

# WIRRAL COUNCIL

## PENSION BOARD

10 OCTOBER 2017

<b>SUBJECT:</b>	<b>UPDATE TO INVESTMENT STRATEGY STATEMENT GUIDANCE</b>
<b>WARD/S AFFECTED:</b>	<b>NONE</b>
<b>REPORT OF:</b>	<b>MANAGING DIRECTOR DELIVERY</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

1.1 This report informs Members of a High Court ruling that impinges on the guidance issued by the Secretary of State in relation to investment strategy statements.

### 2.0 BACKGROUND AND KEY ISSUES

2.1 In September last year, the DCLG issued statutory guidance on preparing and maintaining an investment strategy statement (ISS).

2.2 Following a case brought by the Palestine Solidarity Campaign, the High Court ruled on judicial review that the section on boycotting foreign nations and the UK defence industry in the DCLG statutory guidance on preparing and maintaining an investment strategy statement published in September last year is unlawful.

2.3 The reason given is that the Secretary of State had exceeded his regulation making powers by using the guidance to protect government foreign policy and UK defence policy, which, in the judges view, were not policies for "pension purposes" The Secretary of State was held to have acted for an unauthorised purpose and therefore unlawfully. Although not expressly referred to in the judgment, the inference is that that part of the statutory guidance referred to in paragraph 1 of the judgment is struck out.

2.4 The High Court was also asked to judge whether (a) the guidance lacked clarity and certainty and (b) whether Article 18(4) of the 2003 IORP Directive applied to prevent the Secretary of State from imposing a form of approval before investment decisions are made. On both matters, the judge ruled in favour of the Secretary of State.

2.5 This ruling will not affect the Fund's ISS which was approved by Pension Committee in March of this year.

### **3.0 RELEVANT RISKS**

3.1 It is important that the Fund's key documents remain up-to-date and compliant with legislation.

### **4.0 OTHER OPTIONS CONSIDERED**

4.1 No other options have been considered.

### **5.0 CONSULTATION**

5.1 Not relevant to this report.

### **6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS**

6.1 There are no previously approved actions outstanding.

### **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

7.1 There are none arising from this report.

### **8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

8.1 There are none arising directly from this report.

### **9.0 LEGAL IMPLICATIONS**

9.1 There are none arising from this report.

### **10.0 EQUALITIES IMPLICATIONS**

10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(b) No because there is no relevance to equality.

### **11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS**

11.1 There are no carbon usage implications, nor any other relevant environmental issues arising from this report.

### **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

12.1 There are none arising from this report.

### **13.0 RECOMMENDATION/S**

13.1 That Members note the report.

### **14.0 REASON/S FOR RECOMMENDATION/S**

14.1 It is important that Members are informed of changes to the LGPS.

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**APPENDICES**

None

**BACKGROUND PAPERS/REFERENCE MATERIAL**

**BRIEFING NOTES HISTORY**

<b>Briefing Note</b>	<b>Date</b>

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>ISS</b>	<b>March 2017</b>