Fire and Rescue Service	-75,500	-75,500	-76,300
Total Income	-75,500	-75,500	-76,300
Net Expenditure	**11,707,500**	**12,372,200**	**13,826,100**

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

LGPS REFORM UPDATE

1. **EXECUTIVE SUMMARY**

1.1. This report updates Members on developments following the introduction of the revised LGPS on 1 April 2008 by the Department for Communities and Local Government (DCLG).

2. **UPDATE**

2.1 The Pensions Committee last considered progress in implementing the new regulations as part of the reform of the LGPS, on 17 November 2009 (Minute 55 refers).

2.2. Ill Health Retirement Regulations

2.2.1 Preliminary analysis by the Government Actuary's Department (GAD) of the results of the ill-health retirement data submitted by Pension Funds reveals that during 2008/09:

73% of cases were tier 1 - 100% enhancement to age 65
14% of cases were tier 2 - 25% enhancement to age 65
13% of cases were tier 3 - No enhancement

2.2.2. Although the total number of ill health cases has continued to decline these results in terms of the split between tiers are similar to those experienced by MPF and are the opposite of what was intended by DCLG when it advocated changes to the ill health regulations. The full results are expected to be published on the GAD website shortly.

2.2.3. It is reported that the collection of ill health retirement data for DCLG may become either a 6 monthly or annual requirement.

2.3. Government Pre Budget Announcement

Pensions Tax Relief

2.3.1. The restriction of pensions tax relief from April 2011 will apply to those with gross incomes of £150,000 and over, where gross income incorporates all pension contributions, including those funded by an employer, and before any deductions for charitable donations are made. This will be subject to an income floor, so that individuals with pre-tax incomes (excluding employer pension contributions) of less than £130,000 will be unaffected.

2.3.2. Reflecting this change, the Government has announced that the anti-forestalling measures introduced in the Budget 2009 will be extended from 9 December 2009 so that all those with incomes of £130,000 and over will be subject to the special annual allowance.

2.3.3. The Government also referred to estimated savings of £1 billion a year to be made from 2012-13 from public sector pension schemes including the LGPS by the introduction of a cap on employer contributions as part of the new cost sharing measures to be introduced.

2.4. LGPS (Miscellaneous) Regulations 2009

2.4.1 DCLG has issued a set of amendment regulations which came into force on 31 December 2009, to make a number of corrections to those which introduced the new scheme in April 2008 (Appendix 1 attached).

2.4.2. The amendment regulations amend Regulation 10 (the rules for calculating final pensionable pay) to ensure that people whose pay is affected by equal pay or job evaluation exercises are able to elect to use the best 3 year average in the previous 13 year period (rather than the current 10 years).

2.4.3. The regulations which are in part back dated to 1 April 2008 enable pre 6 April 1988 membership to count for survivors pensions where there is a registered civil partnership at no cost to the member.

2.4.4. The regulations also enable Additional Survivor Benefits Contributions (ASBCs) to be made by a member to enable pre 6 April 1988 membership to count for survivor benefits in cases where there is a nominated co-habiting partner.

2.4.5. An opportunity is also given to scheme employers to convert current rechargeable compensatory added years (CAY) benefits into scheme pension or additional pension.

2.5. **Draft LGPS (Amendment) Regulations 2010**

2.5.1 On 18 September 2009 DCLG issued draft amendment regulations for consultation on measures intended to comply with the Fair Deal for Staff Pensions for a small number of staff transferring from the Learning and Skills Council to Local Authorities on 1 April 2010.

2.5.2 A technical response (Appendix 2 attached) was submitted to DCLG by the closing date of 18 December 2009.

2.6. **The LGPS (Management and Investment of Funds) Regulations 2009**

2.6.1 On 1 December 2009 DCLG circulated copies of the new LGPS (Management and Investment of Funds) Regulations 2009 which came into force on 1 January 2010. These regulations are the subject of a separate report to this Committee.

3. **COUNCILLORS PENSIONS**

3.1. LGE Bulletin 64 (dated November 2009) reports that DCLG intends to amend the scheme regulations to bring Councillors into the current scheme although there is no specific timeframe for the required consultation.

3.2. As the 2008 Scheme regulations currently still do not include Councillors' pensions and provision remains subject to the 1997 Regulations Councillor Members are unable to nominate a co-habiting partner to receive a survivors' pension**.**

3.3 For the time being until the regulations are changed the earliest non ill-health retirement age for Councillors remains age 50. Any early retirement of a Councillor on or after age 50 and before age 55 which occurs on or after 6 April 2010 will be an unauthorised payment as far as HMRC is concerned and subject to additional tax charges.

4. **FINANCIAL IMPLICATIONS**

4.1 There are none directly arising from this report.

5. **STAFFING IMPLICATIONS**

5.1. There are none directly arising from this report.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

6.1. There are none arising from this report.

7. **COMMUNITY SAFETY IMPLICATIONS**

7.1. There are none arising from this report.

8. **HUMAN RIGHTS IMPLICATIONS**

8.1. There are none arising from this report.

9. **LOCAL AGENDA 21 IMPLICATIONS**

9.1. There are none arising from this report.

10. **PLANNING IMPLICATIONS**

10.1. There are none arising from this report.

11. **MEMBER SUPPORT IMPLICATIONS**

11.1. There are none arising from this report.

12. **BACKGROUND PAPERS**

12.1. Local Government Pension Scheme Miscellaneous Regulations 2009 – DCLG December 2009

12.2. LGPS Management and Investment of Funds Regulations – DCLG December 2009.

12.3. Local Government Employers Bulletin 64 – November 2009.

13. **RECOMMENDATION**

13.1 That Members note the report.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/343/2010

EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT PENSION SCHEME (MISCELLANEOUS) REGULATIONS 2009

2009 No. 3150

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government ("CLG") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the following instruments:

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006/2914 ("the Compensation Regulations");

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007/1166 ("the Benefits Regulations");

The Local Government Pension Scheme (Transitional Provisions) Regulations 2008/238 ("the Transitional Regulations"); and

The Local Government Pension Scheme (Administration) Regulations 2008/239 ("the Administration Regulations").

2.2 These Regulations also make a new freestanding provision in respect of the London Pension Fund Authority.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The amendments contained in regulations 3 to 6, 8 to 10, 11 (only in relation to new regulation 12A of the Benefits Regulations), 15, 18 and 22 have retrospective effect from 1st April 2008. The amendment contained in regulation 23 has retrospective effect from 8th May 2009. Sections 12 and 24 of the Superannuation Act 1972 (c.11) enable regulations for the superannuation of persons employed in local government service to be framed so as to have effect as from a date earlier than the making of the regulations.

3.2 The reasons for the use of retrospective powers are explained in paragraph 7.

4. Legislative context

4.1 On 1st April 2008 the new Local Government Pension Scheme ("the 2008 Scheme") was introduced and replaced the earlier arrangements constituted under the Local Government Pension Scheme Regulations 1997 ("the 1997 Scheme")(S.I. 1997/1612). The 2008 Scheme is constituted by the Benefits Regulations and the Administration Regulations. The Transitional Regulations revoke most but not all of the provisions of the 1997 Scheme and deal with continuity between the earlier arrangements and the 2008 Scheme.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This amending instrument makes some reforms to the 2008 Scheme and is part of the ongoing programme of modernisation of the Local Government Pension Scheme ("LGPS") to which CLG is committed. Many of the amendments are at the suggestion of our consultees (see Annex A).

<u>Regulations 3 – 6 : Updating the Compensation Regulations</u>

7.2 The Compensation Regulations provide local authorities with the power to compensate employees whose employment is terminated by reason of redundancy or in the efficient exercise of the employing authority's functions. The current cross-references to LGPS Regulations within the Compensation Regulations are to those for the 1997 Scheme. The amendments accordingly update the Compensation Regulations so that, where appropriate, references to the 2008 Scheme are included, with effect from 1st April 2008.

<u>Regulations 8 to 31 – Amendment of the Benefits Regulations and the Administration Regulations.</u>

<u>Regulation 8:</u>

7.3 This amendment deletes a definition of the Administration Regulations that was erroneously inserted by the Local Government Pension Scheme (Miscellaneous) Regulations 2008/2425.

<u>Regulation 9: The meaning of "pensionable pay"</u>

7.4 Under the 1997 Scheme, the definition of "pay" excluded the supplement paid by the Environment Agency to certain individuals. The Regulations for the 2008 Scheme erroneously omitted any provision for such an exclusion and the amendment duly provides for its reinstatement with effect from 1st April 2008. A further exclusion, on payments by way of compensation in order to achieve equal pay, has been added, as suggested by consultees.

Regulation 10 : Final pay : reductions

7.5 Regulation 10 of the Benefits Regulations sets down the conditions under which a member may choose to have his "final pay" treated as the average of three recent consecutive years for the purpose of calculating his pension. The amendment widens these conditions so that they assist members who, for example, have been affected by pay being brought into line with other employees and the results of job evaluation exercises. The amendment is backdated to 1st April 2008 in order to assist with cases where the members concerned have already retired.

Regulation 11: Duty to increase total membership – enhanced protection

7.6 Regulation 11 inserts a new regulation 12A into the Benefits Regulations. Under the tax regime introduced by the Finance Act 2004 (c. 12), effective from April 2006, a member of the LGPS can apply for a form of protection of pension rights accrued prior to 2006. The protection could be applied for up to April 2009. This provision deals with cases under the 2008 Scheme (and hence the retrospection of this regulation to 1st April 2008) where the protection was agreed and where subsequently members have retired after giving up the protection, with their benefit calculation completed in line with guidance from GAD. The effect is cost neutral for a pension fund.

Regulations 11 and 20 : Conversion of credited periods into membership

7.7 Regulation 11 also inserts a new regulation 12B into the Benefits Regulations, introducing provisions which will facilitate improved accountancy by authorities, allowing them, in effect, to convert "compensatory added years" and other forms of compensation awarded in respect of a former employment, awarded under old compensation provisions which are no longer available, into pre-funded additional pension rights. There will be no change to pensioners' income. Regulation 20 (which amends the Transitional Regulations) ensures that this process will not affect members' ability to meet the "85 year rule" governing early retirement (set out in regulation 10 of, and Schedule 2 to the Transitional Regulations), which should be calculated on the basis of actual membership accrued through service rendered.

Regulations 13, 16, 26, 27 and 28 : Payments by the Environment Agency

7.8 These regulations facilitate improved accountancy with regard to certain payments by the Environment Agency: regulations 13 and 16 amend the Benefits Regulations, and regulations 26-28 amend the Administration Regulations. Regulations 13 and 27 enable the Agency in effect to convert annual compensation and "compensatory added years" awarded in respect of a former employment, into additional pension. There will be no effect on members' overall income. The process should have no effect on members' ability to meet the "85 year rule" governing early retirement (set out in regulation 10 and Schedule 2 to the Transitional Regulations), which should be calculated on the basis of actual membership accrued through service rendered. Regulation 16 facilitates improved mechanisms for the Agency to discharge its responsibilities for making Pension Increase payments. Regulation 28 permits the Agency to discharge its liabilities to Water Act Companies by making one-off capital payments.

Regulations 14, 24, 25 and 30 : Additional survivor benefits for nominated cohabiting partners

7.9 Survivor benefits for nominated cohabiting partners were first provided within the Local Government Pension Scheme by virtue of regulations 24 and 25 of the Benefits Regulations. However, regulation 3(4) of the Transitional Regulations specifies that only periods of membership after 5th April 1988 should be taken into account when calculating the survivor benefit. This date was chosen to be in line with previous improvements to the LGPS which allowed for survivor benefits to be paid to the surviving partner of a civil registered same sex partnership based only on membership accruing since April 1988.

7.10 Regulation 14 amends the Benefits Regulations, and regulations 24, 25 and 30 amend the Administration Regulations, to provide members with the choice to pay additional contributions so that their periods of membership before 6th April 1988 can be counted as well in the calculation of the benefit paid to their surviving nominated cohabiting partner. This enables such members to increase their partners' potential survivor benefit whilst offsetting the costs which would have to be met by pension funds.

7.11 Regulation 25 details the application process for members who wish to apply for the additional survivor benefit and the implications for a member of stopping their contributions so that benefit accrued is duly proportional to the amount of contribution actually paid.

7.12 Regulation 30 provides that rights enjoyed by virtue of having made such contributions may not be subject to the forfeiture provisions set down in Regulation 74 of the Administration Regulations as it would not be equitable to penalise those members who had paid for additional survivor benefit to a greater extent than other members may be penalised.

Regulation 15 : Children's pensions

7.13 The amendment permits the administering authority to pay children's pensions to third parties such as relatives or guardians, applying the funds for the child's benefit. This effectively restores the position that applied under the 1997 Regulations and is accordingly backdated to 1st April 2008.

Regulation 18 : Survivor benefits : civil partners

7.14 The purpose of this amendment is to place civil partners on a level footing with spouses with regard to survivor's benefit, so that all membership is taken into account, not just membership accrued from 6th April 1988 onward. It is backdated to 1st April 2008 which is the date the 2008 Scheme came into effect, and is the date when, in effect, widowers' survivor benefits fully matched the provision covering widow's pension based on their spouse's membership accrued prior to 6th April 1988.

Regulation 19 : Deferred members: limit on death grant

7.15 The current position is that the death grant for deferred members is set at a figure up to the retirement pension multiplied by five, although in practice in the majority of cases the maximum figure permitted is granted. In order to achieve consistency, under the amendment all cases will receive what was formerly the maximum figure.

Regulation 22 : New cross-reference

7.16 Regulation 2(3) of the Benefits Regulations (concerning “active members”) was amended by regulation 4 of the Local Government Pension Scheme (Amendment) Regulations 2008/1083 and substituted a new regulation 2 in the Benefits Regulations. Regulation 4(1)(b) of the Administration Regulations (concerning general eligibility for membership) refers to regulation 2(3) of the Benefits Regulations whereas it should refer to regulation 2(2). The amendment duly updates the cross reference in the Administration Regulations with effect from 1st April 2008 (which is the effective date of the amendment made by S.I. 2008/1083).

Regulation 23: Addition to persons who may join the Local Government Pension Scheme

7.17 This amendment extends access to the LGPS to the Chair of the Olympic Park Legacy Company (“OPLC”), and is applicable from 8th May 2009, which is the date that the OPLC was incorporated as a company limited by guarantee. This provides the chair with same right of access to the LGPS as already applies to employees of the OPLC.

Regulation 29 : Guaranteed minimum pensions (GMP)

7.18 The amendment deals with the postponement of GMP payments for the increasing number of members who continue working beyond normal pensionable age. Those who change their employment and leave local government may now elect for the payment of their GMP to be suitably postponed if they choose thus enabling them to enjoy actuarial increases and avoid unfair restrictions on access to tax-free lump sums.

Regulation 32 (freestanding provision): Transfer of funds

7.19 This regulation provides for the transfer, to the pension fund of the London Pension Fund Authority, of certain sums relating to London County Council and Greater London Council stocks which were transferred to the Authority from the London Residuary Body, and in respect of which the Authority has now discharged its liabilities. The provision will give the Authority legal authority to transfer the surplus money, which is currently held in its general administration fund. The external auditor will accordingly be able to approve the relevant item in the Authority’s accounts for the financial year when the transfer is made. The amount transferred will be used to offset part of the deficit in the pension fund.

8. Consultation outcome

8.1 The summary of responses and details of the responses to the consultation are available from CLG - philip.perry@communities.gsi.gov.uk - prior to website publication.

8.2 Before making these Regulations and in accordance with section 7(5) of the Superannuation Act 1972, the Secretary of State consulted the stakeholders in writing, as listed at Annex A.

8.3 The consultation took place from 28th November 2008 to 20th February 2009. (Regulation 32 was subject to a separate consultation with relevant stakeholders, between 15th April and 15th June 2009. No comments were received.)

8.4 31 responses were received. The three areas of the original draft consultation Regulations which attracted most comment were as follows:

8.5 16 respondents commented on a proposal to allow the value of money purchase schemes to be transferred into members' AVC arrangements, with 11 expressing their opposition. Given the level of opposition, the proposal, which may have had cost implications on individual pension funds, and provided rights to members joining the LGPS later in life not available to longer term members of the Scheme, was withdrawn.

8.6 15 commented on additional survivor benefit, with four commenting that the purchase of additional benefit should be more closely linked to length of service. Some argued that members with pre-6th April 1988 service should not have total freedom to purchase as much benefit as they wished, and accordingly the amount is now directly proportional to the length of relevant service (see regulation 14 – new regulation 14A(3) of the Benefits Regulations). As part of the consultation this option was also to apply to registered civil partners, but this has not been followed up in the light of a European Court Judgement [Tadao Maruko v VddB].

8.7 14 supported some broadening of the proposal regarding the circumstances in which members can opt out of using their final pay figure for their pension and as a result regulation 10 now deals with the situation of members whose pay has been in some way restricted.

9. Guidance

9.1 There is no guidance associated with this instrument.

10. Impact

10.1 A full Impact Assessment has not been prepared for this instrument as no impact on business, charities or voluntary bodies is foreseen.

10.2 The impact on the public sector is limited to LGPS employing and administering authorities.

11. Regulating small business

11.1 The legislation does not apply to small business as the Regulations deal specifically with the administration of a public service pension scheme.

12. Monitoring & review

12 .1 As part of the statutory responsibility to regulate the LGPS, CLG monitors data returns from pension funds and via its Policy Review Group, maintains an ongoing dialogue with the Scheme's interested parties. It was through this level of contact that operational problems were identified with the original wording of the Regulations now being amended. We will continue this process but do not envisage that these amending Regulations will require a specific review after implementation but could be included as part of any review and revision to the Scheme should this prove necessary, particularly in the light of any changes in CLG or Government policy.

13. Contact

13.1 Philip Perry at the Department for Communities and Local Government Tel: 0303 44 42174 or email: philip.perry@communities.gsi.gov.uk can answer any queries regarding the instrument.

Annex A

List of consultees

The Chief Executive of:

- County Councils (England)
- District Councils (England)
- Metropolitan Borough Councils (England)
- Unitary Councils (England)
- County and County Borough Councils in Wales
- London Borough Councils
- South Yorkshire Pension Authority
- Tameside Metropolitan Borough Council
- Wirral Metropolitan Borough Council
- Bradford Metropolitan City Council
- South Tyneside Metropolitan Borough Council
- Wolverhampton Metropolitan Borough Council
- London Pension Fund Authority
- Environment Agency

Town Clerk, City of London Corporation
Clerk, South Yorkshire PTA
Clerk, West Midlands PTA
Fire and Rescue Authorities in England and Wales
Police Authorities in England and Wales
Audit Commission
National Probation Service for England and Wales
Local Government Association (LGA)
Employers' Organisation

LGPC	ALACE
PPMA	SOLACE
ALAMA	CIPFA

Association of Colleges
Association of Consulting Actuaries
Association of District Treasurers
Society of County Treasurers
Society of Welsh Treasurers
Society of Metropolitan Treasurers
Society of London Treasurers
Association of Educational Psychologists
NALC
Society of Local Council Clerks

Trades Union Congress	UCATT
UNISON	GMB
NAEIAC	NAPO
AMICUS	TGWU

Equal Opportunities Commission

Siobhan Prill
Workforce Pay and Pensions Division
Communities and Local Government
Zone 5/F5 Eland House,
Bressenden Place,
London,
SW1E 6DE

Our Ref: PS/PM

Your Ref:

Direct Line: 0151 242 1390

Please ask for: Peter Mawdsley

Date: 7 December 2009

Dear Siobhan,

Proposed amendments to the Local Government Pension Regulations re staff transferring from the Learning and Skills Council to Local Education Authorities and transfer of assets on merger of Probation Boards to Probation Trusts

I refer to your letter dated 18 September 2009 in which you invited comments on the changes proposed.

The Fund welcomes the opportunity to comment and the response below is submitted on behalf of Wirral Council in its role as administering authority of the Merseyside Pension Fund.

From an administrative perspective, the creation of special categories of members within the Fund (e.g. to allow for the provision of special retirement terms) is not welcome, especially since we understand the numbers of members involved will be very small.

Such terms will require not only changes in the short-term, but also maintenance over the longer term until the last of the transferring members exits the Fund. The increased administrative burden we believe is disproportionate compared to the magnitude of the transfer. We would prefer to see the members admitted on the standard LGPS benefit structure, and any past service granted as a result of the transfer also to be based on standard LGPS terms.

We understand that, separate from the regulatory changes, it has been suggested that the transferring members should be granted a “non pensionable” pay element as compensation for the increased member contributions in the LGPS compared with the PCSPS. Such a non-pensionable payment does not sit well either with the current LGPS Regulations or current payroll practices with employers, so changes in both these areas might be necessary.

If such a change were made then this would further increase the administrative burden on employers in terms of distinguishing between the pensionable and non-pensionable elements for a small number of members.

There is even a risk that, by default, any non-pensionable element might become treated as pensionable over time (particularly given the number of members involved) thus resulting in a windfall gain to the member in respect of the transferred service, and consequently resulting in additional pension costs to employers. We would therefore prefer the current regulatory position on pensionable pay being maintained.

If the preferred option outlined above is not feasible we would suggest that it would be more sensible and appropriate either to:

permit the staff transferred to retain rights to remain in Civil Service Pension Scheme whilst the relevant employment continues, or

If it is unavoidable to transfer these staff to membership of the LGPS it would be more sensible for the administration of their protected pension rights to be carried out by a single lead local authority fund who has already dealt with similar occurrences and have staff familiar with the rules of these Civil Service schemes and systems designed to deal with them rather than to increase costs and scatter responsibility for a relatively small number of cases in total throughout the country. This option would have a disadvantage of requiring the small number of employers affected to submit contributions and returns etc to a separate Fund from that used for the rest of their employees.

If you require any further information or assistance please do not hesitate to contact me.

Yours sincerely

Deputy Head of Pension Fund

WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

TREASURY MANAGEMENT POLICY AND STRATEGY 2010/11

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to seek approval of the treasury management policy statement and the treasury management annual plan and strategy for Merseyside Pension Fund for the financial year 2010/11.

2. BACKGROUND

2.1 At its meeting on 29 January 2003 the Pensions Committee approved a treasury management policy statement, which sets out a framework for treasury management operations. This policy statement requires that the Pensions Committee approves an annual plan and strategy. The plan and strategy were last approved by the Pensions Committee at its meeting on 14 January 2009.

2.2 The treasury management policy statement is also due for review.

2.3 In November 2009 CIPFA published a fully revised code of practice for treasury management in the public services following the report "Risk and Return" from the Audit Commission.

3. POLICY STATEMENT

3.1 The policy statement is attached as Appendix 1 to this report and has been reviewed in light of the CIPFA publication.

4. PLAN AND STRATEGY

4.1 MPF will comply with the twelve treasury management practices set out in the treasury management policy statement.

4.2 The portfolio arrangements outlined in schedule 1 to the policy statement and shown below will be maintained. The purpose of the ranges around the core positions is to allow the internal investment team to effectively manage the uncertainties currently being faced in the financial environment. The core position remains at 1% of Fund assets following the change to the strategic benchmark approved on 26 November 2007.

	Core Position	Range
	%	%
Call Funds/ Overnight maturities	0.5	0.5 – 1.0
Deposits 1 month to 6 months	0.25	0.0 – 0.5
Deposits up to one year	0.25	0.0 – 0.25
TOTAL	1.0	

4.3 The main aims when managing liquid resources are:

- the security of capital
- the liquidity of investments
- matching inflows from lending to predicted outflows
- an optimum return on investments commensurate with proper levels of security and liquidity.

4.4 For MPF the achievement of high returns from treasury activity is of secondary importance compared with the need to limit exposure of funds to the risk of loss.

4.5 The maximum maturity for any single treasury management investment is 1 year.

4.6 Counterparties are reviewed on a regular basis using a range of information sources, including credit rating agencies, internal research (both from the treasury team and internal investment managers), information from brokers, advice from the treasury management consultants, information on Government support for banks and the credit ratings of that Government support.

4.7 The level of due diligence performed by counterparties with whom MPF invests has significantly increased in the last eighteen months. To assist with the responses to such exercises, a specific resolution is sought regarding the delegated powers of authorised signatories to open and close bank and deposit accounts.

5. FINANCIAL IMPLICATIONS

5.1 There are none arising directly out of this report.

6 STAFFING IMPLICATIONS

6.1 There are none directly arising from this report.

7. EQUAL OPPORTUNITY IMPLICATIONS

7.1. There are none arising from this report.

8. COMMUNITY SAFETY IMPLICATIONS

8.1. There are none arising from this report.

9. HUMAN RIGHTS IMPLICATIONS

9.1 There are none arising from this report.

10. LOCAL AGENDA 21 IMPLICATIONS

10.1. There are none arising from this report.

11. PLANNING IMPLICATIONS

11.1. There are none arising from this report.

12. MEMBER SUPPORT IMPLICATIONS

12.1. This report has no particular implications for any Members or wards.

13. BACKGROUND PAPERS

13.1 Treasury Management Policy Statement – January 2003.

13.2. Treasury Management in the Public Services: Code of Practice (fully revised second edition 2009) – CIPFA.

14. RECOMMENDATIONS

14.1 That Members approve the policy statement, and annual plan and strategy for the treasury management function for 2010-11.

14.2 That Members confirm, for the avoidance of doubt, that the authorised signatories have delegated powers to open and close bank and deposit accounts.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/337/09

APPENDIX 1

MERSEYSIDE PENSION FUND
TREASURY MANAGEMENT POLICY STATEMENT

1 INTRODUCTION

1.1 Merseyside Pension Fund adopts the key principles of 'CIPFA's Treasury Management in the Public Services: Code of Practice' (the Code), as described in Section 4 of that Code.

1.2 Accordingly the Fund will create and maintain, as the cornerstones for effective treasury management:

- This treasury management policy statement stating the policies, objectives and approach to risk management of its treasury management activities

- Suitable treasury management practices (TMPs), setting out the manner in which this organisation will seek to achieve these policies and objectives, and prescribing how it will manage and control these activities.

2 DELEGATION

2.1 Pensions Committee will receive reports on its treasury management policies, practices and activities including an annual strategy and plan in advance of the year and an annual report after its close. The Investment Monitoring Working Party (IMWP) will receive interim reports on treasury management.

2.2 Pensions Committee is responsible for the implementation and regular monitoring of its treasury management policies and practices and will delegate execution and administration of treasury management decisions to the Director of Finance who will act in accordance with this policy statement, TMPs and CIPFA's Standard of Professional Practice on Treasury Management.

2.3 The IMWP is responsible for ensuring effective scrutiny of the treasury management strategy and policies and performance.

3 DEFINITION

3.1 Treasury management activities are defined as:
the management of the Fund's cash flows, its banking, money market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.

3.2 The Fund regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on the risk implications for the Fund.

3.3 The Fund acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management and to employing suitable performance measurement techniques within the context of effective risk management.

TREASURY MANAGEMENT PRACTICES (TMPs)

4 TMP 1 RISK MANAGEMENT

4.1 The Director of Finance will design, implement and monitor all arrangements for the identification, management and control of treasury management risk and will report annually on the adequacy/suitability thereof, and will report, as a matter of urgency, the circumstances of any actual or likely difficulty in achieving the Fund's objectives.

4.2 The Fund regards a key objective of its treasury management activities to be the security of the principal sums it invests. Accordingly, it will ensure that its counterparty lists and limits reflect a prudent attitude towards organisations with whom funds may be deposited, and will limit its investment activities to the instruments, methods and techniques referred to in TMP 4 and listed in the schedule (4.1, 4.2) to this document. It also recognises the need to have, and will therefore maintain, a formal counterparty policy in respect of those organisations with whom it may enter into financing arrangements.

4.3 The Fund will ensure that it has adequate though not excessive cash resources to enable it at all times to have the level of funds available to it, which are necessary for the achievement of its business objectives.

4.4 The Fund will manage its exposure to interest rates with a view to securing its interest revenue as far as is possible within cash flow constraints and by the prudent use of permissible instruments.

4.5 The Fund will achieve these objectives by the prudent use of its approved investment instruments, methods and techniques, primarily to create stability and certainty of costs and revenues, but at the same time retaining a sufficient degree of flexibility to take advantage of unexpected, potentially advantageous changes in the level and structure of interest rates. The above are subject at all times to the consideration and, if required, approval of any policy or budgetary implications.

4.6 It will manage its exposure to fluctuations in exchange rates so as to minimise any detrimental impact.

4.7 The Fund will ensure that all of its treasury management activities comply with its statutory powers and regulatory requirements. It will demonstrate such compliance, if required to do so, to all parties with whom it deals in such activities. In framing its counterparty list it will ensure that there is evidence of counterparties' powers, authority and compliance in respect of the transactions they may effect with the organisation, particularly with regard to duty of care and fees charged.

4.8 The Fund recognises that future legislative or regulatory changes may impact on its treasury management activities and so far as it is reasonably able to do so will seek to minimise the risk of these impacting adversely on the organisation.

4.9 The Fund will ensure that it has identified the circumstances, which may expose it to the risk of loss through fraud, error, corruption or other eventualities in its treasury management dealings. Accordingly, it will employ suitable systems and procedures, and will maintain effective contingency management arrangements, to these ends.

4.10 The Fund will seek to ensure that its stated treasury management policies and objectives will not be compromised by adverse market fluctuations in the value of the principal sums it invests, and will accordingly seek to protect itself from the effects of such fluctuations

5 TMP 2 Performance Measurement

5.1 The Fund is committed to the pursuit of value for money in its treasury management activities. Accordingly the treasury management will be the subject of ongoing analysis of the value it adds. It will be the subject of regular examinations of alternative methods of service delivery and the scope for other potential improvements. The performance of the treasury management function will be measured using the criteria set out in the schedule (2.1) to this document.

6 TMP 3 Decision Making and analysis

6.1 The Fund will maintain full records of its treasury management decisions, and of the processes and practices applied in reaching these decisions, both for the purposes of learning from the past, and for demonstrating that reasonable steps were taken to ensure that issues relevant to those decisions were taken into account at the time. The issues to be addressed and processes and practices to be pursued in reaching decisions are detailed in the schedule (3.1, 3.2, 3.3, 3.4) to this document.

7 TMP 4 Approved Instruments, methods and techniques

7.1 The Fund will undertake its treasury management activities by employing only those instruments, methods and techniques detailed in the schedule (4.1, 4.2) to this document.

8 TMP 5 Organisation, clarity and segregation of responsibilities, and dealing arrangements

8.1 The Fund considers it essential for the purposes of effective control and monitoring of its treasury management activities, for the reduction of the risk of fraud or error, and for the pursuit of optimum performance, that these activities are structured and managed in a fully integrated manner and that there is at all times clarity of treasury management responsibilities.

8.2 The principle on which this will be based is a clear distinction between those charged with setting treasury management policies and those charged with implementing and controlling these policies, particularly with regard to the execution and transmission of funds, the recording and administering of treasury management decisions, and the audit and review of the treasury management function.

8.3 If and when the Fund intends, as a result of a lack of resources or other circumstances to depart from these principles, the “responsible officer” will ensure that the reasons are properly reported and the implications properly considered and evaluated.

8.4 As Director of Finance, I am the responsible officer. I shall ensure that there are clear written statements of the responsibilities for each post engaged in treasury management and the arrangements for absence cover. The responsible officer will also ensure that at all times those engaged in treasury management will follow the policies and procedures set out. The present arrangements are detailed in the schedule (5.5, 5.6) to this document.

8.5 The responsible officer will ensure there is proper documentation for all deals and transactions, and that procedures exist for the effective transmission of funds.

8.6 The delegations to the responsible officer in respect of treasury management are set out in the schedule (5) to this document. The responsible officer will fulfil all such responsibilities in accordance with this policy statement and TMPs and the CIPFA Standard of Professional Practice on Treasury Management.

9 TMP 6 Reporting Requirements and Management Information Requirements

9.1 The Fund will ensure that regular reports are prepared and considered on the implementation of its treasury management policies; on the effects of decisions taken and transactions executed in pursuit of these policies; on the implications of changes, particularly budgetary, resulting from regulatory, economic, market or other factors affecting its treasury management activities; and on the performance of the treasury management function.

9.2 Pensions Committee will receive an annual report on the strategy and plan to be pursued in the coming year.

9.3 An annual report on the performance of the treasury management function, on the effects of the decisions taken and the transactions executed in the past year, and on any circumstances of non-compliance with the Fund's treasury management policy statement and TMPs, will be received by the Pensions Committee.

9.4 The IMWP will receive interim reports on treasury management.

10 TMP 7 Budgeting, accounting and audit arrangements

10.1 The budget for the treasury management function will be included as part of the budget for the Fund which is submitted to Pensions Committee on an annual basis.

10.2 The Fund will account for its treasury management activities, for decisions made and transactions executed, in accordance with appropriate accounting practices and standards, and with statutory and regulatory requirements in force for the time being.

11 TMP 8 Cash and cash flow management

11.1 All monies in the hands of the Fund will be under the control of the Director of Finance and will be aggregated for cash flow and investment purposes. Cash flow projections will be prepared on a regular and timely basis, and the responsible officer will ensure that these are adequate for the purposes of monitoring compliance with liquidity risk management. The present arrangements for preparing cash flow projections are set out in the schedule (8.1, 8.2) to this document.

12 TMP 9 Money Laundering

12.1 The Fund is alert to the possibility that it may become subject of an attempt to involve it in a transaction involving the laundering of money. Accordingly it will maintain procedures for verifying and recording the identity of Counterparties and will ensure that staff involved in this are properly trained.

13 TMP 10 Training and Qualifications

13.1 The Fund recognises the importance of ensuring that all staff involved in the treasury management function are fully equipped to undertake the duties and responsibilities allocated to them. It will therefore seek to appoint individuals who are both capable and experienced and will provide training for staff to enable them to acquire and maintain an appropriate level of expertise, knowledge and skills. I shall recommend and implement the necessary arrangements. The present arrangements are set out in the schedule (5.6) to this document.

13.2 I shall ensure that Pension Committee Members tasked with Pension Fund responsibilities have access to training relevant to their needs and responsibilities.

14 TMP 11 Use of external service providers

14.1 The Fund recognises that responsibility for treasury management decisions remains with the Fund at all times. The Fund recognises there may be potential value of employing external providers of treasury management services, in order to acquire access to specialist skills and resources. When it employs such service providers, it will ensure it does so for reasons, which will have been subjected to a full evaluation of the costs and benefits. It will also ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

14.2 The Fund will ensure, where feasible and necessary that a spread of service providers is used, to avoid overreliance on one or a small number of companies. Where services are subject to formal tender or re-tender arrangements, legislative requirements will always be observed. The monitoring of such arrangements rests with the Director of Finance. Details of the current arrangements are set out in the schedule (9.1, 9.2) to this document.

15 TMP 12 Corporate Governance

15.1 The Fund is committed to the pursuit of proper corporate governance throughout its businesses and services, and to establishing the principles and practices by which this can be achieved. Accordingly the treasury management function and its activities will be undertaken with openness and transparency, honesty, integrity and accountability.

15.2 The Fund has adopted and has implemented the key principles of the Code. This, together with the other arrangements detailed in the schedule to this document, are considered vital to the achievement of proper corporate governance in treasury management and I shall monitor and, if and when necessary, report upon the effectiveness of these arrangements.

MERSEYSIDE PENSION FUND:
SCHEDULE TO TREASURY MANAGEMENT POLICY

SCHEDULE 1:
RISK MANAGEMENT

1.1 The Fund has the following range of approved maximum limits for counterparties subject to meeting the high credit criteria determined by the Fund

CATEGORY	LIMIT Per Institution/Group
Fund's Bank	£30m
Fund's Custodian (Internal Managers)	£30m
Fund's Custodian (External Managers)	£30m
Approved Bank	£20m
Approved Building Societies	£15m
All Local Authorities	No limit
Money Market Funds with a Constant Net Asset value	£30m

At the time of placing a deposit, a maximum country limit of 10% of the cash portfolio in any single jurisdiction outside the UK will be maintained.

1.2 Under exceptional circumstances e.g. transitional arrangements on appointment of new Investment Managers, these limits may be exceeded for a limited period with the prior written approval of the Head of Pension Fund and Fund Operating Group (FOG). Such instances will be reported to the following meeting of the IMWP.

1.3 Counterparties are reviewed on a regular basis using a range of information sources, including credit rating agencies, internal research (both from the treasury team and internal investment mangers), information from brokers, advice given to Wirral Council by their treasury management consultants, information on government support for banks and the credit ratings of that government support.

1.4 Counterparties will be added and removed from the Fund's counterparty list using the range of information sources detailed and full documentation will be retained. The approved list is maintained as an internal electronic document.

1.5 For credit rated counterparties, the minimum criteria will be the short-term/long-term ratings assigned by various agencies which include Fitch, Moody's and Standard & Poor's

	Fitch	Moody's	Standard & Poor's
Long-term	AA-	Aa3	AA-
Short-term	F1	P2	A-1

This means that the Fund will only make investments that have a very high credit rating.

1.6 Credit rating are monitored on a real-time basis for two credit rating agencies (Fitch and Moody's) on information from the Council's Treasury management advisors, and the Fund's lending list is updated accordingly with any changes, including 'rating watch' notices. The Fund will review the third rating agency (Standard & Poor's) on a monthly basis and update the spreadsheet accordingly. The Fund will have regard to ratings issued by all three agencies and make decisions on the basis of lowest rating.

1.7 If a credit rating of a counterparty goes below the minimum criteria set by the Fund, the counterparty will be removed from the counterparty list for any new lending and where possible funds will be withdrawn immediately.

1.8 The Fund requires liquid resources to meet pension payments and administrative expenses. The cash flows from realisation and purchase of investments can be large and concentrated and the Fund needs to maintain facilities and resources to meet these.

1.9 The Fund's cash flows are in balance, with outflows to pensioners matched by income from contributions. In an environment where a significant proportion of investment income is directly re-invested, the levels of liquid resources held need to be adequate. Pensions Committee and the IMWP have agreed the following base portfolio.

	Core Position	Range
	%	%
Call Funds/ Overnight maturities	0.5	0.5 – 1.0
Deposits 1 month to 6 months	0.25	0.0 – 0.5
Deposits up to one year	0.25	0.0 – 0.25
TOTAL	1.0	

1.10 It will manage its exposure to fluctuations in exchange rates. In general, the Fund will only hold foreign currencies to fund pending investment transactions thus limiting the exposure of treasury management activities to fluctuations in exchange rates so as to minimise any detrimental impact.

SCHEDULE 2:
PERFORMANCE MEASUREMENT

2.1 The performance of the Fund's investments are independently measured by WM Company The performance of cash will be included as part of this process and be benchmarked against an appropriate inter-bank rate. This performance measurement is subject to scrutiny by Pensions Committee and IMWP.

2.2 The costs of investment management generally including treasury management expenses are separately accounted for in the Annual Statement of Accounts. Comparisons are made between internal and external fund management costs.

SCHEDULE 3:
DECISION MAKING AND ANALYSIS

3.1 Decision-making is delegated as indicated in the management arrangements set out in schedule 5. Day to day decisions are constrained by the risk controls set out in the other schedules such as approved instruments and counterparties etc.

3.2 Tactical decision making by officers will seek to use information from brokers to meet cashflows whilst gaining maximum return within risk constraints. Officers will have access to up to date market information.

3.3 Strategic decision making by officers and members will seek to set in place a plan that meets the needs of the Pension Fund in relation to its overall investment plan. The external advisers to the Fund (actuary and independent advisers) will help to ensure that decisions are well informed.

3.4 A risk assessment form will be completed for each treasury management transaction, detailing the circumstances at the time the decision is made and providing evidence of the issues considered.

SCHEDULE 4:
APPROVED INSTRUMENTS, METHODS AND TECHNIQUES

4.1 The Fund will use the following instruments for its internally managed treasury management activities.

AAA rated money market funds with a constant Net Asset Value
Call funds
Fixed term deposits with counterparties
Forward Fixed term deposits with counterparties

Structured Fixed term deposits with counterparties (See Note 1)
Cash at bank (RBS)

Note 1: these are effectively loans which give MPF or borrower the option to cancel agreement or renegotiate duration/interest rate of the loan at fixed periods agreed at commencement of loan. These products allow the internal team the opportunity to gain additional yield if their view on interest rates is correct, as the counterparty will have a contrarian view on either the direction or speed of interest rate changes.

4.2 The Fund will permit external fund managers to use all instruments permitted under the Investment Manager Agreement.

SCHEDULE 5:
ORGANISATION, CLARITY AND SEGREGATION OF RESPONSIBILITIES, AND DEALING ARRANGEMENTS

5.1 The structure for the treasury management functions is as follows.

Pensions Committee
Oversees all aspects of Merseyside Pension Fund on behalf of Wirral Council and the other admitted bodies. Reviews investment strategy and overall administration of the Fund.

Investment Monitoring Working Party (IMWP)
Makes recommendations to Pensions Committee following consultation with in-house managers and external advisers.

Responsible Officer
The Director of Finance, with responsibilities as set out in twelve Treasury Management Practices.

Fund Operating Group (FOG)
Includes reviewing the day to day operation of the investments function.

Financial Controller
Responsible for team that undertakes treasury management activities.

5.2 The day to day transactions for treasury management are executed by the treasury management team supervised by the Fund Accountant (Compliance).

5.3 The transmission of Funds is carried out by the settlements team through electronic banking system and the recording of transactions is monitored by the Fund Accountant (Operations) ensuring an adequate separation of duties in the system.

5.4 The physical authorisation of the release of payments from the bank account is made by the Fund's authorised signatories as approved by Pensions Committee.

5.5 There are sufficient staff employed in the process to cover absences and maintain a separation of duties; the duties of staff are outlined in their job descriptions.

5.6 The staff involved in the system have an adequate level of relevant qualifications. Further training, as required, is made available as part of ongoing staff development.

Director of Finance	CPFA
Head of Pension Fund	FCSI, ACIB
Financial Controller	CPFA
Fund Accountant (Compliance)	CPFA
Fund Accountant (Operations)	CIMA
Senior Settlements Officer	AAT
Compliance & Valuations Officer	Chartered MCSI
Investment Assistant	

5.7 Dealing arrangements will be detailed within application forms (where applicable) and approved by an authorised signatory.

5.8 The Fund's policy is not to tape treasury management conversations, although faxed or emailed confirmation is required of the deal from the broker or directly from the counterparty before the payment is released.

5.9 Treasury management facilities are set up with the approval of at least one of the Fund's authorised signatories.

5.10 Treasury management facilities provided on the internet will be agreed with the Head of Pension Fund and will be scrutinised by the Compliance Section to ensure all necessary controls are in place.

SCHEDULE 6: REPORTING REQUIREMENTS AND MANAGEMENT INFORMATION ARRANGEMENTS

6.1 The Fund will ensure that regular reports are prepared and considered on the implementation of its treasury management policies; on the effects of decisions taken and transactions executed in pursuit of these policies; on the implications of changes, particularly budgetary, resulting from regulatory, economic, market or other factors affecting its treasury management activities; and on the performance of the treasury management function.

6.2 Pensions Committee will receive an annual report on the strategy and plan to be pursued in the coming year.

6.3 An annual report on the performance of the treasury management function, on the effects of the decisions taken and the transactions executed in the past year, and on any circumstances of non-compliance with the Fund's treasury management policy statement and TMPs, will be received by the Pensions Committee.

6.4 The IMWP will receive interim reports on treasury management.

6.5 The Fund Accountant (Compliance) will produce monthly reports for the Financial Controller prior to FOG meetings.

SCHEDULE 7:
BUDGETING, ACCOUNTING AND AUDIT ARRANGEMENTS

7.1 The Fund will ensure that its auditors and those charged with regulatory review have access to all information and papers supporting the activities of the treasury management function as are necessary for the proper fulfilment of their roles, and that such information and papers demonstrate compliance with external and internal policies and approved practices. The information made available under present arrangements is detailed in the schedule (10.1) to this document.

SCHEDULE 8:
CASH FLOW

8.1 Given the unpredictable nature of cashflows in investment management and in the payment of lump sum benefits, the Fund is not able to forecast cash flows precisely. The Fund has designed its cash portfolio to meet the principal material predictable cash flows i.e. pension pay days, and retains a sufficient level of liquidity to cover other calls on cash.

8.2 The investments office maintains cash flow statements on a monthly basis updated weekly for predictable cash flows and uses this as a tool to assist the treasury management function.

SCHEDULE 9:
USE OF EXTERNAL PROVIDERS

9.1 The main providers of services to the Fund are money market brokers. As the Fund does not borrow funds it does not pay commission to the brokers. The performance of brokers is under regular review by staff.

9.2 The Fund's main clearing bank contract is the subject of regular tendering exercises.

SCHEDULE 10:
CORPORATE GOVERNANCE AUDIT AND COMPLIANCE

10.1 The Fund is administered by Wirral Council is subject to its corporate governance arrangements including regular internal audit and annual external audit. The treasury management function is examined by both of these audits regularly as a high priority area. I shall ensure that all documentation listed below is made available to auditors:

- Internal policies
- Internal records of deals
- Counterparty confirmations

WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

THE LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2009

1. EXECUTIVE SUMMARY

1.1. This report informs Members that the above Regulations replace the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998.

1.2 The Regulations are primarily a consolidation of the LGPS Regulations 1998 with the numerous instruments which have amended them. The opportunity has also been taken to update the 1998 Reulations and to make a small number of more substantive changes

1.3 The new Regulations came into force on 1 January 2010.

2. BACKGROUND

2.1 The Department for Communities and Local Government (DCLG) published draft regulations on 6 February 2009 to consolidate the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (“the investment regulations”) SI 1998/1831, and to make various amendments. A consultation exercise was launched to which MPF submitted a response as reported to the Pensions Committee on 6 April 2009.

3. SUBSTANTIVE CHANGES TO THE REGULATIONS

3.1 **Ending Use of Pension Fund Money by the Administering Authority**

The provisions in the 1998 regulations which allow such use have been revoked. **From 1 April 2010**, use of pension fund money by the administering authority for any purpose for which it may borrow money will no longer count as an “investment”.

There is a transitional provision covering the period between the date of the coming into force of these Regulations and 31 March 2010. Related CIPFA guidance for authorities is being prepared. This will advise on best practice if an authority does use fund money during the interim period prior to 1 April 2010.

Section 1 in Part 1 of the Local Government Act 2003 sets out the purposes for which a local authority may borrow, namely: “(a) for any purpose relevant to its functions under any enactment, or (b) for the purposes of the prudent management of its financial affairs”. The practical effects of the regulatory change are therefore that the administering authority, in its capacity as a local authority, will no longer be able to use fund money for those purposes from 1 April 2010.

3.2 **Borrowing power**

Regulation 5 gives the administering authority an explicit power to borrow, for up to 90 days, for the purposes of its pension fund. Borrowing in order to invest on behalf of the fund is not permitted.

Regulation 5 clarifies the legal position, following Part 1 of the Local Government Act 2003, which deals with the capital finance provisions of local government finance legislation and provides a borrowing power for local authorities, but only in respect of their general local authority functions.

Regulation 5(2) sets out the purposes for which the power may be used, ie for cash flow purposes - for instance to ensure that all scheme benefit payments can be made on time, or in a transition management situation when the allocation of fund assets is being changed. The pension fund needs to have identifiable income from which repayment of the borrowed amount and any related interest can be funded. In response to suggestions from consultees, the period for which borrowing can last is specified as 90 days - rather than 30 days as suggested in the statutory consultation.

3.3 **Separate bank account for the pension fund.**

This change was proposed in the statutory consultation paper. In view of the comments from consultees on a suitable and practical lead-in time, regulation 6(1) provides that the new requirement must be complied with **from 1 April 2011**. For the avoidance of doubt, authorities should be aware that a physically separate entity with a different bank account number is necessary in order to comply with this regulation, not just an accounting separation.

Regulation 6(2) defines “deposit-taker” for the purposes of this regulation. A provision forbidding set-off by the deposit-taker has been added at regulation 6(3).

3.4 **Statement of Investment Principles**

3.4.1. Stock lending & Risk

An administering authority must now include in its statement of investment principles (SIP) information about its policy on the lending of stocks or other securities from its pension fund; and on the ways in which risks are to be measured and managed.

The first such statement must be published by **1 July 2010.**

3.4.2 Keeping the SIP up to date

Regulation 12 has been amended to require any material change in policy, to be reflected in a revised published SIP within six months of the change.

3.5 **Stocklending – References to COLL**

The Regulations update references to the relevant Financial Services Authority Sourcebook, now called COLL. They adapt COLL to the LGPS context, by making the administering authority responsible for compliance with the rules and guidance specified.

The paragraphs of COLL which allow certain USA broker-dealers and banks to be used as counter parties are not considered appropriate at the present time for LGPS funds.

3.6 **Secretary of State guidance on investing**

Each administering authority is required to report on its compliance with the Myners principles, as set out for the LGPS in CIPFA Guidance Note Issue No.5 The principles for all funded occupational schemes were significantly revised in 2008.

Regulation 12(3) now provides that authorities should report on their compliance with guidance given by the Secretary of State. Such guidance will be issued as and when necessary in the light of developments. The statutory consultation did not mention this alteration, but including this will avoid the need to amend regulation 12 whenever the guidance changes. The guidance from the Secretary of State is expected shortly.

3.7 **Overriding regulations concerning Employer-Related Investments**

The Regulations now contain a reference to the Occupational Pension Scheme (Investment) Regulations 2005, SI 2005/3378 as amended, in order to clarify their potential relevance in relation to some LGPS fund investment decisions.

3.8 The explanatory memorandum issued by the DCLG is attached as Appendix A to this report.

4. FINANCIAL AND STAFFING IMPLICATIONS

4.1 There are no direct implications arising from this report.

5. COMMUNITY SAFETY IMPLICATIONS

5.1. There are no specific implications arising from this report.

6. HUMAN RIGHTS IMPLICATIONS

6.1. There are no Human Rights implications arising from this report.

7. LOCAL MEMBER SUPPORT IMPLICATIONS

7.1. There are no specific implications for any Member or Ward.

8. LOCAL AGENDA 21 IMPLICATIONS

8.1. None.

9. PLANNING IMPLICATIONS

9.1 There are no specific implications arising from this report.

10. BACKGROUND PAPERS

10.1 The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

10.2 Letter from the Department for Communities and Local Government 1 December 2009.

11. RECOMMENDATION

11.1. That Members note the new investment Regulations.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/328

1 December 2009

Addressees as below

Dear Colleague

The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, SI 2009/3093

1. The above regulations ("the investment regulations") have now been made under powers contained in section 7 of the Superannuation Act 1972. They replace the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998, SI 1998/1831.

2. The new regulations come into force on 1 January 2010**.** But see also the relevant information below regarding each particular provision for full details about implementation.

3. The necessary statutory consultation with all Scheme stakeholders in England and Wales took place between 6 February and 3 April 2009. A summary of the responses can be viewed on the CLG website at http://www.communities.gov.uk/localgovernment/publications/consultations

PART I - THE REGULATIONS

Regulations 3(4) and 16 - Ending Use of Fund Money by the Administering Authority

4. As proposed in the consultation paper, the provisions in the 1998 regulations which allow such use – old regulations 3(4) and 12 - will be revoked. **Regulation 3(4)** has been amended so that, **from 1 April 2010** onwards, **use of pension fund money by the administering authority**

Department for Communities and Local Government
Department for Communities and Local Government
5/G6 Eland House
Bressenden Place
London SW1E 5DE

Tel 0303 444 2182
Email robert.holloway@communities.gsi.gov.uk

for any purpose for which it may borrow money **will no longer count as an "investment" under regulation 3**.

5. **Regulations 3(4) and 16** therefore constitute a transitional provision covering the period between the date of the coming into force of these Regulations and 31 March 2010. Related CIPFA guidance for authorities is being prepared. This will advise on best practice if an authority does use fund money during the interim period prior to 1 April 2010.

6. Section 1 in Part 1 of the Local Government Act 2003 sets out the purposes for which a local authority may borrow, namely: "(a) for any purpose relevant to its functions under any enactment, or (b) for the purposes of the prudent management of its financial affairs". The practical effects of the regulatory change are therefore that the administering authority, in its capacity as a local authority, will no longer be able to use fund money for those purposes from 1 April 2010.

7. If an administering authority currently uses pension fund money, pools that used money with its own cash balances, and then invests the pooled sum on the money markets (before returning a share of the interest earned to the pension fund), the authority will have no legal power to do that under these regulations after 31 March 2010 – since the pension fund authority will have no vires under the regulations to invest fund money by allowing it to be used by the local authority.

8. The pension fund will remain able to invest its cash balances as it sees fit, provided it complies with the regulations and any other relevant legislation.

Regulation 3(8) & 3(9) - Stocklending – References to COLL

9. **Regulations 3(8) & (9)** (definition of "investment") update references to the relevant Financial Services Authority Sourcebook, now called COLL. They adapt COLL chapter 5.4 to the LGPS context, by making the administering authority responsible for compliance with the rules and guidance specified. The full contents of COLL 5.4 can be seen at http://fsahandbook.info/FSA/html/handbook/COLL/5/4

10. **Regulation 3(9)(d)** includes a modification so that sub-paragraphs (1)(b)(iii) and 1(b)(iv) of paragraph COLL 5.4.4 do <u>not</u> apply to LGPS Funds. Those sub-paragraphs allow certain USA broker-dealers and banks to be used as counter parties. This is not considered appropriate at the present time for LGPS funds.

11. As the modifications made in regulation 3(9) are relatively complex, a **Keeling Schedule**, which shows the wording of the relevant part of the COLL Sourcebook when those modifications are applied, is attached to this letter for the information of authorities **(Annex A)**. Words shown in italics in the Schedule are defined elsewhere in COLL. Further copies of this document can be obtained by emailing : margaret.dunleavy@communities.gsi.gov.uk

Regulation 5 - Borrowing power

12. **Regulation 5** gives a fund administering authority an explicit power to borrow, for up to 90 days, for the purposes of its pension fund. Borrowing in order to invest on behalf of the fund is not permitted.

13. Regulation 5 clarifies the legal position, following Part 1 of the Local Government Act 2003, which deals with the capital finance provisions of local government finance legislation and provides a borrowing power for local authorities, but only in respect of their general local authority functions.

14. **Regulation 5(2)** sets out the purposes for which the power may be used, ie for cash flow purposes - for instance to ensure that all scheme benefit payments can be made on time, or in a transition management situation when the allocation of the fund's assets is being changed. The pension fund needs to have identifiable income from which repayment of the borrowed amount and any related interest can be funded. In response to suggestions from consultees, the period for which borrowing can last is specified as 90 days - rather than 30 days as suggested in the statutory consultation.

Regulation 6 - Separate bank account for the pension fund

15. This change was proposed in the statutory consultation paper. In view of the comments from consultees on a suitable and practical lead-in time, **regulation 6(1)** provides that the new requirement must be complied with **from 1 April 2011**. For the avoidance of doubt, authorities should be aware that a physically separate entity with a different bank account number is necessary in order to comply with this regulation, not just an accounting separation.

16. **Regulation 6(2)** defines "deposit-taker" for the purposes of this regulation. A provision forbidding set-off by the deposit-taker has been added at **regulation 6(3).**

17. CIPFA will be invited to prepare guidance, for fund authorities that do not currently have a separate bank account, on best practice during the interim period before they establish a separate account.

Regulation 12(2) - Statement of Investment Principles - stock lending, risk

18. As proposed in the statutory consultation, an administering authority must now include in its statement of investment principles (SIP) information about its policy on the lending of stocks or other securities from its pension fund, by virtue of **regulation 12(2)(h)**; and on the ways in which risks are to be measured and managed, by virtue of **regulation 12(2)(c)**.

19. The first such statement must be published by **1 July 2010** – see **regulation 12(4).**

20. For the avoidance of doubt, regulation 12(2)(c) does not require authorities to adopt a liability driven investment strategy.

Regulation 12(3) – Secretary of State's guidance on investing

21. The equivalent provision to regulation 12(3) in the 1998 regulations – regulation 9A(3A) – required each administering authority to report on its compliance with the Myners principles, as set out for the LGPS in CIPFA Guidance Note Issue No.5 [1]. The principles for all funded occupational schemes were significantly revised in 2008.

22. **Regulation 12(3)** now provides that authorities should report on their compliance with guidance given by the Secretary of State. Such guidance will be issued as and when necessary in the light of developments. The statutory consultation did not mention this alteration, but including this will avoid the need to amend regulation 12 whenever the guidance changes. The guidance from the Secretary of State is expected shortly. Details will follow in a separate letter.

Regulation 12(5) – Keeping the Statement of Investment Principles up to date

23. Attention is drawn to an amendment to regulation 12 – subparagraph (5) concerning revisions to the Statement of Investment Principles, which was not included in the statutory consultation paper but is considered necessary. The amendment requires any material change in policy on the matters referred to in regulation 12(2 and 12(3), to be reflected in a revised published Statement within 6 months of the change.

Regulation 14(1) - Overriding regulations concerning Employer-Related Investments

24. As proposed in the statutory consultation, the regulations now contain a reference to the Occupational Pension Scheme (Investment) Regulations 2005, SI 2005/3378 as amended, in order to clarify their potential relevance in relation to some LGPS fund investment decisions. The reference is in **the footnote to regulation 14(1).**

25. Further information about the Occupational Pension Scheme provisions, including their full text, can be seen at http://www.opsi.gov.uk/legislation/about_legislation.htm Any LGPS fund authority taking an investment decision on which both the LGPS and Occupational Pension Scheme investment Regulations could have a bearing, should obtain appropriate advice.

Minor reordering

26. Authorities may wish to note that minor changes to the order of the regulations have been made. The regulation on the definition of "investment manager" is now **regulation 6,** rather than regulation 4 as in

[1] "CIPFA Pensions Panel Principles for Investment Decision Making in the Local Government Pension Scheme in the United Kingdom".

the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998, in order to be closer to the other extant provisions on investment managers. The regulation on management of the pension fund is now **regulation 4**, rather than regulation 5.

Future Developments

27. The Department is grateful to consultees for their detailed and careful responses to the statutory consultation on this SI. This SI takes forward the original proposals and some suggestions consultees made that were considered to improve the regulations without changing their essential character and format.

28. However, the Department recognises that some consultees suggested more substantial changes - including the adoption of a much less prescriptive approach to prudential regulation. The intention is that consideration will be given in due course to the other suggestions consultees made and, in particular, to those made by CIPFA in its report: Local Government Pension Scheme Investment Regulations - Options for Change, January 2009. Those who responded to the statutory consultation, and all other Scheme stakeholders, will be kept informed of any future developments and included in any future consultation to which Ministers agree.

29. The remaining issues (not forming part of the investment regulations and mentioned in paragraphs 22 to 29 of the statutory consultation paper - for instance, scheme guidance on conflicts of interest), will be addressed separately in due course. All stakeholders will be kept informed of, and consulted on, any emerging proposals.

30. The Department issued an informal consultation letter on 13 May 2009 about Scheme governance. The consultation ended on 30 September 2009. Many helpful and comprehensive responses were received. The outcome of that important exercise will be published shortly on the Department's website.

Queries

31. Any queries about this statutory instrument and any other related matter can be made to Margaret Dunleavy, Workforce Pay and Pensions Division, Department for Communities and Local Government – telephone 0303 444 2183. Electronic queries can be sent to **margaret.dunleavy@communities.gsi.gov.uk**

Yours faithfully,

Robert Holloway

List of Addressees

The Chief Executive of:

- County Councils (England)
- District Councils (England)
- Metropolitan Borough Councils (England)
- Unitary Councils (England)
- County and County Borough Councils in Wales
- London Borough Councils
- South Yorkshire Pension Authority
- Tameside Metropolitan Borough Council
- Wirral Metropolitan Borough Council
- Bradford Metropolitan City Council
- South Tyneside Metropolitan Borough Council
- Wolverhampton Metropolitan Borough Council
- London Pension Fund Authority
- Environment Agency

Town Clerk, City of London Corporation
Clerk, South Yorkshire PTA
Clerk, West Midlands PTA

Fire and Rescue Authorities in England and Wales
Police Authorities in England and Wales
Audit Commission
National Probation Service for England and Wales
Homes and Communities Agency

Local Government Association (LGA)
Local Government Employers (LGE)
LGPC
Association of Colleges

ALACE
PPMA
SOLACE
CIPFA

Association of Consulting Actuaries
Association of District Treasurers
Society of County Treasurers
Society of Welsh Treasurers
Society of Metropolitan Treasurers
Society of London Treasurers

NALC
Society of Local Council Clerks

Trades Union Congress
UNISON
NAEIAC
UNITE
UCATT
GMB
NAPO

GAD
SPPA
HMT
HMRC

DOE (NI)
DWP

Financial Services Authority (FSA)
Investment Management Association (IMA)
Association of British Insurers (ABI)
National Association of Pension Funds (NAPF)
London Investment Banking Association (LIBA)
LAPFF
PIRC
Hammonds (Association of Pension Lawyers)
Society of Pension Consultants

Hymans
Mercer
Hewitt
Barnett Waddingham
Linklaters
Pinsent Masons
Eversheds

Annex A

Regulation 3(8) and 3(9) of the LGPS (Management and Investment of Funds) Regulations 2009

KEELING SCHEDULE VERSION – COLL5.4.4 & 5.4.6

Stock lending: requirements

COLL 5.4.4 R

(1) The administering authority may enter into a *stock lending* arrangement of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992 (without extension by section 263C), but only if:

(a) all the terms of the agreement under which *securities* are to be reacquired by the administering authority, are in a form which is acceptable to the administering authority and are in accordance with good market practice;

(b) the counterparty is

(i) an *authorised person*; or

(ii) a *person* authorised by a *Home State regulator*;

(c) *collateral* is obtained to secure the obligation of the counterparty under the terms referred to in (a) and the *collateral* is:

(i) acceptable to the administering authority

(ii) adequate; and

(iii) sufficiently immediate.

(2) The counterparty for the purpose of (1) is the *person* who is obliged under the agreement referred to in (1)(a) to transfer to the administering authority the *securities* transferred by the administering authority under the *stock lending* arrangement or *securities* of the same kind.

(3) (1)(c) does not apply to a *stock lending* transaction made through Euroclear Bank SA/NV's Securities Lending and Borrowing Programme.

Treatment of collateral

COLL 5.4.6 R

(1) *Collateral* is adequate for the purposes of this section only if it is:

(a) transferred to the administering authority or its agent;

(b) at least equal in value, at the time of the transfer to the administering authority, to the value of the *securities* transferred by the administering authority; and

(c) in the form of one or more of:

(i) cash; or

(ii) [deleted]

(iii) a certificate of *deposit*; or

(iv) a letter of *credit*; or

(v) a *readily realisable security*; or

(vi) *commercial paper* with no embedded *derivative* content; or

(vii) a *qualifying money market fund*.

(2) *Collateral* is sufficiently immediate for the purposes of this section if:

(a) it is transferred before or at the time of the transfer of the *securities* by the administering authority or

(b) the administering authority takes reasonable care to determine at the time referred to in (a) that it will be transferred at the latest by the close of business on the *day* of the transfer.

(3) The administering authority must ensure that the value of the *collateral* at all times is at least equal to the value of the *securities* transferred by the administering authority.

(4) The duty in (3) may be regarded as satisfied in respect of *collateral* the validity of which is about to expire or has expired where the administering authority takes reasonable care to determine that sufficient *collateral* will again be transferred at the latest by the close of business on the *day* of expiry.

(5) Any agreement for transfer at a future date of *securities* or of *collateral* (or of the equivalent of either) under this section may be regarded, for the purposes of valuation, as an unconditional agreement for the *sale* or transfer of property, whether or not the property is part of the property of the pension fund.

(6) *Collateral* transferred to the administering authority is part of the fund money for the purposes of the *rules* in this sourcebook, except in the following respects:

(a) it does not fall to be included in any valuation, because it is offset under (5) by an obligation to transfer; and

(b) it does not count as fund money for any purpose other than this section.

(7) Paragraph (5) and (6)(a) do not apply to any valuation of *collateral* itself for the purposes of this section.

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EXPLANATORY MEMORANDUM TO

THE LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2009

2009 No. 3093

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument is primarily a consolidation of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (S.I. 1998/1831) ("the 1998 Regulations") with the numerous instruments which have amended them since they were made. The opportunity has also been taken to update the 1998 Regulations and to make a small number of more substantive changes which are detailed below.

2.2 These Regulations set out the arrangements which apply to the management and investment of funds arising in relation to a pension fund maintained under the Local Government Pension Scheme (Administration) Regulations 2008 (S.I. 2008/239) (a "pension fund"). Such a fund constitutes the occupational pension scheme for local government employees, other than teachers, police officers and firefighters.

3. Matters of special interest to the Joint Committee on Statutory Instruments

An undertaking to review and consolidate the 1998 Regulations was given in the Explanatory Memorandum to the Local Government Pension Scheme (Miscellaneous) Regulations 2008 (S.I. 2008/2425).

4. Legislative Context

4.1 These Regulations are made under section 7 of, and Schedule 3 to, the Superannuation Act 1972.

5. Territorial Extent and Application

This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 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 users have asked for them to be updated and (where appropriate) clarified.

7.2 But the opportunity has also been taken to make three more substantive changes. These were suggested or supported by various fund interests, chiefly the Chartered Institute of Public Finance Accountancy (CIPFA), the professional body for senior fund administering authority officers which recently reviewed the 1998 Regulations, and by trade unions representing scheme members.

7.3 Firstly, new regulation 3(4) will revoke a longstanding provision – regulation 3(4) - which allows an administering authority to use money from its pension fund for any purpose for which it has a statutory right to borrow. An authority's statutory right to borrow is defined in section 1 of the Local Government Act 2003. This allows a local authority to borrow money for any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs, subject to limits set out in Part 1 of that Act.

7.4 A pension fund will often hold a small percentage of its assets in cash. Where such a cash balance is available for short-term investment and is used by the administering authority under regulation 3(4), the authority may in some cases then pool the pension fund cash with its own cash and invest both together on the money markets, in a way that accords with the authority's treasury management strategy.

7.5 Such use under regulation 3(4) of the 1998 Regulations has been subject to the prudential investment requirements that apply under both the new and the 1998 Regulations, and the administering authority must, by virtue of regulation 16 (regulation 12 of the 1998 Regulations) pay the pension fund a specified minimum rate of interest. However, such use is unconventional when compared with the provisions of current legislation in relation to occupational pensions, as a fund administering authority is one of the employers participating in the pension fund.

7.6 Accordingly, new regulation 3(4) now provides that from 1st April 2010 such use will no longer count as an investment for the purposes of these Regulations.

7.7 Secondly, regulation 5 gives administering authorities a limited power to borrow on behalf of the pension fund for up to 90 days. The power cannot be used to invest, but only for cash flow management in specified circumstances which should in practice be exceptional, i.e. to ensure that benefits are paid on time, and in transition management situations when the allocation of a pension fund's assets is being changed. Money can only be borrowed for the purposes mentioned in regulation 5(2) if, at the time of borrowing, the administering authority reasonably believes that the sum borrowed, and any interest charged as a result, can be repaid out of the pension fund within 90 days of the date when the money is borrowed. For example, the authority may be expecting to receive income from contributions, or capital from the planned sale of fund investments. Pension fund management arrangements presume no borrowing normally. But occasionally unexpected pressures can occur and, in these circumstances, the power would enable administering authorities to avoid becoming forced sellers of fund assets at the wrong time in the market cycle because of a need for cash flow.

7.8 This regulation will clarify the legal position following the coming into force of Part 1 of the Local Government Act 2003, which deals with the capital finance provisions of local government finance and provides a borrowing power for local authorities, but only in respect of their general local authority functions. HM Treasury have been consulted and have no objections to the change. Private sector pension schemes have a similar limited borrowing power under the Occupational Pension Scheme (Investments) Regulations 2005 (S.I. 2005/ 3378).

7.9 Thirdly, regulation 6 introduces a new requirement for each pension fund to have, by 1 April 2011, a bank account which is separate from any which the administering authority has in its capacity as a local authority. This change is being adopted because it will enable pension fund monies to be clearly ring-fenced from other monies of the local authority, and thus reflects a longstanding Audit Commission view on best practice. Some pension funds already have a separate bank account, but this change will ensure consistency across all 89 administering authorities in England and Wales.

7.10 Other minor amendments are as follows-

(a) Regulation 12(2)(c) and 12(2)(h) specify additional content for an administering authority's statement of investment principles. A statement must already set out the principles governing the authority's investment strategy, covering the types of investment to be held, the balance between them, and risk. For transparency and as good practice, an administering authority must now also include information on any stock lending activity it undertakes (likely to be relevant in practice for a minority of authorities), and on the ways in which risk is measured and managed. (A similar requirement on risk applies to private sector occupational schemes under pension legislation.) An administering authority may well include all of this information in its statement already, but it is considered useful to confirm what is expected. Regulation 12(4) requires the first such statement to be published no later than 1 July 2010. Regulation 12(5) makes clear that the revision of a statement (following any material change in the authority's policy on the matters mentioned in regulation 12(2) and 12(3)) must be completed within 6 months of the date of the change.

(b) Regulation 12(3) provides that administering authorities are to have regard to guidance given by the Secretary of State on investment decision-making and to state in their statement of investment principles how far they comply with that guidance. This replaces the requirement to have regard to guidance issued by CIPFA and enables the Department to be more responsive to changes in circumstances. The new guidance will be issued to administering authorities before the regulation comes into force.

(c) The footnote to regulation 14(1) makes clearer the potential relevance of the employer-related investment provisions of occupational pension legislation to some investment decisions facing fund administering authorities.

(d) In regulation 4(5) an outdated reference to Free Standing Additional Voluntary Contributions has been removed.

8. Consultation outcome

8.1 A statutory consultation on draft Regulations, as required by the Superannuation Act 1972, took place between 6 February and 3 April 2009. Forty nine responses commenting on the proposals were received. These comprised 36 from fund administering authorities, 5 from trade unions representing pension fund members, one from the Financial Services Authority, and seven others from various interests - professional organisations for officers involved in the management and investment of the pension funds, pension fund actuaries, and the investment industry.

8.2 This was considered a sufficient consultation period because stakeholders were aware for some time beforehand (through normal communications channels) that changes were under consideration, CIFPA helped to generate proposals following its extensive consultation with stakeholders (including administering authorities), and the proposals do not affect pension scheme members' benefits. The consultation concerned investment matters, and consultees were practitioners and stakeholders with relevant fund management and financial understanding/experience. The number and range of responses received suggests that consultees found the consultation period adequate and effective. Various responses on specific parts of the draft were dealt with as detailed below.

8.3 **Regulation 3(4)** - of the 41 responses which commented on the proposal to end the ability of a fund administering authority to use pension fund money for any purpose for which it can borrow money (in its capacity as a local authority), 49% (20 responses) were in favour, and 51% (21 responses) were opposed. Most administering authorities that commented (68%) were opposed to the change on the grounds that it would increase pension fund administration costs, investing with the authority was safe, and pooling cash balances for investment was efficient in terms optimising deal size. In response to some of their concerns, the implementation date for the change will be 1st April 2010. All other interests that commented supported the proposal.

8.4 **Regulation 5** - of the 43 responses which commented on the proposal to provide a power for pension funds to undertake temporary borrowing, 93 % (40 responses) were in favour and 7% (3 administering authorities) opposed it. Those in favour included 20 fund administering authorities, trade unions and other interests. Apparently few administering authorities expect to use the power, but they still consider it a necessary clarification, especially given the other changes in the Regulations (separate bank accounts, the ending of use).

8.5 **Regulation 6** - on the proposal for a separate bank account, 62% of the 42 responses which commented on this (26 responses) supported it, and 38% (16 responses) were opposed. Amongst fund administering authorities, a small majority were in favour (17 to 15). The proposal was supported by the trade unions and other interests. Critical authorities thought the requirement unnecessary, and were concerned about extra work and costs. However, the Department considers that it will provide added transparency, and a clearer audit and accountancy trail of pension fund transactions. Reflecting administering authorities' concerns that there should be an adequate lead-in time to prepare for the change, it will come into force on 1st April 2011.

8.6 **Regulation 12** - fewer responses commented on the proposals for extra content in an administering authority's statement of investment principles. These were supported by all interests. Of the 29 responses which commented on the proposal to require information on stock lending, 28 (97%) supported it, and one (3%) had reservations. All of the 28 responses that commented on the other proposal (to include information about how risk is measured and managed) were in favour.

8.7 18 responses, comprising that from CIPFA, 12 LGPS \ fund administering authorities and 5 other respondees, proposed more significant changes to the 1998 Regulations and recommended a different less prescriptive approach. CLG recognises these consultees will be disappointed by the changes in these Regulations. But recent and current financial and market conditions are not considered a suitable background against which to embark on a loosening of the prudential regulation of investment by a public service pension scheme. CLG does not rule out a further review of these Regulations in the future when conditions have improved, at which point consultees' suggestions would be considered afresh. Those who responded to the consultation, and all Scheme stakeholders, will be kept informed of any future proposals and included in any relevant consultation.

8.8 Branches and members of one local authority trade union sent in 111 identical campaign letters about how the pension scheme's investment decision-making arrangements relate to European legislation. These responses did not comment on the draft regulations, apart from supporting the idea that each pension fund should have a separate bank account. On 13 May 2009, CLG began a consultation with all scheme stakeholders, which invited suggestions on improving or developing the scheme's governance arrangements. That consultation ran until 30 September 2009.

9. Guidance

Given the background to these Regulations, it is not considered necessary to issue any guidance to accompany them.

10. Impact

10.1 An impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is considered minimal.

11. Regulating small business

The legislation does not apply to small business as the Regulations deal specifically with the administration of a public service pension scheme.

12. Monitoring and review

The Regulations do not require a specific review after implementation. But this would necessarily be part of any further review of the regulations as mentioned in paragraph 8.7 above.

13. Contact

Robert Holloway at the Department for Communities and Local Government Tel: 0303 444 2182 or email: robert.holloway@communities.gsi.gov.uk can answer any queries regarding the instrument.

WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

MEMBERS' TRAINING 2010

1. EXECUTIVE SUMMARY

1.1 Members are requested to agree the training programme anticipated for 2010.

2. BACKGROUND

2.1 The updated Myners Principles now constitute the Government view of best practice for the investment management and stewardship of the LGPS. Principle 1: Effective decision-making places emphasis on the need for those acting as trustees to have sufficient expertise to be able to evaluate and challenge the advice they receive; suitable training should, therefore, be offered to support this on an ongoing basis.

3. TRAINING PROGRAMME

3.1 The anticipated training programme for 2010 is attached as Appendix 1 to this report. It is comprised of a series of internal and external training events throughout the year. Separate papers, to authorize attendance at these events, will be put to Committee on an event by event basis. As I become aware of other appropriate events, Members will be advised at the time.

3.2 Individual Members are offered bespoke training opportunities through the three day 'Fundamentals' course, provided by the Local Government Employers (LGE) organization. This course generally takes place from October to December and Members will be provided with details of course content, dates and locations closer to the time. LGE also offers refresher courses on investment and pensions administration matters throughout the year.

3.3 The internal training days, to be arranged by MPF, are intended to address topical pensions and investment issues with direct relevance to the work of the Committee. As such, Members' views on suitable subject matter will be sought as part of the planning for these events.

3.4. As a supplement to its recently published guidance on applying the updated Myners Principles, CIPFA Pensions Panel intends soon to publish a knowledge and skills framework for officers and elected Members serving in the LGPS. This will enable MPF to conduct a self-assessment exercise within the framework. Members are asked to indicate their willingness to participate in such an exercise, and to note that the outcome could lead to revisions to the training programme (as outlined in Appendix 1).

4. FINANCIAL AND STAFFING IMPLICATIONS

4.1 The anticipated costs of the programme will be included in the training budget for 2010-11

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1. There are none arising from this report.

6. COMMUNITY SAFETY IMPLICATIONS

6.1. There are none arising from this report.

7. LOCAL MEMBER SUPPORT IMPLICATIONS

7.1. This report has no particular implications for any Members or wards.

8. LOCAL AGENDA 21 IMPLICATIONS

8.1. There are none arising from this report.

9. PLANNING IMPLICATIONS

9.1. There are none arising from this report.

10. BACKGROUND PAPERS

10.1 None were used in the preparation of this report.

11. RECOMMENDATIONS

11.1 That Members approve the training programme for 2010.

11.2 That Members note that the programme may be subject to revision, following publication of the CIPFA knowledge and skills framework for the LGPS.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/336/09

APPENDIX 1

Date	**Event**	**Representation***
26 January	Pioneer Investments' Forum, Liverpool	All Members
27 January	CIPFA Members Seminar, London	Chair
25/26 February	LGC Investment Seminar, Chester	Party Spokespersons
17/19 May	NAPF Local Authority Conference, Birmingham	Chair
June or July	Internal training day, Liverpool	All Members
8/10 June	CIPFA Conference, Harrogate	Chair
9/10 September	LGC Investment Summit, Newport	Party Spokespersons
September or October	Internal training day, Liverpool	All Members
6/8 October	*NAPF Annual Conference, Liverpool*	*TBC*
October	LGPS Trustees' Conference, Cardiff	All Members
November	MPF Annual Employers' Conference, Liverpool	All Members
December	LAPFF Annual Conference, Bournemouth	Chair

*** Representation reflects previous attendance at these events**

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

TRUSTEE TRAINING FUNDAMENTALS REFRESHER COURSE

1. EXECUTIVE SUMMARY

1.1 The fundamentals course is run on an annual basis by Local Government Employers (LGE) and provides an insight into Local Government Pension Scheme (LGPS) "trusteeship" for newly Elected Committee Members.

1.2. LGE is now offering a one day refresher course for those Members who attended the three day course between 2002 and 2007.

2. BACKGROUND

2.1 Fundamentals is an A-Z bespoke LGPS training course for Elected Members.

2.2. The Fundamental refresher course is targeted at those Members who have attended the three day Fundamentals course upto and including 2007.

2.3. The fundamentals refresher course is being offered as follows:-

Leeds	18 February 2010
London	22 February 2010
Cardiff	24 February 2010

2.4. The outline programme is attached as the appendix.

3 CERTIFICATE OF ATTENDANCE

3.1 Attendees will receive an attendance certificate signed on behalf of the Local Government Pensions Committee.

4. FINANCIAL AND STAFFING IMPLICATIONS

4.1 The delegate rate, inclusive of lunch, refreshments and all delegate materials is £199 plus VAT. In addition there would be travel and there may be accommodation costs.

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1. There are none arising from this report.

6. COMMUNITY SAFETY IMPLICATIONS

6.1. There are none arising from this report.

7. LOCAL MEMBER SUPPORT IMPLICATIONS

7.1. This report has no particular implications for any Members or wards.

8. LOCAL AGENDA 21 IMPLICATIONS

8.1. There are none arising from this report.

9. PLANNING IMPLICATIONS

9.1. There are none arising from this report.

10. BACKGROUND PAPERS

10.1 None were used in the preparation of this report.

11. RECOMMENDATION

11.1 That Members of the Committee consider whether they wish to avail themselves of this training opportunity.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/356/09

Appendix A

Fundamentals Refresher

10.00	**Registration and Coffee**
10.30	**Introduction and Session 1**

Changes to the Benefit framework
Changes to IDRP 2004
HMRC Simplification in 2006
Communication Policy Statements 2006
Pension Administration Strategies 2007
New look scheme in England and Wales in 2008
New look schemes in Scotland and Northern Ireland in 2009
Cost Sharing in 2010

Changes to the Investments framework
Governance Compliance Statements introduced in 2007
CIPFA Principles remodelled in 2009
Institutional Shareholders' Committee Code on the responsibilities of institutional investors 2009
New Investment Regulations in force 1 January 2010

Asset Allocation
Strategic Asset Allocation
Determining appropriate asset allocation relative to scheme liabilities

12.30	**Lunch**
13.30	**Session 2**

"Back to Basics" – Investment Vehicles
Cash (including Money Market Funds)
Commodities
Corporate Bonds
Currency Funds
Emerging Markets
Hedge Funds
Infrastructure
Overlays
Private Equity

15.30	**Close**

Timings and content subject to fluctuation

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

INVESTMENT SEMINAR ROBERT WESTCOTT

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to inform Members of a seminar being hosted at the Cunard Building on 26 January 2010 to which all Members are invited.

2. BACKGROUND

2.1 For the past three years Pioneer Investments has hosted a presentation by Robert Westcott at the Cunard Building as part of their Colloquia Exchange Series. MPF has assisted Pioneer with setting up this event which has been attended by Members and officers from LGPS Funds in the Northwest.

3. THE SEMINAR

3.1 The seminar will take place at 10:30 a.m. in the Cunard Building on 26 January 2010 followed by lunch. Robert Westcott, economic adviser to President Clinton, will present on the economic and financial outlook for 2010 and beyond.

4. FINANCIAL AND STAFFING IMPLICATIONS

4.1 MPF does not incur any costs for this event.

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1. There are none arising from this report.

6. COMMUNITY SAFETY IMPLICATIONS

6.1. There are none arising from this report.

7. LOCAL MEMBER SUPPORT IMPLICATIONS

7.1. This report has no particular implications for any Members or wards.

8. LOCAL AGENDA 21 IMPLICATIONS

8.1. There are none arising from this report.

9. PLANNING IMPLICATIONS

9.1. There are none arising from this report.

10. BACKGROUND PAPERS

10.1 The Flyer for the event is attached as an appendix.

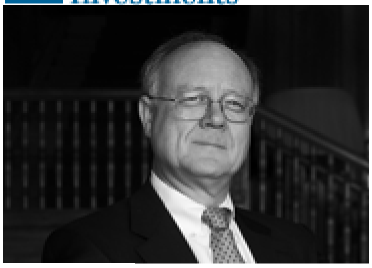
11. RECOMMENDATION

11.1 That Members consider attendance at the seminar.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/342/09

PIONEER Investments®



Pioneer Investments' Colloquia Exchange

26 January 2010, The Cunard Building, Water Street, Liverpoo

Invitation

I am delighted to invite you to join us for the latest event in the Colloquia Exchange Series, where we bring the leading minds of the industry to you.

As the world economy shows grudging signs of recovery from what is being called the "Great Recession," **Robert F. Wescott**, President of Keybridge Research LLC in Washington DC and Economic Adviser to the former President Clinton will provide his thoughts and analysis on economic and financial prospects for 2010 and beyond. He will review the growth, inflation and unemployment outlook for the U.S., Europe, Asia and key emerging market countries, with particular attention to fiscal impulses, likely monetary policy stances and shifts in consumer confidence. Dr. Wescott will trace through implications of these developments for equity, currency and commodity markets.

In addition to near-term growth prospects, Dr. Wescott will discuss emerging investment themes for the medium term, including the significant opportunities that he sees in the fields of renewable energy, vehicle electrification and greenhouse gas mitigation. He will also consider the long-term fiscal sustainability issues concerning the large, looming U.S. fiscal deficits.

The presentation will be held in the **Cunard Building** on Tuesday 26th January at 10.30am. A buffet lunch will be provided after the presentation.

Please RSVP by **Friday 18th December 2009** to **Keshma Shah** or on 020 7190 2078.

I very much hope you will join us on Tuesday 26th January for what promises to be an informative and engaging event.

Yours faithfully,

Roger Price-Haworth
Head of UK & Ireland Institutional Business
Pioneer Investments

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

FUTURE OF GOVERNANCE IN PUBLIC SECTOR PENSIONS

1. EXECUTIVE SUMMARY

1.1. This report advises Members of a seminar on the Future of Governance in Public Sector Pensions offered by CIPFA and to be held in London on 27 January 2010.

2. BACKGROUND

2.1. Governance issues have received much focus in recent years and are a particular strength of the LGPS. The Future of Governance in Public Sector Pensions will identify and promote the drive towards better governance through the launch of the new CIPFA Knowledge and Skills Framework for Members and officers.

3. FINANCIAL IMPLICATIONS

3.1. The Authority should receive two free places and each additional place will cost £315 plus VAT. These costs, together with transport and accommodation can be met from the training budget.

4. STAFFING IMPLICATIONS

4.1. There are none arising directly from this report.

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1. There are none arising directly from this report.

6. COMMUNITY SAFETY IMPLICATIONS

6.1. There are none arising directly from this report.

7. HUMAN RIGHTS IMPLICATIONS

7.1. There are none arising directly from this report.

8. **LOCAL AGENDA 21 IMPLICATIONS**

8.1. There are none arising directly from this report.

9. **PLANNING IMPLICATIONS**

9.1. There are none arising directly from this report.

10. **MEMBER SUPPORT IMPLICATIONS**

10.1. There are none arising directly from this report.

11. **BACKGROUND PAPERS**

11.1 No background papers were used in the preparation of this report.

12. **RECOMMENDATION**

12.1. That Members agree attendance at the seminar.

IAN COLEMAN
DIRECTOR OF FINANCE.

FNCE/344/09

CIPFA performance in public services

the future of governance in public sector pensions

The CIPFA Pensions Network Governance Summit

27 January 2010, London

sponsored by

Invesco Perpetual

CPD CERTIFIED
The CPD Certification Service

the future of governance in public sector pensions

Become a champion of best practice in pension fund governance by joining the **CIPFA Pensions Network** for its one-day **Governance Summit** in London on 27 January 2010.

Event Background:

Governance issues have received much focus in recent years and are a particular strength of the LGPS. **The Future of Governance in Public Sector Pensions** will identify and promote the drive towards better governance through the launch of the new CIPFA Knowledge and Skills Framework for members and officers. This will be of critical importance to all those involved in the management of the LGPS.

Benefits of attending:

- Witness the ministerial launch of the new CIPFA Knowledge and Skills Framework
- Use the Framework to strengthen understanding and close knowledge gaps in your team
- Receive recommendations on how to improve the governance arrangements in a public sector pension fund and understand the links to the Myners Principles
- Gain a clear understanding of the role of the S151 officer with CIPFA's Chief Executive Steve Freer
- Receive tools to assist in the Framework implementation

This day is aimed at:

- Directors of Finance
- Chairs of Pension Committees
- Elected Members with an interest in pensions
- Pensions Practitioners

09.30 Registration & Coffee

10.00 Chairman's Introduction

Speaker: Bob Summers, Chair of the CIPFA Pensions Panel

10.10 Keynote Address

The Minister for Local Government will emphasise for all of those who are involved in the LGPS, the importance of working to the highest standards of governance, especially at a time when public sector pensions are subject to such intense public interest and scrutiny.

Speaker: Local Government Minister Rt. Hon. Rosie Winterton MP

10.40 Launch of the CIPFA Knowledge and Skills Framework

This will be the formal launch of the Knowledge and Skills Framework where the key areas addressed by the Framework will be explained to help Members and Officers understand what is expected of them and how they can address any areas of concern.

Speaker: Bob Summers, Chair of the CIPFA Pensions Panel

11.10 Break

11.30 Good Governance in the Public Services

The Chief Executive of CIPFA will outline the importance of sound governance arrangements in the public sector with a focus upon the LGPS and the role of the Chief Financial Officer.

Speaker: Steve Freer, CIPFA Chief Executive

12.00 The Role of the Myners Principles in the Governance Framework

Chair of the Investment Governance Group LGPS Sub-Committee Nicola mark is ideally positioned to provide an insight into the development of the Myners Principles into a public sector format and how they will impact upon existing governance arrangements in the LGPS.

Speaker: Nicola Mark, Chair of the Investment Governance Group LGPS Sub-Committee

12.45	Lunch

14.00	Exercising Good Governance in the LGPS

This session will give an Elected Members perspective into the governance requirements associated with the responsibility of operating a public sector pension fund with some recommendations to follow and pitfalls to avoid.

Speaker: Cllr Ian Greenwood, West Yorkshire Pension Fund

14.40	Improving Governance Skills

This session will launch the new joint CIPFA/Hymans toolkit which will be available to support Funds in identifying and addressing their knowledge gaps.

Speaker: John Wright, Hymans Robertson

15.05	Implementing a Training Needs Analysis in Practice

Bedfordshire Pension Fund Committee has undertaken a Training Needs Analysis and Geoff Reader will share practical experience of this exercise and the benefits obtained.

Speaker: Geoff Reader, Bedfordshire Pension Fund

15.30	Chairman's Summing up and Close – Followed by Tea and Coffee

We reserve the right to alter the timing or content of sessions where circumstances require.

Ways To Book

- Fill in the booking form opposite and return to Dean Henry, CIPFA, No 1 Croydon, 12 - 16 Addiscombe Road, London, CR0 0XT
- Book online at **www.cipfanetworks.net/pensions/events**

BOOKING FORM

the future of governance in public sector pensions

The CIPFA Pensions Network Governance Summit
27 January 2010

DELEGATE DETAILS

Mr ☐ Miss ☐ Mrs ☐ Ms ☐

Surname

First name and initials

Job Title

Department

Are you a CIPFA/ICAEW Public Sector SIG member?

Yes ☐ No ☐

ORGANISATION & ADDRESS

PRICES

CIPFA Pensions Network Members: 2 x Free Places	☐
Additional Member Places Public Sector: £315 + VAT = £362.25	☐
Additional Member Places Private Sector: £420 + VAT = £483.00	☐
Non Subscribers Public Sector: £420 + VAT = £483.00	☐
Non Subscribers Private Sector: £520 + VAT = £598.00	☐

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Subscriber free place(s) ☐
If your authority does not have any free places remaining you will be charged.

Cheque to follow in the post ☐
Please make cheques payable to CIPFA Business Ltd.

VISA/Mastercard (subject to 2% fee) ☐

Card no. ______________________ Expiry date __________

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Account name: CIPFA Business Ltd.
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About the CIPFA Pensions Network

The CIPFA Pensions Network is an independent and unique member subscription service, which provides a range of services to support pension practitioners in their day to day jobs. The network is dedicated to Pension Fund bodies, offering services in relation to investment, audit, accounting, administration and governance. We seek to establish and operate the Network for promotion and sharing of good practice, discussion of topical issues and the commissioning of expert training and guidance.

How to Join

How do you become a member of the CIPFA Pensions Network? Well, it's easy. Simply telephone us on 020 8667 8590, and we will guide you through the joining process. Alternatively, you can download and complete our subscription form by visiting our website **cipfanetworks.net/pensions.**

Terms and Conditions of Booking

All fees paid and places taken are inclusive of material, lunch and refreshments. Please note overnight accommodation is not included in the fee; neither can we book accommodation for delegates. Cheques should be made payable to CIPFA Business Ltd. Alternatively, invoices will be sent out to you 10 days before the event. Credit card payments may be made and this will be subject to a 2% charge. If you have any questions regarding this booking please contact Dean Henry on 020 8667 8192 or email dean.henry@cipfa.org.uk. Please allow 10 working days for confirmation of this booking to be sent to you. Please note that we do not accept bookings over the telephone or via email. If you wish to book online please do so via **www.cipfanetworks.net**

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Registered office:
3 Robert Street, London WC2N 6RL
T: 020 7543 5600 F: 020 7543 5700
www.cipfa.org.uk

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WIRRAL COUNCIL

PENSIONS COMMITTEE

13 JANUARY 2010

REPORT OF THE DIRECTOR OF FINANCE

DRAFT LGPS (MISCELLANEOUS) REGULATIONS 2010

1. EXECUTIVE SUMMARY

1.1 This report informs Members of draft proposals for further amendments to the Local Government Pension Scheme (LGPS) Regulations.

1.2 Members are requested to agree that a response should be submitted on any technical issues that are identified with the amendments proposed.

2. BACKGROUND

2.1 A number of drafting errors were identified with the introduction of the new Scheme regulations on 1 April 2008. Since that time several sets of amendment regulations have been issued by Department for Communities and Local Government (DCLG) to attempt to correct various deficiencies in the legislation.

2.2 The attached DCLG letter dated 24 December 2009 (Appendix 1) sets out the latest changes proposed. The annexe to the letter contains a number of further proposed changes to the regulations dealing with the new three tier ill health retirement provisions, intended to clarify the provisions or to improve the framework for dealing with them.

2.3 The closing date for comments to be submitted to DCLG on the proposed changes is 18 March 2010.

3. FINANCIAL IMPLICATIONS

3.1 There are none arising directly from this report.

4. STAFFING IMPLICATIONS

4.1 There are no staffing implications in this report.

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1 There are none arising directly from this report.

6. HUMAN RIGHTS IMPLICATIONS

6.1 There are none rising directly from this report.

7. COMMUNITY SAFETY IMPLICATIONS

7.1 There are no specific implications arising from this report.

8. LOCAL MEMBER SUPPORT IMPLICATIONS

8.1 There are no specific implications for any Member or Ward.

9. LOCAL AGENDA 21 IMPLICATIONS

9.1 There are no specific implications arising from this report.

10. PLANNING IMPLICATIONS

10.1 There are no specific implications arising from this report.

11. BACKGROUND PAPERS

11.1 DCLG letter dated 24 December 2009 – Draft LGPS Miscellaneous Regulations 2010.

12. RECOMMENDATION

12.1. That Members agree that a response be submitted on any technical issues that are identified with the amendments proposed.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/349/09

To : addressees below

24 December 2009

Dear Colleague,

DRAFT LOCAL GOVERNMENT PENSION SCHEME (MISCELLANEOUS) REGULATIONS 2010

1. I attach, with Ministers' agreement, draft proposals for further amendments to the Local Government Pension Scheme (LGPS) Regulations as set out below.

2. Your comments are invited by 18 March 2010. Stakeholders who wish to discuss the proposals are invited to get in touch without delay to allow discussions to take place within the consultation period.

3. These Miscellaneous Regulations will amend four sets of Regulations which currently provide the overall regulatory framework for the LGPS in England and Wales - the Administration Regulations, the Benefits Regulations, the Transitional Regulations and the 1997 Regulations.

4. The amendments are necessary to make some corrections and cross-references, to clarify detailed aspects of the Scheme's extant provisions, to restore minor omitted aspects of the 1997 Scheme, to provide clearer definitions and to introduce some new provisions, as described below.

5. Proposals relating specifically to the ill health regime are set out in Annex 1. The other proposals are as follows:

Local Government Pension Scheme (Administration) Regulations 2008 "The Administration Regulations"

Admitted Body Status

Regulation 7

Administration Regulations 7 (5) provides that any question which may arise between the parties to an admission agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred in writing to the Secretary of State for determination. This is an infrequently used provision because the admission agreement is a matter between the parties - ie the administering authority, the admitted body and, for transferee admission bodies, the appropriate

Department for Communities and Local Government
Zone 5/G6
Eland House
Bressenden Place
London
SW1E 5DU
Tel 0303 44 42173
Email brian.town@communities.gsi.gov.uk

letting authority. The terms of the admission agreement should, therefore, be a matter for discussion and agreement without reference to the Secretary of State and so it is proposed that this provision be removed.

As part of the informal reviews looking at the practical application of the admitted body status provisions in the LGPS, revised guidance will be issued very soon with the aim that pensions issues are considered early in any outsourcing exercise and that the role of all the parties is clear.

Following from this, CLG propose to ask practitioners about a range of issues about the regulatory framework to see if improvements are needed to the ABS measures. Following representations made to CLG, it is also proposed to look at whether the regulations are sufficiently flexible to deal with scheme employers in the event that they are merged, become new entities, are wound up, or, perhaps, in extremis, go into administration. CLG proposes an informal consultation with stakeholders to start this process and intends to issue a letter, setting out the issues brought to CLG's attention, seeking the views of practitioners, and this letter will be issued as early as is possible.

More specifically, in order to rectify any problems caused by delays in admitted body status being obtained, an additional paragraph is proposed along the following lines : "An admission agreement may provide that a period of employment by the admission body before the date of the agreement counts as membership of the Scheme."

Regulation 8

A foundation school or a foundation special school should not be in a position to deny their staff access to the LGPS. It is therefore proposed that the words "and the local education authority has, with the consent of his employer," be changed to "and the local education authority has with, in the case of (a) and (c), the consent of his employer".

Regulation 10

In this regulation on rent officers, the reference to the Secretary of State needs to be replaced by one to the Commissioners.

Regulation 13(5)

This regulation does not specify to whom, or by when, an application to backdate membership has to be made. The option to do so should not be open-ended, otherwise a member could, say, decide just before retirement, to opt to backdate membership for a period that occurred, say, 20 years previously. It is therefore proposed that the words "if he applies to be so" should therefore be amended along the lines of "if he applies to that body to be so" and, at the end of paragraph (5) that words along the following lines be added "The application must be made within 3 months of becoming eligible to join the Scheme, or such longer period as the employer may allow."

Regulation 16

Following comments received in response to our letter of 28 November 2008, it is proposed that newly re-employed deferred members should be permitted to aggregate any of their previous periods of membership, not just the immediately previous one, provided that they elect to do so in the first 12 months of their new period of membership.

Regulation 17(1)(a)

This regulation on aggregation of membership does not cover those members who cease to be an active member having become entitled to a deferred benefit but who do not have three months membership. It is therefore proposed that Regulation 17(1)(a) should be amended to read “ceases to be an active member in one employment (“the first employment”) in respect of which he has an entitlement to benefits by virtue of regulation 5 of the Benefits Regulations.”

Regulation 26

An addition is proposed for this Regulation on AVCs and SCAVCs, with the insertion of “29,” between “19,” and “30” in paragraph (1)(a)(ii).

In paragraph (2) it is proposed to insert “or (b)” after “(1)(a)(i)”; to delete paragraph (7); and in paragraph (8) to delete “or with paragraph (7)(b)”. It is also proposed to amend paragraph (3) along the following lines : “The permissible ways are –
a) to subscribe to a registered pension scheme (other than the Scheme), but only if making a transfer under Part 9 [of his other LGPS rights]
b) to subscribe to the AVC [or SCAVC] scheme operated by his new administering authority where regulation 86(1) and (2) apply
c) to purchase an appropriate policy from one or more insurance companies (within the meaning of section 275 of the finance Act 2004)”

Regulation 39

It is proposed that it is made clear in the current Regulations that the position which pertained under the 1997 Regulations with regard to Funds’ powers to be able to charge employers, who no longer have any LGPS members, for pensions increase costs remains unchanged so that unfunded PI liabilities post-April 2008 can also be re-charged.

Regulation 47(1)

It would not seem to be appropriate for a member who had been in more than one employments to be entitled to a refund under Regulation 46 if he was continuing in one of those employments. It is therefore proposed that a further exclusion is added – if “(d) he continues in a concurrent employment in which he is an active member”.

Regulation 51 (3)(b)

In order to be consistent with 51(1) it is proposed that the words “the Transitional Regulations or” should be amended to “the Transitional Regulations, the Earlier Regulations or”.

Regulation 58(9)

It is suggested that a more appropriate reference to the appeal process would be to 63(2) rather than 63(1).

Regulation 74(3)

It is proposed that ARCs should be removed from the scope of the forfeiture provisions.

Regulation 87

This regulation only covers the position where a variable-time member transfers to another variable-time employment. An additional regulation is needed to cover the position where a variable-time member transfers to a full or part-time employment, along the lines of Regulation 82(2) of the LGPS (Administration) (Scotland) Regulations 2008.

Schedule 2

Academy Trusts

An Academy within the meaning of section 482 of the Education Act 1996 or by virtue of section 67 of the Education Act 2002 (conversion of city academies into Academies) is listed as a scheme employer in Schedule 2 of the Administration Regulations. There is some doubt as to whether an Academy Trust set up under the Education Act 1996 or subsequent legislation would, in fact, be covered by paragraph 21 of Schedule 2. It was not the intention to exclude Academy Trusts from eligibility for the LGPS and so to ensure that there is no doubt about an Academy Trust’s status within the LGPS, it is proposed that these organisations are included in the definition of paragraph 21 of Schedule 2. This will enable non-teaching staff employed to do work for the Trust rather than at a specific academy, to be covered by the Scheme.

City Colleges

Schools known as a city technology college or city college for the technology of the arts can, by agreement, become an Academy. There is some doubt as to whether such a body can be regarded as a scheme employer in the LGPS regulations and it is, therefore, proposed to add these bodies to those described as an Academy in +paragraph 21 Part 1 Schedule 2 of the Administration Regulations.

Scheme employers

The Greater London Authority can be treated as a LGPS employer by virtue of paragraph 2 Part 2 of Schedule 2 of the Administration Regulations. It is considered that the GLA should be listed as a scheme employer and it is proposed that the Greater London Assembly will be added to those bodies in Part 1 of Schedule 2.

Schedule 4

In paragraph 2 it is proposed to amend "paragraph 3 of Part 2 of the Table in Schedule 5" to "paragraph 3 of the Table in part 2 of Schedule 5". This will mirror the method of referencing used within paragraph 7 of the Table in Part 1 of Schedule 4.

It is also proposed to delete the word "active" in notes (1), (2) and (3) at the bottom of the Table in Part 1 of Schedule 4, as those who are active at 1st April 2008 will eventually become deferred or pensioner members whilst still belonging to the relevant Funds.

Local Government Pension Scheme (Transitional Provisions) Regulations 2008 "The Transitional Regulations"

Regulation 3(2)

It is proposed that the provision for benefits to be payable immediately is augmented by a reference to Regulation 31 of the Benefits Regulations on early payment of pension due to ill-health.

Regulation 10(1)(b)

This regulation should be corrected by replacing the reference to appropriate administering authority by one to the employing authority.

Regulation 14

It is proposed to amend the pension sharing on divorce provisions so as to allow for early release of pension credit rights from age 60 with an appropriate scheme standard actuarial reduction (ie using the GAD guidance for Scheme members with no "rule of 85" protection retiring at age 60).

Schedule 1

A minor correction should be made by replacing 108(A) with 108A.

Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, "The Benefits Regulations"

Regulation 1(4)

To be consistent with the definition of "the Scheme" in Transitional Provisions Regulations and the Administration Regulations, it is proposed that the definition of "the Scheme" in the Benefits Regulations be amended to "means the occupational pension scheme constituted by these Regulations, the Administration Regulations and the Transitional Regulations".

Regulation 2

The wording of this regulation says that an active member of the Scheme on 31st March 2008 must remain a member for so long as he remains eligible to be a member. An employee who opts out of membership of the Scheme under regulation 14 of the Administration Regulations is, technically, still "in employment which makes him eligible to be" an active member of the Scheme. The act of opting out does not stop the person from being eligible for membership. Thus, regulation 2(2) would apparently suggest that an active member of the 1997 Scheme has to remain an active member until such time as he / she ceases employment or attains age 75 i.e. the person cannot opt out of membership. This, of course, contradicts regulation 14 of the Administration Regulations. To overcome this anomaly, it is proposed that regulation 2(2) ought to start with the words "Subject to regulation 14 of the Administration Regulations".

Regulation 3(3)

In order to aid payroll administration, it is proposed that this regulation be amended to say "On the first day of the pay period in which 1st April 2009 falls, and on the first day of the pay period in which each subsequent 1st April falls."

Regulation 3(3A)

It is considered that this amendment should itself be amended to make it of greater practical use. Firstly, it is proposed that the words "if they were pensions" were amended to read "if they were pensions beginning on 1st April 2008". Secondly, the regulation says the pay ranges should be increased by "the amount by which the figures would be increased with effect from 6th April of the relevant year if they were pensions to which the Pensions (Increase) Act 1971 applied." As Pensions Increases rarely take effect exactly on a 6th April it is proposed that the regulation be amended to read "with effect from the first Monday falling on or after 6th April of the relevant year …..").

Regulation 3(9)

It is proposed that this Regulation be amended so as to preclude the possibility of active members making contributions from the day before their 75th birthday onward. This would make the Regulation consistent with those on the latest possible point for the payment of retirement benefits.

Regulation 3(11)

It is proposed to delete this paragraph as there would appear to be no reason why the administering authority should have the role of determining the interval at which a member's contributions should be paid – the administering authority can only determine the intervals at which the employer must then pay such deductions to themselves.

Regulation 7(3)

This Regulation should commence with words along the lines of “Other than for the purposes of regulation 5(1)(a)” as it is necessary to use the calendar length of membership, not the pro-rata part-time period, to determine whether or not a member has total membership of at least three months in order to be entitled to a benefit.

Regulation 11

It is suggested that this Regulation on the effect of fees on final pay could be clarified by two minor amendments. If the membership period is less than 3 years then the fees received should be divided, not by three, but by the number of years and days constituting the membership period. Practitioners may find it helpful if this was made clear in paragraph (1)(a) by adding after “the three consecutive years” the words “(or his total membership period if less)”. Secondly, Paragraph (2) should commence with the words “But, for the purposes of paragraph (1)(a),”. This would make it completely clear that where paragraph (2) applies, the member’s final pay is calculated as the sum of paragraphs (1)(a) and (1)(b).

Regulation 14(1)

Purely as an aid to clarity, it is proposed that the phrase “active member” rather than simply “member” is used.

Regulation 15(1)

To ensure consistency across the Regulations, paragraph (1) should commence “subject to Regulation 26 of the Administration Regulations”.

Regulation 16(1)

Members who remain in employment after age 65 are entitled to an actuarial increase under regulation 17(2). Members who leave before age 65 with a deferred pension and who, by virtue of regulation 50(2) of the Administration Regulations, defer payment of their benefits beyond age 65, are entitled to an actuarial increase to recompense them for the delayed payment of their benefits by virtue of regulation 29(5) of the Benefits Regulations. However, members who leave at 65 and choose to defer payment of their benefits beyond age 65 in accordance with regulation 50(6) of the Administration Regulations are not entitled to an actuarial increase to recompense them for the delayed payment of their benefits. This is not intended but, unfortunately, neither of the above regulations covers them and there is no provision in regulation 16 to provide for an actuarial increase. Nonetheless, paragraph 1.3 of the GAD late retirement guidance says “For the avoidance of doubt, Communities and Local Government’s (CLG’s) policy intention is that similar increases should also be applied in respect of members who leave service with immediate entitlement to benefits under regulation 16 but who choose not to receive payment immediately.” This amendment should, therefore, reflect what seems to be the usual practice on such actuarial increases.

Regulation 17

The Regulation should be amended to cover those who join the Scheme after normal retirement date, as well as those who remain in employment. Also, to ensure consistency, paragraph (3) should commence "subject to Regulation 50(6) of the Administration Regulations".

Regulation 18

There are two proposals to aid the flexible retirement provisions. In order to ensure that members taking flexible retirement receive any due actuarial increases, it is proposed that a further paragraph be added after (3) to the effect that "If the payment of benefits referred to in paragraph (1) takes effect after the member's 65th birthday, the benefits shall be increased in accordance with guidance issued by the Government Actuary". Also, as a member can take flexible retirement on more than one occasion, it is proposed that Regulation 18 itself should be included in the list of Regulations quoted in paragraph (5).

Regulation 19

It is proposed that this provision on early leavers is extended so that it covers those who are dismissed on or before 31 March 2010 rather than only before that date. This amendment will be backdated as appropriate.

Regulation 21

Paragraph (5) should be made more explicit by referring to "Regulation 18(2)" rather than "Regulation 18".

Regulations 24(2), 33(2), and 36(2)

Regulations 24(2), 33(2) and 36(2) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 need to be amended to commence with the words "Subject to regulations 20(4)(a) and 20A of the 1997 Regulations, as saved by regulation 2 of and schedule 1 to, the Transitional Regulations and regulations 14, 14A or 15, and regulations 23 to 26 of the Administration Regulations,". This is to ensure that the benefits under regulations 24(2), 33(2) and 36(2) take into account any Pension Debit suffered by the member and any increase in survivor benefits purchased by the member.

Regulation 27(2) (also 24, 33 & 36)

These Regulations need to be made more specific so that it is made clear that survivor benefit payments should begin on the day following death.

Regulation 29(5)

It is proposed to delete the misleading phrase "or any part of it" as there is no provision for an early leaver to choose to take only part of their deferred benefits at age 65 – ie in effect, to flexibly retire.

Regulation 30

It is proposed to amend paragraph 6 so that members who cease to be active members have to make an election *on or before* 31 March 2010 if they wish to take advantage of the possibility of retiring at age 50 onward. It is also proposed to similarly amend the *1997 Regulations* so that members who ceased to be active members under those Regulations have to make an election on or before 31 March 2010 if they wish to take advantage of the possibility of retiring at age 50 onward - ie the 1997 Regulations would be amended so that it would be as if Regulation 30(6) of the Benefits Regulations applied to such members.

To be consistent with regulations 18(4A) and 18(4B), two more paragraphs along the following lines are proposed:

(7) Paragraph (6) only applies to a member whose active membership has been continuous with that same employer throughout that period.

(8) For the purposes of paragraph (7), the active membership of a member who has been the subject of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 apply shall be treated as being continuous with the transferee employer.

Regulation 35(3)

This Regulation needs to be amended to provide that any abatement reduction at the date of death due to re-employment should be ignored when calculating 10 times the pension in payment. Also, the Regulation needs to cover the reduction of the 10 year calculation not just by the amount of any retirement pension paid to the deceased member but also by the amount that would have been paid to him / her if abatement had not applied. For example, to take a case where a pensioner dies after 6 years on pension but for 5 of those years the pensioner had been re-employed and the pension had been abated to £nil. The death grant should be 10 x pension less 1 year of pension paid less 5 years of notional pension paid leaving a death grant of 4 years pension (not 10 years pension less 1 year of pension paid leaving a death grant of 9 years pension). These two points can be overcome by amending regulation 35(3) along the lines of the following : “The death grant is his pension in payment multiplied by 10, ignoring any reduction due to abatement under regulation 71 of the Administration Regulations, but the amount so calculated is reduced by the amounts of any retirement pension paid to him or that would have been paid to him had his pension not at any time been subject to abatement under regulation 71 of the Administration Regulations.” This Regulation also needs to be made consistent with Regulation 32(4).

8. Your comments should be sent by 18 March 2010 to Philip Perry, Workforce, Pay & Pensions division, Department for Communities & Local Government, Zone 5/G6, Eland House, Bressenden Place, London SW1E 5DU. Electronic responses can be sent to philip.perry@communities.gsi.gov.uk

Yours sincerely

Philip Perry

Annex 1

PROPOSALS FOR REGULATORY CHANGES TO THE ILL HEALTH RETIREMENT REGIME TO MAKE CERTAIN PROVISIONS MORE CLEAR OR TO IMPROVE THE FRAMEWORK

Early retirement – ill health, and related matters

From April 2008, the new look LGPS introduced a three tier of ill health retirement benefits better targeting a greater amount of benefits to those not likely, or less likely, to work again before the schemes normal retirement age of 65. For those permanently incapable of their current local authority employment but who are judged capable of obtaining gainful employment again within three years of leaving that local authority employment, a reviewable benefit was introduced to recognise that they were judged able to obtain work soon.

There is no change to this policy intention and the practical application of the new ill health regime is being assessed and evaluated by the Ill Health Monitoring Group. The Group and other practitioners, have identified some changes that would make the new regime work better and have recommended the introduction of some new measures and these are consistent with the principles of the new ill health regime.

The following are proposed:-

1. Make a change to make it clear that Benefits Regulations 20(7) relates to tier 3 benefits only ie a review only applies to the 3rd tier.

2. Provide that a review is not required if the member with 3rd tier benefits attains age 65 within 18 months – ie amend words in Benefits Regulations 20(7)(a) to: 'Once benefits under paragraph (4) have been in payment for 18 months, and provided the member has not attained normal retirement age.'

3. Provide that 3rd tier benefits do not stop under Benefits Regulations 20(8)(b) if the member attains age 65 within the 3 year period.

4. In Benefits Regulations 20(4) amend the words "within three years of leaving his employment" to "within three years of leaving his employment or normal retirement age, if this is the earlier".

5. Put it beyond doubt, by amending the Administration Regulations 56(1), that:
a) at a 3rd tier review, the same IRMP who made the original 3rd tier decision may reassess the member who has a 3rd tier benefit, and
b) when making an assessment under Benefits Regulations 31, an IOHP may sign the certificate even if that IOHP has previously been involved in the case.

6. Under Benefits Regulations 31, benefits are payable immediately, whereas Administration Regulations 50(4) says that benefits are payable from the date the member became permanently incapable. It is the intention that benefits should be payable immediately and it is proposed that Administration Regulations 50 (4) is amended so that benefits are payable from the date of the application for early release of retirement benefits on the grounds of ill health.

7. Add the word “employing” between the words “an authority” in Benefits Regulations 20(5) for clarity.

8. Make a change to Benefits Regulations 31 to make it consistent with Benefits Regulations 20(5), by replacing the words in Benefits Regulations 31 with “Before determining whether to agree to a request under paragraph (1), an employing authority must obtain a certificate from an independent registered medical practitioner qualified in occupational health medicine as to whether in his opinion the member is suffering from a condition that renders him permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition he has a reduced likelihood of obtaining any gainful employment before reaching his normal retirement age, or for at least three years, whichever is the sooner.”

9. Make a regulatory provision so that the protection, for a member who reduces their hours of employment as a result of a medical condition which results in early release of ill health benefits, also applies for the calculation of survivor and death benefits. The aim is to provide that no account shall be taken of the reduction in hours that is attributable to the condition that results in the death of the member when considering survivor benefits.

10. It is not the intention that the age 45 protection applies where a member leaves their employment with a LGPS employer with deferred benefits, returns to local government employment but that employment is then terminated on the grounds of ill health. Clarification will be made to ensure that Benefits Regulations 20 (13) applies to a person who was an active member before 1st April 2008, who has had continuous membership in respect of which their employment is terminated on the grounds of ill health, and who has not received any benefits as a result of that membership.

11. There is some concern that a decision to uplift a 3rd tier to a 2nd tier level of benefits may incur an unauthorised charge on the relevant administering authority. Concern was also expressed that, as drafted, the regulations allow a member who has received 3rd tier retirement benefits, to ask to have 2nd tier retirement benefits at any time, even when 3rd tier benefits had stopped, and a request could be made many years after the first determination. A better approach would be to re-examine the 3rd tier award to see if an uplifted 2nd tier award should have been made at outset. As such, an amendment is proposed to permit a member who has been awarded a 3rd tier retirement benefit, to appeal against a decision to award that 3rd tier benefit, for a period up to 3 years and 6 months after the date of the determination.

12. As IDRP is now to be extended for 3rd tier beneficiaries and that appeal might result in the award of a higher level of ill health retirement benefits, it is considered that Benefits Regulations 20 (11) is no longer required and will be removed.

13. It is not the intention that a member receives more than the equivalent of one award of 1st tier benefits as the member had not been expected to return to gainful employment when originally retired on the grounds of ill health. In the event that a second ill health retirement award is made, there is to be a new provision which

ensures that any enhancement for prospective service does not exceed what the member would have received had he been awarded a tier 1 ill health retirement originally.

14. A member whose 3rd tier benefits have ceased and who becomes a pensioner member with deferred benefits, is not currently able to access those deferred benefits before age 65. It is considered that this type of member should have the same opportunities to access deferred benefits at age 60 as other deferred members. It is proposed, therefore, that there is a new provision to permit a member, whose third tier benefits have been paid and ceased, to access actuarially reduced retirement benefits between age 60 and normal retirement age (65). The actuarial reduction would be applied in accordance with GAD guidance unless the member is entitled to unreduced benefits for other reasons.

The consultation is addressed to:

The Chief Executive of:
- County Councils (England)
- District Councils (England)
- Metropolitan Borough Councils (England)
- Unitary Councils (England)
- County and County Borough Councils in Wales
- London Borough Councils
- South Yorkshire Pension Authority
- Tameside Metropolitan Borough Council
- Wirral Metropolitan Borough Council
- Bradford Metropolitan City Council
- South Tyneside Metropolitan Borough Council
- Wolverhampton Metropolitan Borough Council
- London Pension Fund Authority
- Environment Agency

Town Clerk, City of London Corporation
Clerk, South Yorkshire PTA
Clerk, West Midlands PTA

Fire and Rescue Authorities in England and Wales
Police Authorities in England and Wales
Audit Commission
National Probation Service for England and Wales

Local Government Association (LGA)

Employers' Organisation
LGPC

ALACE
PPMA
SOLACE
CIPFA
ALAMA

Association of Colleges
Association of Consulting Actuaries
Association of District Treasurers
Society of County Treasurers

Society of Welsh Treasurers
Society of Metropolitan Treasurers
Society of London Treasurers
Association of Educational Psychologists

NALC
Society of Local Council Clerks

Trades Union Congress	UCATT
UNISON	GMB
NAEIAC	NAPO
AMICUS	TGWU

Equal Opportunities Commission

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Agenda Item 16

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Agenda Item 17

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Agenda Item 19

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Agenda Item 21

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