

# Notice of meeting and agenda

## Pensions Committee

**10.00am, Wednesday 13 March 2013**

Dunedin Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend

### Contact

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Committee Manager

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## **1. Order of business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members of the Committee and members of the Consultative Panel should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 None

## **4. Minute of Pensions Committee of 18 December 2012**

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- 4.1 Previous Minute 18 December 2012 – Submitted for approval as a correct record. (circulated)

## **5. Reports**

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- 5.1 External Audit - Annual Audit Plan 2012-13 – report by the Director of Corporate Governance (circulated)
- 5.2 Revisions of Pensions Discretions Policy and Communication Policy - report by the Director of Corporate Governance (circulated)
- 5.3 Service Plan 2012-2015 – Monitoring Update - report by the Director of Corporate Governance (circulated)
- 5.4 Lothian Pension Fund Service Plan 2013-2016 - report by the Director of Corporate Governance (circulated)
- 5.5 Appointment of Providers - report by the Director of Corporate Governance (circulated)
- 5.6 Reform of the Local Government Pension Scheme in Scotland and Regulatory Update - report by the Director of Corporate Governance (circulated)
- 5.7 Update on Employers' Participation in Lothian Pension Fund - report by the Director of Corporate Governance (circulated)
- 5.8 EU Tax Claims - report by the Director of Corporate Governance (circulated)
- 5.9 Appointment of Convener of the Pensions Audit Sub-Committee - report by the Director of Corporate Governance (circulated)

## **6. Motions**

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6.1 If any

### **Carol Campbell**

Head of Legal, Risk and Compliance

## **Committee Members**

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Councillor Child (Convener), Councillor Bill Cook, Councillor Orr, Councillor Rankin, Councillor Rose, Alison Cosgrove and Darren May.

## **Information about the Pensions Committee**

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The Pensions Committee consists of 5 Councillors and 2 external members and is appointed by the City of Edinburgh Council. The Pensions Committee usually meets every eight weeks.

The Pensions Committee usually meets in the Dunedin Room in the City Chambers on the High Street in Edinburgh. The meeting is open to all members of the public.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Gavin King, Committee Services, City of Edinburgh Council, City Chambers, High Street, Edinburgh EH1 1YJ, Tel 0131 529 4239, e-mail [gavin.king@edinburgh.gov.uk](mailto:gavin.king@edinburgh.gov.uk).

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

# Item 4.1 - Minutes

## Pensions Committee

**2.00 pm, Tuesday, 18 December 2012**

### Present

Councillor Child (Convener), Councillor Bill Cook, Alison Cosgrove, Darren May, Councillor Orr, Councillor Rankin and Councillor Rose.

### Consultative Panel Members Present:

Guy Hughes and Eric Maclennan.

## 1. Minutes

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The minute of the Pensions and Trusts Committee of 3 October 2012 was approved by the Council on 25 October 2012.

### Decision

To note the minute of the Pensions and Trusts Committee of 3 October 2012.

## 2. Governance of Lothian Pension Funds and Appointment of Pensions Audit Sub-Committee

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A summary of the governance arrangements of the Lothian Pension Funds was provided, in particular, detailing the revisions to the constitution of the Consultative Panel and seeking approval for a tailored code of conduct for the Committee and the Consultative Panel.

Approval was also sought for the appointment of the members of the Pensions Audit Sub-Committee which would undertake the audit scrutiny of the pension funds.

### Decision

- 1) To note the external appointments to the Pensions Committee.

- 2) To approve the Code of Conduct for members of the Pensions Committee and the Lothian Pension Funds' Consultative Panel.
- 3) To appoint Councillors Cook, Orr and Rose to the Pensions Audit Sub-Committee.
- 4) To note the progress on appointing an independent observer.

(References – Act of Council No 5 of 22 November 2012; report by the Director of Corporate Governance, submitted.)

### **3. Annual Report on the 2011/12 Audit of the Lothian Pension Funds**

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Details were provided of Audit Scotland's annual report on the 2011/12 audit of the Lothian Pension Funds and the service's planned management actions in response to the risks raised.

#### **Decision**

- 1) To note the Annual Report on the 2011/12 Audit of the Lothian Pension Funds.
- 2) To note the action plan detailed in appendix B of the report by the Director of Corporate Governance and to note that updates on progress would be provided.

(Reference – report by the Director of Corporate Governance, submitted.)

### **4. Investment Benchmarks and Objectives**

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An update was provided on the detailed analysis of investment income and volatility, overall fund investment objectives and the implementation of the revised strategies. Approval was sought for the Funds' investment objectives for the new investment strategies.

The implications of the revised investment strategy in regard to resources were outlined and an additional resource in the alternatives investments area to improve the depth of experience in the Bonds area was proposed.

#### **Decision**

- 1) To agree the Funds' objectives as outlined in paragraph 2.5 of the Director of Corporate Governance's report.
- 2) To note the need for a long-term investment perspective and continuity and consistency in the internal investment team.

- 3) To approve the recruitment of a Portfolio Manager to assist with the implementation of the new investment strategies.

(Reference – Pensions and Trusts Committee 3 October 2012 (item 4); report by the Director of Corporate Governance, submitted.)

## **5. Environmental, Social and Governance Activity Update**

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An update was provided on the pension funds' activity on environmental, social and governance issues which could affect the financial performance of companies in which the funds invest. Details were also provided of the Local Authority Pension Fund Forum.

### **Decision**

- 1) To note the report.
- 2) To endorse Councillor Cameron Rose's nomination to stand for re-election to the Local Authority Pension Fund Forum Executive and for the position of Chair.

(Reference – report by the Director of Corporate Governance, submitted.)

## **6. Class Actions**

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A class action was when an investor agreed to act as a lead plaintiff in a case against a company. Details were provided of the recent activity in regard to class actions which could affect the Lothian Pension Funds.

### **Decision**

To note the report.

(Reference – report by the Director of Corporate Governance, submitted.)

## **7. Regulatory Update including Public Service Pensions Bill**

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An update was provided on pension regulations in particular covering the details of the Public Service Pensions Bill and its implications and the changes to the regulations affecting the administration of the Lothian Pension Fund.

## **Decision**

To note the regulatory update in the report by the Director of Corporate Governance, the significant implications for the Lothian Pension Fund of the Public Service Pensions Bill and the tight timescales for implementation on a new Local Government Pension Scheme in Scotland.

(Reference – report by the Director of Corporate Governance, submitted.)

## **8. Service Plan 2012-2015**

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Progress against the objectives agreed in the 2012-15 Service Plan was outlined.

### **Decision**

- 1) To note the progress made against the Service Plan.
- 2) To provide a further breakdown of the monthly sickness absence in terms of long and short term sickness.
- 3) To congratulate staff for winning the 'Fund of the Year under £750m' award at the Local Government Chronicle Investment Awards.

(Reference – report by the Director of Corporate Governance, submitted.)

# Pensions Committee

10am, Wednesday, 13 March 2013

## External Audit – Annual Audit Plan 2012-13

Item number	5.1
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

### Alastair Maclean

Director of Corporate Governance

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# Executive summary

## External Audit – Annual Audit Plan 2012-13

### Summary

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Audit Scotland, the external auditor to the Lothian Pension Funds, has detailed its planned programme of work to support the statutory audit 2012/13. This is shown at Appendix 1 - "Audit Scotland Annual Audit Plan 2012-13".

Audit Scotland intends to place formal reliance on internal audit work for certain aspects. This is detailed at Appendix 2 – "Review of the adequacy of the internal audit service: 2012/13". The Internal Audit plan, which will be reported separately, is aligned to deliver these requirements.

Stephen O'Hagan, Senior Audit Manager, Audit Scotland, has replaced his colleague, Jim Rundell, on the audit. Brian Battison, Audit Manager, will present the Annual Audit Plan 2012-13 to Committee.

Progress against the Annual Audit Plan 2012-13 will be reported to future meetings of the Pensions Audit Sub-Committee and thereafter the Pensions Committee.

The proposed audit fee for 2012/13 has been reduced from the previous year's £49,080 by £1,890 (3.8%) to total £47,190. This sum can be met from within the approved budget.

### Recommendations

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Pensions Committee is requested to:

1. Note the Annual Audit Plan 2012-13, as submitted by Audit Scotland;
2. Note the formal reliance placed on the work of Internal Audit;
3. Note that suitable budgetary provision has been made for the estimated audit fee; and
4. Note that progress against the Annual Audit Plan 2012-13 will be reported to future meetings of the Pensions Audit Sub-Committee and the Pensions Committee.

### Measures of success

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Progress against the Annual Audit Plan 2012-13 will be reported to future meetings of the Pensions Audit Sub-Committee, which is scheduled to meet for the first time in

June 2013, and thereafter the Pensions Committee. The prime objective of the Council, as administering authority of the Lothian Pension Fund, Lothian Buses Pension Fund and Scottish Homes Pension Fund, is to ensure an unqualified audit opinion of the Annual Report 2012-13. This will be determined in due course.

### Financial impact

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The proposed audit fee for 2012/13 of £47,190 represents a reduction of £1,890 (3.8%) reduction from the previous year, 2011/12. Suitable budgetary provision has been made.

### Equalities impact

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There are no adverse equalities impacts arising from this report.

### Sustainability impact

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There are no adverse sustainability impacts arising from this report.

### Consultation and engagement

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The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to governance. The Pensions Audit Sub-Committee, which shall consider future progress reports against this Annual Audit Plan 2012-13, should further strengthen financial and risk management assurance.

### Background reading / external references

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The responsibilities of Audit Scotland, as independent auditor, are established by the Local Government (Scotland) Act 1973 and the Code of Audit Practice, as approved by the Auditor General for Scotland and the Accounts Commission. Appropriate cognisance is also taken of ethical guidance of the auditing profession.

### Links

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#### Coalition pledges

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

#### Single Outcome Agreement

**Appendices** Appendix 1 - Audit Scotland Annual Audit Plan 2012-13  
Appendix 2 - Review of the adequacy of the internal audit service: 2012/13

# Lothian Pension Funds

## Annual Audit Plan 2012/13



Prepared for members of the Pensions Committee  
February 2013

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

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# Summary plan

## Summary of planned audit activity

Based on our analysis of the risks facing Lothian Pension Fund, Lothian Buses Pension Fund and Scottish Homes Pension Fund, our planned work in 2012/13 includes:

- an audit of the financial statements and provision of an opinion on whether:
  - they give a true and fair view of the financial position of the Funds as at 31 March 2013 and its income and expenditure for the year then ended
  - the accounts have been properly prepared in accordance with the Local Government (Scotland) Act 1973 and the 2012 Code of practice on local authority accounting in the United Kingdom (the Code)
- provision of the annual report on the audit addressed to elected members (i.e. members of the Council's Pensions Committee and more widely the members of the City of Edinburgh Council as the administering authority for the Funds) and the Controller of Audit
- a review and assessment of the Funds' governance and performance arrangements in a number of key areas including the review of the adequacy of internal audit and arrangements to support the governance compliance statement and information in the annual report.

## Introduction

1. Our audit is focused on the identification and assessment of the key challenges and risks to Lothian Pension Fund, the Lothian Buses Pension Fund and the Scottish Homes Pension Fund (collectively referred to as The Funds) in achieving their business objectives. We also assess the risk of material misstatement or irregularity in the Funds' financial statements. This plan summarises specific governance and other risks that may affect the financial statements of the funds and sets out the audit work that we propose to undertake in 2012/13 to address these. Our annual audit plan reflects:
  - the risks and priorities facing Lothian Pension Funds
  - current national risks relevant to local circumstances
  - the impact of changing international auditing and accounting standards
  - our responsibilities under the Code of Audit Practice as approved by the Accounts Commission
  - issues brought forward from previous audit reports.

## Our responsibilities

2. Our responsibilities, as independent auditor, are established by the Public Finance and Accountability (Scotland) Act 2000 and the Code of Audit Practice approved by the Accounts Commission, and guided by the auditing profession's ethical guidance.
3. Audit in the public sector goes beyond simply providing assurance on the financial statements and the organisation's internal control environment. We are also required to provide a view on performance and the organisation's use of resources. In doing this, we aim to support improvement and accountability.
4. In carrying out our audit, we seek to gain assurance that the Funds:
  - have good corporate governance arrangements in place which reflect the three fundamental principles of openness, integrity and accountability
  - have systems of recording and processing transactions which provide a sound basis for the preparation of financial statements and the effective management of its assets and interests
  - prepare financial statements which give a true and fair view of the position at 31 March 2013 and income and expenditure for the year then ended, in accordance with the Local Government (Scotland) Act 1973 and other applicable laws and regulations, including the 2012 Code of practice on local authority accounting in the United Kingdom (the Code)
  - have systems of internal control which provide an adequate means of preventing or detecting material misstatement, error, fraud or corruption
  - comply with established policies, procedures, laws and regulations
  - proactively manage and review their performance in line with its strategic and operational objectives
  - have made proper arrangements for securing best value in its use of resources.

## Our approach

5. Our audit approach is based on an understanding of the characteristics, responsibilities and principal activities, risks and governance arrangements of the Funds, and identification of the key audit risks and challenges in the local government sector generally. This approach includes:
  - understanding the business of the Funds and the risk exposure which could impact on the financial statements
  - assessing the key systems of internal control, and considering how risks in these systems could impact on the financial statements
  - identifying major transaction streams, balances and areas of estimation, understanding how the Funds will include these in the financial statements and developing procedures to audit these

- assessing the risk of material misstatement in the financial statements, in conjunction with our evaluation of inherent risk, the control environment and control risk as part of our risk assessment
  - determining the nature, timing and extent of our testing programme to provide us with sufficient appropriate audit evidence as to whether the financial statements are free of material misstatement.
6. Through this approach we have also considered and documented the sources of assurance which will make best use of our resources and allow us to focus testing on higher risk areas during the audit of the financial statements. The main areas of assurance for the audit come from planned management action and reliance on systems of internal control. Management action being relied on for 2012/13 includes:
- comprehensive closedown procedures for the financial statements accompanied by a timetable issued to all relevant staff (the fund utilises the financial systems of City of Edinburgh Council and follows the closedown procedures and timetables of the Council)
  - clear responsibilities for provision of accounts and working papers being agreed
  - delivery of unaudited accounts to agreed timescales
  - a comprehensive working papers package and supporting records
  - completion of the internal audit programme for 2012/13
  - delivery of an annual report and governance compliance statement to agreed timescales.
7. Auditing standards require internal and external auditors to work closely together to make optimal use of available audit resources. We seek to rely on the work of internal audit wherever possible and, as part of our planning process we carry out an early assessment of the internal audit function. Internal audit is provided by the internal audit section within City of Edinburgh Council, on a co-sourced basis with PricewaterhouseCoopers (PwC). Based on our review of internal audit we plan to place formal reliance on the areas of work set out in Appendix D.
8. Our approach to the audit of the financial statements is based on an integrated assessment of risk across the Code of Audit Practice responsibilities in relation to governance, performance and opinion.
9. At the completion of the audit we will provide the Pensions Committee and the Controller of Audit with an annual report on the audit containing observations and recommendations on significant matters which have arisen in the course of the audit. As a matter of courtesy we will also make our report available to elected members more generally in their capacity as members of the administering authority.



## Responsibility for the preparation of accounts

10. It is the responsibility of the Pensions and Accounting Manager, as Proper Officer, to prepare the financial statements in accordance with the Code. This means:
  - acting within the law and ensuring the regularity of transactions by putting in place systems of internal control to ensure that financial transactions are in accordance with the appropriate authority
  - maintaining proper accounting records
  - preparing financial statements timeously which give a true and fair view of the financial transactions of the Funds during the year ended 31 March 2013 and of the amount and disposition at that date of their assets and liabilities
  - preparing an annual report which provided a commentary on the performance of the Funds including the financial results for the year
  - reviewing the main components of the system of internal control, including the arrangements for internal audit. This should include consideration of issues identified as part of the audit process
  - preparing an explanatory foreword.

## Format of the accounts

11. The financial statements should be prepared in accordance with the Code which constitutes proper accounting practice for the purposes of section 12 of the Local Government Scotland Act 2003.

## Audit issues and risks

12. Based on our experience, discussions with staff, attendance at committee meetings and a review of supporting information, we have identified the following main financial statements risk areas for the Funds.

## Funding Position and Sustainability

13. In accordance with Regulation 76 of the Local Government Pension Scheme (Scotland) Regulations 1998, an actuarial valuation of all three funds was carried out as at 31 March 2011.
14. For Lothian Pension Fund, the funding level has increased from 85% at the previous valuation at 31 March 2008 to 96% at this valuation. This has resulted in the deficit reducing from £524m at 31 March 2008 to £142m at 31 March 2011. The triennial valuation determines employer contribution rates required over the next three year period. Based on the 31 March 2011 funding level, the actuary has calculated a common employer contribution rate for the period 2012-15 of 18.0%. This rate means that for most participating employers, including all Councils, there is no increase in contribution rates for the period 2012-15.

15. Our 2011/12 Annual Audit Report identified an increase in the number of pensioners and deferred members in relation to the overall membership of the fund and it is likely that this trend will continue as more and more organisations reduce their workforce. Should this pattern continue there is a risk that this may have an impact on fund's cash flow and on the longer term sustainability of the fund. We note that some of the changes in the Public Service Pension Bill (see paragraph 22) in April 2015 and the Pensions Act 2011 have elements that are aimed at reducing costs and making pension funds more sustainable.

### Fund staffing

16. A key provision of the Pensions Act 2011 is the requirement that all employers must make arrangements to ensure that their eligible jobholders become active members of a pension scheme. Although most of the work required will fall on employers, it is important that Lothian Pension Fund considers their administration arrangements and the information requirements of employers and members as a result of auto enrolment. The pressure on staff workloads will increase with auto enrolment but there is also the pressure from undertaking the payroll migration project and having two temporary staff vacancies across 2012/13 and 2013/14. There is a risk that increasing workloads on fund staff may adversely impact on the performance of the pensions division.

### Employer Default

17. The current economic and funding pressures on employers has focussed attention on the need to protect against employer default on contributions where admitted bodies have become bankrupt or gone into administration. On the cessation of admitted bodies to the fund, the fund actuary completes a cessation valuation and provides a certificate showing any additional revised contributions due as a result of the cessation. These revised contributions could be substantial.
18. For Lothian Pension Fund, the admission of employers is delegated to the Investment and Pension Services Manager (through the scheme of delegation) for the approval of individual cases. An additional requirement per the Fund's policy (introduced in 2006) on new admissions stipulates that all new bodies joining Lothian Pension Fund must have a guarantor (ultimately, the overall Fund is the guarantor). There is a risk that some admitted bodies may not be able to maintain their on-going contributions. We note that this is a symptom of the wider issue of admitted bodies recognising that the scheme may not be suitable for their organisation e.g. recognising the volatility on their balance sheet.

### Administration Performance

19. As stated in our 2011/12 Annual Audit Report, administration performance in relation to employers was disappointing in 2011/12 with none of the five targets being achieved. Retirement notification within 20 days of retiral only achieved 39% of target whilst notification of death in service within ten days only achieved 30% of target. As part of their response to this performance the Fund invested in an Employer On-line Portal for pension administration. This ICT enhancement provides the opportunity for transformational change in data transfer

between employers and the Fund and therefore has the potential to provide radical improvement. The project has prioritised roll out to larger employers with smaller employers being added in 2013/14. In addition, the Investment and Pensions Service Manager has raised this as a key priority issue at face-to-face meetings with senior managers of the major employers.

20. We note the efforts being made by Lothian Pension Funds on an issue that is common across the pensions industry in both public and private sectors. There is a risk that delays in information provision may impact on the delivery of accurate and timely services to members.

## Public Service Pensions Bill

21. The Public Service Pensions Bill signals more changes ahead for the Local Government Pension Scheme (LGPS), with some changes aimed at reducing costs, and others at setting a common legislative framework and improving governance arrangements. The changes are to be implemented by April 2015. Therefore, within the next two years the fund must develop the necessary pension systems and processes to allow compliance with the requirements of the new pension scheme. Regular updates are provided to committee on proposals for public sector pension scheme reform and other significant changes affecting the scheme. We will continue to monitor this development.

## Summary assurance plan

22. Within these identified risk areas there is a range of more specific risks and these are summarised at Appendix A. In all cases, actions to manage these risks are underway. Details of the sources of assurance that we have received for each of these risks and any audit work we plan to undertake are also set out in Appendix A. In the period prior to the submission of the unaudited financial statements, we will liaise with senior officers on any new or emerging issues.

## Materiality

23. We consider materiality and its relationship with audit risk when planning the nature, timing and extent of our audit and conducting our audit programme. Specifically with regard to the financial statements, we assess the materiality of uncorrected misstatements, both individually and collectively.

International Standard on Auditing 320 states that, "Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements; judgements about materiality are made in light of surrounding circumstances, and are affected by the size or nature of a misstatement, or a combination of both; and judgements about matters that are material to users of the financial statements are based on a consideration of the common financial information needs of users as a group. The possible effect of misstatements on specific individual users, whose needs may vary widely, is not considered."

24. When considering, in the context of a possible qualification to the audit opinion, whether the misstatement of an item, or a number of items taken together, is material in terms of its monetary value, we use professional judgement, experience and internal guidelines from peers as broad guidance in regard to considering whether the results of tests of detail are material.
25. An item may be judged material for reasons other than its monetary or quantitative value. An inaccuracy, which would not normally be regarded as material by amount, may be important for other reasons. When such an item affects a critical point in the accounts, its materiality has to be viewed in a narrower context (for example the failure to achieve a statutory requirement, an item contrary to law, or areas affected by central government control). Again we use professional judgement, experience and internal guidelines from peers to determine when such matters would fall to be covered in an explanatory paragraph, rather than as a qualification to the audit opinion.

## Reporting arrangements

26. Under the Local Government (Scotland) Act 1973, there is a requirement for unaudited financial statements to be presented to Lothian Pension Funds and the Controller of Audit within 3 months of the financial year end i.e. 30 June. The non-statutory target for audit completion is 30 September. To achieve this target, it is important that a timetable for the audit of the accounts is agreed with us. An agreed timetable is included at Appendix B of this plan, which takes account of submission requirements, planned committee dates and audit resources.
27. Matters arising from our audit will be reported on a timely basis and will include agreed action plans. Draft management reports will be issued to the Investments and Pension Services Manager to confirm factual accuracy. Responses to draft reports are expected within two weeks of submission.
28. A copy of all final agreed reports will be sent to the Director of Corporate Governance, Investments and Pension Services Manager, Pensions and Accounting Manager (as Proper Officer), Internal Audit and Audit Scotland's Best Value & Scrutiny Improvement Group. In addition key findings will be submitted to the Pensions Committee for their consideration.
29. In order to discharge our responsibilities, it is important that we engage with and report our findings to those charged with governance, in this case the Pensions Committee, before we conclude our audit. A report in accordance with International Standard on Accounting (ISA 260) - communication of audit matters with those charged with governance - will be discussed with the Director of Corporate Governance, the Investments and Pension Services Manager and the Pensions and Accounting Manager (as Proper Officer) before being considered by the Pensions Committee. The report will cover significant issues arising from the audit and will be considered by the committee before we formally issue our audit opinion. This allows time for appropriate action to be taken on any significant matters.

30. We will provide an independent auditor's report to elected members in their role as quasi trustees of the funds and the Accounts Commission for Scotland confirming that the audit of the financial statements has been completed in accordance with applicable statutory requirements, including an opinion on those financial statements. An annual report to elected members and the Controller of Audit will also be produced to summarise all significant matters arising from the audit and overall conclusions about Lothian Pension Funds management of key risks.
31. All annual reports produced by Audit Scotland are published on our website [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)
32. A full range of the outputs to be delivered by the audit team is summarised in Exhibit 1.

### Exhibit 1: 2012/13 Planned Outputs

Planned outputs	Target delivery date
<b>Governance</b>	
Review of the Adequacy of Internal Audit	By 31 January 2013
Annual Audit Plan	By 28 February 2013
<b>Financial statements</b>	
Report to Pensions Committee in terms of ISA 260 (Communication of audit matters to those charged with governance)	September (exact date to be confirmed)
Independent auditor's report on the financial statements	By 30 September 2013
Annual report to the Pensions Committee and the Controller of Audit	By 31 October 2013

### Quality control

33. We are committed to ensuring that our audit reflects best practice and demonstrates best value to Lothian Pension Funds and the Accounts Commission. We operate a strong quality control framework that seeks to ensure that your organisation receives a high quality service. The framework is embedded in our organisational structures and processes and includes an engagement lead for every client; in your case this is Brian Battison, who is responsible for ensuring that our work is carried out on time and to a high quality standard.
34. As part of our commitment to quality and continuous improvement, we may periodically seek your views. We would be grateful for any feedback on our services.

## Fees and resources

35. The agreed fee for the 2012/13 audit of Lothian Pension Funds is £47,190 (2011/12: £49,080). Our fee covers:
- all of the work and outputs described in this plan
  - a contribution towards the costs of national performance studies and statutory reports by the Controller of Audit and the work of the Accounts Commission
  - attendance at Pensions Committee and Pension Audit Sub-Committee meetings
  - access to advice and information on relevant audit issues.
36. In determining the agreed fee we have taken account of the risk exposure of the Funds, the management assurances in place and the level of reliance we plan to take from the work of internal audit. We have been assured that the receipt of the draft accounts and supporting working papers will be available for audit by 1 July 2013.
37. In 2011/12 Audit Scotland were successful in delivering all of our work for less than the budgeted costs, largely as a result of our cost cutting plans continuing to be achieved faster than planned. As a result City of Edinburgh Council, as the administering authority, will receive a one off rebate equivalent to 6% of the 2011/12 indicative fees and this includes an element for the Funds.
38. We reserve the right to charge an additional fee for further audit work in such instances as late receipt of the draft financial statements, the lack of agreed management assurances or being unable to take planned reliance from the work of internal audit. An additional fee may be required if our audit cannot proceed as planned.
39. The local audit team will be led by Brian Battison who will be responsible for the day to day management of the audit and who will be your primary contact. Details of the experience of our team are provided at Appendix C. The core audit team will call on other specialist and support staff as necessary.

## Independence and objectivity

40. Auditing and ethical standards require the appointed auditor to communicate any relationships that may affect the independence and objectivity of audit staff. Audit Scotland is an admitted body of the Lothian Pension Fund and represents around 1% of fund membership. Staff involved in the audit are members of the fund. While this merits disclosure, it is not considered to represent a conflict of interest for the organisation or individuals involved. We are not aware of any other relationships which may affect the independence of the audit team.
41. We comply with ethical standards issued by the Financial Reporting Council (FRC) and with Audit Scotland's requirements in respect of independence and objectivity, as summarised at Appendix E.

# Appendix A - Summary assurance plan

In this section we identify a range of governance and other risks that may affect the financial statements of the Funds, the related source of assurance received and the audit work we propose to undertake to secure additional assurance. The management of risk is the responsibility of Lothian Pension Fund and its officers, with the auditor's role being to review the arrangements put in place by management. Planned audit work, therefore, will not necessarily address all residual risks.

Risk	Source of Assurance	Planned audit action
<p><b>Funding position and sustainability</b></p> <p>The actuarial valuation at 31 March 2011 indicated a 96% funding level for the main pension fund.</p> <p>In recent years there has been a significant increase in the number of pensioners and deferred members in relation to the overall membership of the fund.</p> <p>There is a risk that this may impact on the fund's cash flow and the longer term sustainability of the fund.</p>	<ul style="list-style-type: none"> <li>• Actuarial valuation carried out every 3 years</li> <li>• Levels of employer contributions established as part of valuation</li> <li>• Interim valuation reports produced by the actuary between formal valuations.</li> </ul>	<ul style="list-style-type: none"> <li>• Review of annual and triennial actuarial statements</li> <li>• Review PwC report on actuarial assumptions</li> <li>• Monitor levels of pensioners and deferred pensioners in relation to overall membership</li> <li>• Provide an update in the annual report</li> </ul>
<p><b>Fund staffing</b></p> <p>The pressure on staff workloads will increase with auto enrolment, payroll migration and having temporary staff vacancies during 2012/13 and 2013/14.</p> <p>There is a risk that increasing workloads on fund staff may adversely impact on the performance of the pensions division.</p>	<ul style="list-style-type: none"> <li>• Workforce / succession planning</li> <li>• Preparations and implementation of auto enrolment</li> <li>• Payroll migration project updates</li> </ul>	<ul style="list-style-type: none"> <li>• Monitor levels of early retirement, unfilled posts and retention of staff</li> <li>• Review revenue monitoring reports</li> <li>• Monitor implementation of payroll migration project (liaise with internal audit)</li> </ul>

Risk	Source of Assurance	Planned audit action
<p><b>Employer default</b></p> <p>Due to the current economic and funding pressures on employers there is a greater need to actively monitor their financial position to mitigate the risks of employer default.</p> <p>There is a risk that some admitted bodies may be unable to maintain their contributions and these are ultimately borne by other pension fund employers.</p>	<ul style="list-style-type: none"> <li>• Plans for monitoring situation with admitted bodies</li> <li>• Funding strategy statement</li> <li>• New admission rules around admitted bodies having a guarantor</li> </ul>	<ul style="list-style-type: none"> <li>• Monitor fund's arrangements for mitigating the risk of employer default</li> </ul>
<p><b>Administration performance</b></p> <p>Administration performance in relation to employers was disappointing in 2011/12 with none of the five targets being achieved.</p> <p>There is a risk that delays in information provision may impact on the delivery of accurate and timely services to members.</p>	<ul style="list-style-type: none"> <li>• Face-to-face meetings with senior managers of major employers</li> <li>• Employer On-line system</li> </ul>	<ul style="list-style-type: none"> <li>• Review administration performance targets for the current year</li> <li>• Monitor roll out of employer on-line system</li> </ul>



# Appendix B - Financial statements audit timetable

Key stage	Date
Testing and review of internal control systems and transactions	By 30 June 2013
Provision of closedown procedures to audit	By March 2013
Meetings with officers to clarify expectations of detailed working papers and financial system reports	By March 2013
Planned approval of unaudited financial statements	By 30 June 2013
Latest submission of unaudited financial statements with working papers package	By 30 June 2013
Progress meetings with lead officers on emerging issues	As required during audit process
Latest date for final clearance meeting with senior officers	To be confirmed
Agreement of unsigned financial statements and issue of report to the Pension Committee on the audit of the financial statements (ISA 260)	To be confirmed
Pensions Committee date	September 2013 (exact date to be confirmed)
Independent Auditors Report signed	By 30 September 2013
Certified accounts and annual report presented to Pensions Committee	By 31 October 2013

# Appendix C - Audit team

Summarised curriculum vitae for each core team member are set out below:

**Brian Battison, CA**  
**Audit Manager**

Brian has worked with Audit Scotland for 12 years. He has audited a variety of organisations across central government and associated agencies, local government (including pension funds) and the NHS. Previously Brian worked in the National Audit Office and the private sector on a wide range of public sector audits.

**Brendan Clark, CA**  
**Senior Auditor**

Brendan has fourteen years experience in public sector audit after many years working in senior positions in local government. Brendan is also a Non Executive on the board of NHS Forth Valley.

**Ross McDonald**  
**Trainee**

Ross joined Audit Scotland's Health and Local Government Team in October 2011 and will be embarking on his Second Year of the ICAS training programme in July 2013.

# Appendix D - Reliance on internal audit

Auditing standards require internal and external auditors to work closely together to make optimal use of available audit resources. We seek to rely on the work of internal audit wherever possible and as part of our planning process we carry out an early assessment of the internal audit function. Our review of the internal audit service concluded that the internal audit service provided by the City of Edinburgh Council's Internal Audit Section operates in accordance with the CIPFA code of practice for internal audit in local government.

We therefore plan to place reliance on the work of internal audit on the following:

- audit work carried out in support of the governance statement for inclusion with the financial statements;
- assurance on key controls within the pension administration functions; and
- assurance from work on the pension payroll migration, pre and post implementation.

The reliance on internal audit work in these areas will allow us to maximise audit resources and focus on high risk audit areas.

We note that the internal audit service has been below planned resourcing levels during the transition to a co-sourced arrangement with PricewaterhouseCoopers (PwC), although we have been assured that this will not impact on the areas of internal audit work where we plan to place reliance.

# Appendix E - Independence and Objectivity

Auditors appointed by the Auditor General for Scotland are required to comply with the Code of Audit Practice and standing guidance for auditors, which defines the terms of appointment. When auditing the financial statements auditors are also required to comply with the auditing and ethical standards issued by the Financial Reporting Council (FRC). The main requirements of the Code of Audit Practice, standing guidance for auditors and the standards are summarised below.

International Standards on Auditing 260 requires that the appointed auditor communicates:

- A statement that the engagement team and others in the firm as appropriate, the firm and, when applicable, network firms have complied with the FRC's Ethical Standards for auditors
- All relationships and other matters between the firm, network firms, and the entity that, in the auditor's professional judgment, may reasonably be thought to bear on independence. This shall include total fees charged during the period covered by the financial statements for audit and non-audit services provided by the firm and network firms to the entity and components controlled by the entity. These fees shall be allocated to categories that are appropriate to assist those charged with governance in assessing the effect of services on the independence of the auditor
- The related safeguards that have been applied to eliminate identified threats to independence or reduce them to an acceptable level.

The standard defines "those charged with governance" as "the person(s) or organization(s) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process." In your case, the appropriate addressees of communications from the auditor to those charged with governance are the s95 officer and the Pensions Committee. The auditor reserves the right to communicate directly with members on matters which are considered to be of sufficient importance.

Our Code of Audit Practice has an overriding general requirement that appointed auditors carry out their work independently and objectively, and ensure 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.

The standing guidance for auditors includes a number of specific requirements. The key requirements relevant to this audit appointment are as follows:

- auditors should not perform non-audit work for an audited body, consultancy or otherwise, without the prior approval of Audit Scotland
- auditors should, in all but exceptional circumstances, be changed at least once every five years in line with Audit Scotland's rotation policy
- auditors are required to carry out their duties in a politically neutral way
- auditors must abide by Audit Scotland's policy on gifts and hospitality.

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Alastair MacLean  
Director of Corporate Governance  
City of Edinburgh Council  
Waverley Court  
4 East Market Street  
Edinburgh  
EH8 8BG

22 January 2013

Dear Alastair

**Lothian Pension Funds  
Review of the adequacy of the internal audit service: 2012/13**

Audit Scotland's Code of Audit Practice (the 'Code') sets out the wider dimension of public sector audit. The Code requires external auditors to carry out an annual assessment of the adequacy of the internal audit function. Also, based on this assessment we plan to rely on areas of internal audit work in terms of International Standard on Auditing 610 (*Considering the Work of Internal Audit*).

We have now completed our assessment of the Pension Fund's internal audit function which is provided by City of Edinburgh Council's internal audit service. To minimise the audit burden and efficiently deploy audit resources, Audit Scotland's City of Edinburgh Council audit team conducted the review of the adequacy of the council's internal audit service. This included a review of the range and quality of work carried out by internal audit. Overall, we concluded that the internal audit service operates in accordance with the CIPFA code of practice for internal audit in local government.

For our financial statements audit responsibilities we plan to place formal reliance on aspects of internal audit's work in the following areas:

- Audit work carried out in support of the annual governance statement for inclusion with the financial statements
- Assurance on key controls within the pension administration functions
- Assurance from work on the pension payroll migration, pre and post implementation

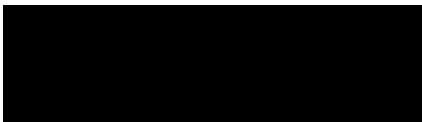
The reliance on internal audit work in the above areas will allow us to direct our resources to the financial systems and governance areas we have assessed as being of higher audit risk.

We note that the internal audit service has been below planned resourcing levels during the transition to a co-sourced arrangement with PriceWaterhouseCoopers (PwC), although we have been assured that this will not impact on the areas of internal audit work where we plan to place reliance.

We will continue to monitor and review completed internal audit assignments to ensure that work on which we are placing reliance has been delivered. Any failure to complete areas where formal reliance has been agreed could impact on our plan and agreed audit fee.

If you have any questions on this matter please do not hesitate to contact me.

Yours sincerely



Stephen O'Hagan  
**Senior Audit Manager**

By email: Sue Bruce, Chief Executive  
Clare Short, Investment and Pensions Service Manager  
John Burns, Pensions and Accounting Manager  
Lorna Stewart, Head of Internal Audit

# Pensions Committee

10am, Wednesday, 13 March 2013

## Revisions of Pensions Discretions Policy and Communication Policy

Item number	5.2
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

### Alastair Maclean

Director of Corporate Governance

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## Revisions of Pensions Discretions Policy and Communication Policy

### Summary

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The Local Government Pension Scheme (LGPS) allows for certain decisions to be made by the Administering Authority, mainly in relation to operational matters. The current Administering Authority discretions policy was adopted by the Pensions and Trusts Committee in March 2009.

Appendix 1 provides an updated Policy for approval by the Pensions Committee. The Policy has been extended to describe the Fund's approach to each of discretion in the regulations for completeness and clarity. It also covers a number of areas out-with the regulations where the application of discretion is required.

A number of the discretions are addressed by other policy statements. The Funding Strategy Statement, for example, addresses the most financially significant discretions – this was reviewed in March 2012 as part of the actuarial valuations.

Many of the discretions in the draft Policy cover issues relating to day-to-day administration of members' entitlements. The most financially significant discretion in pension administration is the decision on the recipient(s) of death grants (number 28 in the Policy). Such decisions are becoming more difficult as family and personal circumstances become more complicated. The Fund actively encourages members to complete, and keep up-to-date, an 'expression of wish' form to help with such decisions.

The Pensions Administration Strategy (which sets out the employer's duties, responsibilities and discretions and is referred to in the Discretions Policy) was approved by Committee in 2010. It will be reviewed during 2013 following the introduction of the system interface for employers to submit information to the Fund.

Lothian Pension Funds' Communications Policy has been updated to reflect the introduction of on-line access to personal information for active and deferred members and now incorporates the Fund's approach to Freedom of Information requests (previous covered under a different policy). Appendix 2 provides an updated Policy for approval by the Pensions Committee.



## Recommendations

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Pensions Committee are asked to approve:

- the Pensions Discretions Policy provided in Appendix 1, and;
- the Communications Policy as provided in Appendix 2 of this report.

## Measures of success

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The Policies ensure that Lothian Pension Fund and its stakeholders are aware of and understand responsibilities under the LGPS regulations.

## Financial impact

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There are no direct financial implications related to this report.

## Equalities impact

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There are no adverse equalities impacts arising from this report.

## Sustainability impact

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There are no adverse sustainability impacts arising from this report.

## Consultation and engagement

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The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to governance.

## Background reading / external references

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Not applicable.

## Links

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### Coalition pledges

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

### Single Outcome Agreement

### Appendices

Appendix 1 - Pensions Discretions Policy  
Appendix 2 - Communications Policy

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

This is the Pensions Discretions Policy of the Lothian Pension Fund (“the Fund”). It is prepared and maintained by the City of Edinburgh Council, the Administering Authority for the Fund. This statement was agreed by the Pensions Committee on 13 March 2013.

Lothian Pension Fund’s policy where discretion is applicable is shown in the table below. Where further discretion is required, officers’ over-riding priority will be to act in the best the interests of the Fund by taking into account advice (where applicable) and rulings on similar cases from the Pensions Ombudsman.

	<b>Local Government Pension Scheme Administering Authority Discretions/Decisions</b>	<b>Current Policy</b>
1	Whether to agree an admission agreement with a community body.	<a href="#">Funding Strategy Statement</a>
2	Agree terms of admission agreement.	
3	Whether to agree to an admission agreement with a NHS employing authority.	
4	Whether to terminate a transferee admission agreement in the event of insolvency, winding up or liquidation of the body, breach of its obligations under the admission agreement, withdrawal of approval by HMRC to participate in the scheme and failure to pay over sums due to the Fund within a reasonable period of being requested to do so.	
5	Agree method for paying augmented membership or additional pension with employer	
6	Whether to set up a separate admission agreement fund.	
7	Decide on Funding Strategy for inclusion in funding strategy statement.	
8	Whether to obtain revision of employer’s contribution rate on termination of an admission agreement where underfunding not met by insurer, bond or indemnity.	
9	Whether to obtain revision of employer’s contribution rate with a view to ensure no underfunding by time admission agreement terminates.	
10	Whether any strain on Fund costs be paid up front by employing authorities following redundancy, early retirement, flexible	

March 2013

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

	retirement, or the waiver (in whole or in part) of any actuarial reduction on flexible retirement.	
11	Where an employer has by resolution either increased the membership of an active member or awarded additional pension, whether or not to extend the one month period within which a lump sum payment by the employer has to be made.	No extension will be granted.
12	<p>Governance statement must state whether the administering authority delegates their function in relation to maintaining a pension fund to a committee, a sub committee or an officer of the administering authority and if they do so delegate, state:</p> <ul style="list-style-type: none"> <li>• the frequency of any committee or sub committee meetings</li> <li>• the terms of reference, structure and operational procedures appertaining to the delegation</li> <li>• whether representatives of employing authorities or members are included and, if so whether they have voting rights</li> </ul> <p>The statement must also state the extent to which a delegation, or the absence of a delegation, complies with guidance from Scottish Ministers and the extent it does not comply, state the reasons for non-compliance.</p>	<a href="#">Annual Governance Compliance Statement</a>
13	Decide frequency of payments to be made over to the Fund by employers and whether to make an administration charge.	<a href="#">Pensions Administration Strategy.</a>
14	Decide form and frequency of information to accompany payments to the Fund.	
15	Recover additional costs arising from employing authority's level of performance.	
16	Whether to charge interest on contributions or payments by employers overdue by more than 1 month.	
17	Whether the Fund should appeal against employer decision (or lack of decision).	
18	Specify information to be supplied by employers to enable administration. Authority to discharge its functions.	
19	Whether to have a written pensions administration strategy and if so the matters it should include.	

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

20	Automatically aggregate terminated concurrent employments with active concurrent employment if no option is received from the scheme member within one month of being notified of the option to aggregate.	Lothian Pension Fund will automatically aggregate terminated concurrent employments with active concurrent employments if no option is received from the scheme member within one month of being notified of the option.
21	Whether to extend the normal 12 month period following the end of relevant reserve forces leave for "cancelling notice" to be submitted requesting that service should not be treated as relevant reserve forces service.	Lothian Pension Fund will extend the period for submission.
22	Whether to obtain a satisfactory medical certificate before agreeing to an Additional Regular Contribution (ARC).	Members will be required to produce medical evidence in support of an application to purchase additional pension. Where that evidence incurs costs these will be met by the member.
23	Whether to charge a member for provision of estimate of additional pension that would be provided by the scheme in return for transfer of in-house AVC funds.	Member is entitled to one free estimate within a 12 month period. If a further estimate is to be provided within a 12 month period then a charge will be made.
24	Whether to extend the 3 month election period that allows a member on leaving employment (by reasons of redundancy) to capitalise their added years contract.	Lothian Pension Fund will not extend the election time period of three months for capitalisation except where a member was not made aware of this right.
25	Outstanding contributions can be recovered as a simple debt or by deduction from benefits.	Outstanding employee contributions may be deducted from benefits.
26	Make an election on behalf of deceased member with a certificate of protection of pension benefits.	Lothian Pension Fund will determine the pay figure and make an election on behalf of a deceased person.
27	Allow extension of period within which a scheme member must submit election for benefits or alter the date from which they elect to have pension paid.	Members may make an election for payment of benefits up to three months before their intended retirement date.
28	Can pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without the need for confirmation, grant of probate/letters of administration.  Decide to whom a death grant is paid.	As required Lothian Pension Fund will use its absolute discretion in accordance with the regulations and in the first instance consider the member's expression of wish form. Where no valid nomination exists, payment may be made to an obvious beneficiary i.e. spouse, children, dependant, relative, executors or any other person who makes a valid claim. In cases where a number of potential beneficiaries exist, dependency and intestate law will be considered as a guide to determining claims.
29	Approve medical advisors used by employers (for ill-health retirement)	Lothian Pension Fund approves and maintains a list of medical advisors.

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

30	Whether to extend six month period to lodge a stage 1 Internal Dispute Resolution Procedure appeal.	The “appointed person”, as nominated by Lothian Pension Fund in accordance with Scheme Regulation 54 (3)(b), under its Internal Dispute Resolution Procedure, may extend the time limit depending on the merits of the case.
31	Date to which benefits shown on annual benefit statements are calculated.	Benefit statements will show benefits calculated as at 31 March for active members. Deferred and pension credit members will show benefits calculated to the most recent pension increase date.
32	Decide policy on abatement of pensions following re-employment.	Lothian Pension Fund will not abate pensions of pensioner members on re-employment (This excludes the abatement of Compensation Pensions where no such discretion exists).
33	Agree to bulk transfer payment	Scheme Regulations stipulate that this is determined by the Fund’s Actuary. Extract is as follows: “Calculation of amount of transfer payment under regulation 76 <b>77.</b> —(1) The amount of the transfer payment to be paid under regulation 76 is the amount determined by an actuary appointed by the members’ appropriate administering authority...”
34	Allow transfer of pension rights into the Fund	Transfer in of previous pension rights is restricted to Public Sector Transfer Club. Applications must be made within twelve months of joining the pension scheme.
35	Decide whether deferred beneficiary meets permanent ill-health criteria	Lothian Pension Fund will pay early payment of deferred on health grounds subject to ill-health medical certification.
36	Where a deferred member’s former employing authority has ceased to be a Scheme employer, whether to grant application for early payment of benefits on or after age 50/55 and before age 60	Lothian Pension Fund will not grant early payment of benefits on or after age 50/55 and before age 60 unless there are exceptional extenuating circumstances.
37	Decide evidence required to determine financial dependence of nominated co-habitee on scheme member or financial interdependence of nominated co-habitee and scheme member	Lothian Pension Fund will require the following documentary evidence from at least two years prior to the date of death: <ol style="list-style-type: none"> <li>1. Proof that the scheme member and nominated co-habitee were free to marry each other</li> <li>2. Proof of co-habitation</li> <li>3. Proof of financial interdependency</li> <li>4. A declaration from the nominated co-habitee that neither they nor the scheme member had been living with someone else as if they were husband and wife or civil partners.</li> </ol>

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

38	Decide to treat a child who commences full-time education or vocational training after the date of the member's death as an eligible child after the child attains age 17 until age 23.	At the time of a member's death, a child over age 17 who is in full-time education having not having had a break of over one year will be treated as an eligible child.
39	Decide to treat child as being in continuous education or training despite a break.	A break of one year will be disregarded so long as there is a clear intention to return to education or training following the break.
40	Decide to suspend child's pension during a break in education or training.	Lothian Pension Fund will suspend a child's pension during a break in education or training.
41	Decide to treat a child who is disabled within the meaning of the Equality Act 2010 as being an eligible child.	Lothian Pension Fund will rely on medical certification. Where that evidence incurs costs these will be met by the child's guardian.
42	Decide whether to commute a small pension.	Lothian Pension Fund will commute small pensions in accordance with the provisions of the Finance Act 2004.
43	Decide whether to commute pension on grounds of serious ill-health.	Subject to the member's wishes and medical certification that life expectancy is less than one year, Lothian Pension Fund will commute pension on grounds of serious ill-health.
44	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled under 2 or more regulations in respect of the same period of membership	Lothian Pension Fund will award the benefit that produces the best benefit for the scheme member.
45	Decide valuation day for pension sharing order	The valuation day for pension sharing orders shall be the date of divorce. The implementation date for the pension sharing order will be the last day of the four month implementation period from the date of decree.
46	How to discharge Pension Credit liability	Lothian Pension Fund will discharge pension credit liabilities by conferring appropriate rights under the Scheme on the ex-spouse or ex-civil partner. The ex-spouse or ex-civil partner may request a transfer of pension rights to another qualifying arrangement.
47	Decide charges to be levied in Pension Sharing cases	Charges are set in line with the National Association of Pension Funds and are increased in line with the cost of living each year.
48	Agree to pay annual compensation on behalf of employer and recharge payments to employer	The City of Edinburgh Council pays compensation on behalf of employers and recharges payments to the employer. (As at March 2013, this approach is being reviewed).
49	Extend the time limit for repayment of a previous refund (16/5/74	Lothian Pension Fund will extend the time limit indefinitely.

# Lothian Pension Fund Pensions Discretion Policy

## Appendix 1

	to 05/04/1978)	
50	Intervals at which instalments of annual compensation are payable (may agree different to LGPS pension date)	The City of Edinburgh Council pays annual compensation in line with the LGPS pension date i.e. in arrears on the 15 <sup>th</sup> of each month. (As at March 2013, this approach is being reviewed).
<b>Other Discretions (not covered under the provisions of the LGPS)</b>		
51	Scheme members who have a deferred Scottish local government benefit and rejoins the LGPS, doesn't aggregate benefits and leaves again within two years.	To avoid making unauthorised payments, Lothian Pension Fund will <b>not</b> subsequently pay a short service refund lump sum to the member on leaving.
52	For upheld complaints, consider any financial awards in line with Lothian Pension Fund's Policy relating to compensation for distress or inconvenience.	When considering financial awards, consideration will be given to the levels of compensation awarded by the Pensions Ombudsman for similar cases.

# **Communications Policy**

**March 2013**



# COMMUNICATIONS POLICY

Lothian Pension Fund provides a pension administration and investment service for local government employer and associated bodies and their employees within Edinburgh and Lothian.

All Local Government Pension Funds in England and Wales are required by the Local Government Pension Scheme (Administration) Regulations 2008 to prepare and publish a policy statement setting out their communication strategy. Whilst not a requirement in Scotland, the Fund has prepared this policy to assist with the delivery of the service. The policy summarises how the Fund communicate with its employers, scheme members and other stakeholders. It was approved by the Pensions Committee in March 2013.

Their statement must, in particular, set out their policy on:

- the provision of information and publicity about the Scheme to members, representatives of members and employing authorities
- the format, frequency and method of distributing such information or publicity and
- the promotion of the Scheme to prospective members and their employers.

## Communications objectives

The overall objectives of the communications policy are to ensure that:

- pension regulations and policies are communicated in a clear and informative way
- clear information is provided to allow members to take decisions relating to their pension
- the most appropriate way of communicating with stakeholders is used
- the differing needs of our stakeholders are taken into account
- the scheme is recognised as an important part of employers' remuneration package for employees
- the communications are evaluated and feedback used to ensure their effectiveness
- our business partners provide clear communications, for example our Additional Voluntary Contributions providers.

## Key audiences

Our audiences include:

- Scheme employers
- Scheme members
- Prospective scheme members
- Pensions Committee of the City of Edinburgh Council
- Lothian Pension Funds' Consultative Panel
- Scottish Public Pensions Agency, the regulator for the Local Government Pension Scheme in Scotland
- Audit Scotland, the auditor for the Fund
- Trade Unions

# Governance/Consultation

In addition to audience specific communications show in the next section, the Fund prepares a number of communications to outline its policies, procedures and performance and to meet its statutory duties. These include an annual report and accounts, policies and customer care charter which are available on the Fund's website [www.lpf.org.uk](http://www.lpf.org.uk).

The Lothian Pension Funds' Consultative Panel, made up of representatives of members and employers is integral to the Fund's governance.

## Communications tools

The section below shows how the Fund communicates with each audience.

### Scheme members

#### Current members – those currently paying into the scheme

##### By post

- welcome pack including scheme guide
- statutory confirmation of membership
- annual newsletter including Annual Report summary
- paper copy of annual benefits statement on request
- notification of changes to the Scheme – via newsletter or bespoke communication
- on request provision of communications in alternative formats including translation, Braille, large print documents or audio

##### In person/phone

- single helpline telephone number
- roadshow and clinic events – on request of employer
- induction and retirement events – on request of employer

##### Online/email/website

- single helpline email address
- website providing general and member information
- online web access for members' personal information
- annual benefits statement
- customer care charter including service standards and timescales
- e-newsletter updates for members
- leaflets, policies and forms available via website
- online calculators for example additional voluntary contributions, pension estimates and contribution rate calculator

#### Retired Members – those receiving a pension from the Fund

##### By post

- retirement pack sent at retirement
- Penfriend newsletter twice a year including Annual Report summary
- Club Together newsletter and mailings
- payslip twice a year and when significant changes in payment
- on request provision of communications in alternative formats including translation, Braille, large print documents or audio

## **Retired Members continued**

### **Website/online/phone**

- leaflets and forms available for download
- website with general information and retired member sections
- online web access for members' personal information
- single helpline telephone number and email address

## **Deferred Members - left but still hold pension rights in the Fund**

### **By post**

- annual newsletter including Annual Report summary
- paper copy of annual benefits statement by request
- on request provision of communications in alternative formats including translation, Braille, large print documents or audio

### **Website/online/phone**

- customer care charter including service standards and timescales
- online annual benefits statement
- website providing fund and member information, leaflets and forms
- online web access for members personal information
- single helpline telephone number and email address

## **Scheme employers**

- annual fund seminar
- annual finance seminar
- e-newsletter (typically monthly) with updates on legislative and policy issues
- Pension Administration Strategy including service standards and performance measurement against these standards
- special e-newsletters for smaller employers and on special issues
- technical and procedure training on demand
- twice yearly user groups
- employer manual including checklists
- consultation on changes to the Scheme
- roadshows for employees on request
- website providing general fund information as well as section specifically for employers
- leaflets and forms available for download via website
- single helpline telephone number and email address
- annual meetings with larger employers
- professional support and guidance from dedicated staff
- updates on scheme regulation changes

## **Prospective members**

Prospective members receive a short guide to the Fund provided by employers on joining. The Fund also attends induction events held by employers when invited to participate.

## Evaluation and Improvement

Evaluation and feedback are essential tools in improving the services provided by the Fund. All our surveys include questions on communications including our joining material, forms, booklets and our website. We also monitor complaints and take corrective action to improve communications as appropriate.

## Media

The Fund issues media releases and makes comments on non-political pension fund related matters to both general and pensions and investment specific media. The primary purpose is to ensure accurate reporting of the Fund policies and financial position. This also helps to develop the Fund's profile.

## FREEDOM OF INFORMATION

The Fund follows the Freedom of Information policy of the administering authority, the City of Edinburgh Council. It can be accessed at [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

### **Making a Freedom of Information or Data Protection request**

Requests can be made direct to the Fund or through the City of Edinburgh Council in a number of ways including through the Fund or Council's website, email or in writing.

The Fund's website [www.lpf.org.uk](http://www.lpf.org.uk) includes the Publications Schedule. This schedule contains the types of information usually requested from the Pension Fund arranged by types of information as a guide to information published or can be requested.

## DATA PROTECTION

The City of Edinburgh Council acts as administering authority for Lothian Pension Fund and is registered under the Data Protection Act 1998. The Council's Data Protection policy also applies to the Fund and it can be accessed at [www.edinburgh.gov.uk](http://www.edinburgh.gov.uk)

This allows members to check that their details held are accurate. The Fund may, if it chooses, pass certain details to a third party, if the third party is carrying out an administrative function of the Fund, Members who wish to apply to access their data on Data Protection Act grounds should contact the Council's Data Protection Officer via e-mail at [dataprotection@edinburgh.gov.uk](mailto:dataprotection@edinburgh.gov.uk)

The Fund has a duty to protect the public funds it administers, and to this end may use information for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.

# Pensions Committee

10am, Wednesday, 13 March 2013

## Service Plan 2012-2015 - Monitoring Update

Item number	5.3
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

### Alastair Maclean

Director of Corporate Governance

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# Executive summary

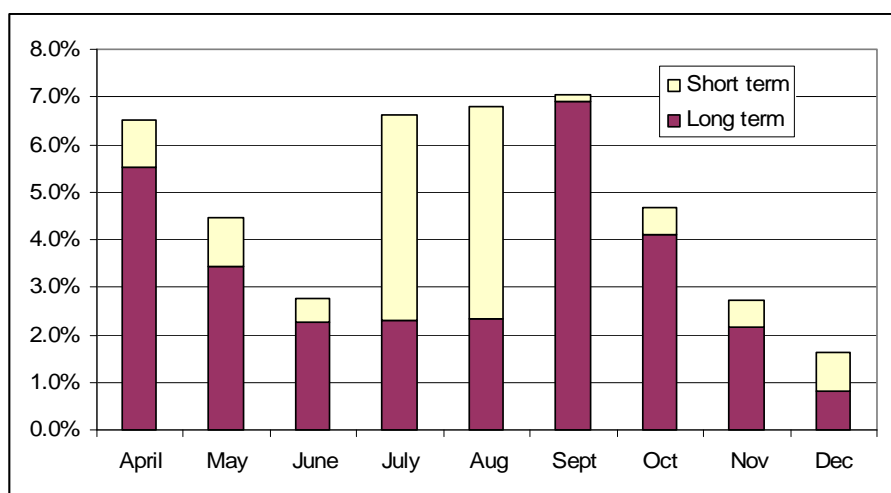
## Service Plan 2012-2015 - Monitoring Update

### Summary

Progress against the objectives agreed in the 2012-15 Service Plan is detailed in Appendix 1. Overall, objectives are being achieved. Progress since the update to Committee in December 2012 includes:

- The Fund was re-accredited for the Customer Service Excellence Award. The service maintained its best practice for the use of customer journey mapping techniques and gained another best practice for making consultation integral to its service. The assessor would like us to work harder at developing more accountable partnerships to help us encourage our partners to 'step up' to the challenge of excellent customer service too.
- Pensions Web, a new online system for our employers, was launched and roll out of the system has commenced.
- The Fund is engaging in discussions on the implications on the Public Service Pensions Bill in Scotland.

Appendix 2 shows the targeted Performance Indicators for the 2012-2015 Service Plan and actual performance against these targets. As requested by Committee, staff sickness split between short and long-term sickness is provided in the chart below. It shows that in the majority of months where sickness rate has exceeded target (4%), this was largely due to long-term sickness.



A summary of the projected financial outturn for 2012/13 in the table below.

	<b>Approved Budget</b>	<b>Actual Outturn</b>	<b>Actual Variance</b>
<b>Category</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Employees	1,914	1,846	(68)
Transport	27	26	(1)
Supplies & Services	864	782	(82)
Investment Managers Fees	10,284	9,100	(1,184)
Other Third Party Payments	349	464	115
Depreciation	44	44	-
<b>Direct Expenditure</b>	<b>13,482</b>	<b>12,263</b>	<b>(1,219)</b>
<b>Allocated Central Support Costs</b>	<b>702</b>	<b>688</b>	<b>(14)</b>
Income	(884)	(834)	50
<b>Total Cost to the Funds</b>	<b>13,300</b>	<b>12,116</b>	<b>(1,184)</b>

The key variances against budget are:-

- Employees - £68k underspend. This is mainly due to unfilled posts across the division partly offset by temporary agency costs and early retirement costs;
- Third Party Payments (£115k overspend) and Supplies & Services (£82k underspend) – These are due to the take up of the accounting service from the Fund's custodian offset by savings from the termination of associated ICT contracts;
- Investment management fees – £1,184k underspend. This is primarily due to changes in the fund management arrangements including the termination of active currency overlay contracts.

Annual performance of the Fund has been reported to the Committee via the annual report and accounts. However, this reporting only covers a sub-set of the performance indicators and therefore it is proposed that a more comprehensive report on the annual performance of the Fund is considered by Committee in September each year.

## Recommendations

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It is recommended that Pensions Committee notes the progress made against the service plan and agrees that a report on the annual performance of the Fund is considered by Committee in September each year.

## Measures of success

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The performance indicators shown in the Appendix show the progress and success against the Service Plan.

## Financial impact

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There are no direct financial implications related to this report. The budget monitoring shows an underspend of approximately £1m.

## Equalities impact

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There are no adverse equalities impacts arising from this report.

## Sustainability impact

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There are no adverse sustainability impacts arising from this report.

## Consultation and engagement

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The Consultative Panel for the Fund, comprising employer and member representatives, is integral to its governance. Customer insight and consultation informed the priorities of the service plan.

## Background reading / external references

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Not applicable.

## Links

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### Coalition pledges

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

### Single Outcome Agreement

**Appendices** Appendix 1 - Lothian Pension Fund Service Plan 2012-2013 Update  
Appendix 2 - Lothian Pension Fund Performance Indicators to December 2012



# Lothian Pension Fund Service Plan 2012-2013

Updated to : 31 January 2012

## Appendix 1

### 1. Provide Excellent Customer Care

Priority Outcomes	Action	Progress	Due Date
<b>Improve insight into our customers' needs and experiences</b>	Contact customers (on a sample basis) for their views on our service following receipt of service. Publish results and action taken. Engage with customers using Customer Journey mapping to reveal opportunities for service improvements.	<p>A recent mystery shopper exercise testing our e-mail response to general customer queries confirmed that staff were using the newly introduced scripts and this has resulted in the customer being provided with clear and quick e-mail response.</p> <p>A recent customer journey mapping exercise demonstrated that needs are now being met following improvement made to the transfer in process.</p> <p>We also engaged with the recently bereaved to complete a Customer Journey Map. As a result we have reviewed and amended our communications.</p> <p>Results of surveys are published on our website every three months.</p>	31-Mar-2013
<b>Improve communication with members and employers</b>	Advising of any changes, including consultations on proposals, to the benefit structure and contributions of the Scottish LGPS.	Recent news of Pensions Bill and changes to the LGPS in England and Wales have been communicated to members on website and employers via e-mail and face to face briefings.	31-Mar-2013
	Continue to develop the Fund's website to improve functionality for users and ensure information is up to date. We are currently working on adding video content.	The website is continually reviewed and updated. We have added video content to help members register for member self-service.	
	Implement 'employer on-line' access, thereby facilitating up to date records through electronic transfer of information in standard formats.	System procured. This is being roll out to employers initially to the larger employers.	
	Promote the benefits of LGPS membership to active members and employees, thereby enhancing the sustainability of the scheme	In conjunction with Prudential, one of our in-house AVC providers, a mailing was sent to active scheme members over the age 45 to promote the benefits of LGPS membership.	
	Provide pension clinics at selected employer locations by utilising the web-based pension administration system	A project team has been set up to take pension's clinics forward. However, due to staffing issues full rollout of pension clinics are currently on hold. A briefing on the scheme for union shop stewards in Edinburgh was held in October 2012.	
<b>Improve access to personal information through website or via telephone</b>	Further promoting the 'My Pension' personal access to information through secure web based 'member on-line' system.	Following the launch in September 2011 member on-line has been further promoted through annual newsletter and natural workflow e.g. telling scheme members about it when they contact us by telephone, in writing or face-to-face enquiries.	31-Mar-2013
	Provide all Annual Benefit Statements from now on electronically unless the member has previously expressed a preference for	Annual Benefit Statements have been issued electronically and in paper format for those who submitted a request.	

# Lothian Pension Fund Service Plan 2012-2013

Updated to : 31 January 2012

## Appendix 1

Priority Outcomes	Action	Progress	Due Date
	continuation of paper format.		
<b>Improve Service delivery</b>	Monitor service standards per the Pension Administration Strategy at both Fund and selected individual employer level, including Partnership Agreements and liaise with employers to improve performance.	Performance reports have been issued to employers. Improvement meetings have been held with Large Employers. Employer on-line system is being rolled out to improve communications and performance.	31-Mar-2013
<b>Maintain Customer Service Excellence accreditation</b>	Ensure that we continue to improve our services by directly involving our customers.	The Customer Service Excellence assessment held in January 2013 was successful. The service maintained its best practice for the use of customer journey mapping techniques and gained another best practice for making consultation integral to its service, for example the changes made to our governance as a result of consultation.	31-Mar-2013
<b>Tailor service to customer needs - employers</b>	Tailor service to customer needs - employers	Options for bespoke investment strategy are now available to employers	31-Mar-2013
<b>Tailor service to customer needs - members</b>	Tailor service to customer needs - members	Aligns with CSE above.	31-Mar-2013
<b>Ensure LPF's compliance with the statutory obligations of auto-enrolment provisions</b>	Revise LPF documentation and procedures to take account of the new statutory auto-enrolment provisions	Numerous email briefings have been issued and meetings have been held with the largest employers regarding the introduction of auto-enrolment. The Fund's opt out process has been amended	31-Mar-2013
<b>Deliver an excellent service to Falkirk Council</b>	Ensure standards of customer service excellence are maintained in respect of the Falkirk Council Pension Fund Service Level Agreement	Lothian Pension Fund is supporting Falkirk Pension Fund. Training of elected members has been undertaken and officers are attending quarterly meetings of the Falkirk Pensions Committee . Regular meetings with their Investment Managers being held.	31-Mar-2013

# Lothian Pension Fund Service Plan 2012-2013

Updated to : 31 January 2012

## Appendix 1

### 2. To Support and Develop Staff

Priority Outcomes	Action	Progress	Due Date
<b>Empowering and motivating staff to provide excellent customer service and improve performance</b>	Carry out Staff Survey improvement plans and involve staff in improvement projects	Business Process Review in pensions administration is almost complete. Staff Survey improvement plan has been updated following 2012 survey. Focus is on communication, trust with line managers, empowering staff to make improvements and personal development. Remit of Staff Forum has been clarified to improve its effectiveness – it will focus on communications. Teams of pensions administration staff recently reorganised to improve accountability and consistency.	31-Mar-2013
<b>Enhance staff feedback systems</b>	Facilitate the regular Staff Engagement Forum and ensure staff contributions are recognised both formally and informally. The Investment & Pensions Service Manager also hold a regular surgery for staff to raise any issues on a confidential basis.	Staffs views and suggestions are encouraged at team meetings. The Services Manager holds monthly one-to-one surgeries to enable staff to raise any confidential issues and is also meeting with small staff groups.	31-Mar-2013
<b>Develop staff</b>	Ensuring staff are provided with career and personal development opportunities	A skills audit is being issued to staff on a phased basis to help identify and implement career and personal development opportunities. A training matrix has been developed and is being rolled out for Pension Assistants. Career aspirations and personal development plans are discussed and agreed at the annual PRD meeting.	31-Mar-2013
	Improving staff training by implementing the core competency, skills and knowledge framework	Aligns with above.	
	Providing shared file and e-access to procedure manuals and training material	Procedure manuals are in place and are reviewed periodically. Investment accounting processes have been revised to reflect the provision of core accounting records by the custodian.	
<b>Ensure clear communications of goals and expectations</b>	Provide clear objectives at annual appraisal meetings and review progress, in accordance with the Council's staff management policies and procedures.	PRDs and six-monthly update meetings have been completed. Performance objectives have been set for all staff. Managers aim to meet with staff individually and as a team on a monthly basis.	31-Mar-2013
<b>Support staff through change programmes</b>	Ensure regular communication of change projects such as departmental structure changes, shared services, ICT developments, scheme and governance reviews.	Monthly email briefing and verbal update are provided to staff by the Services Manager.	31-Mar-2013
<b>Ensure staff are informed of LPF's progress, performance and achievements</b>	Provide regular DMT update sessions on key performance elements and topics.	Monthly performance and quarterly service plan updates are provided to all staff. Updates are also provided to staff at meetings.	31-Mar-2013

# Lothian Pension Fund Service Plan 2012-2013

Updated to : 31 January 2012

## Appendix 1

### 3. To continue to be a top performing pension fund

Priority Outcomes	Action	Progress	Due Date
<b>Provide an efficient, accurate and effective service</b>	Continue to improve the quality of pension administration data and ensuring compliance with best practice as defined by the Pensions Regulator.	Ongoing data cleansing continues with measurement later in the year. The monthly reconciliation of pension payments is ongoing.	31-Mar-2013
	Explore the potential for further service efficiencies by the greater use of electronic communications (e.g. beneficiary nominations etc).	Improvements are being explored in the pensions administration BPR currently taking place and through research projects undertaken by trainee pension administrators e.g. sending member communications via member self service, encouraging greater use of our website and e-mails or other available technology. Employer on-line service will also improve efficiency.	
	Monitor the performance standards specified in the Pension Administration Strategy and take appropriate action thereon.	2011/12 performance reports have been issued to employers and improvement meetings held.	
	Revise the LPF organisational structure and budget to accord with integrated pensions payroll provision and initiate implementation project (target date for implementation to be determined in consultation with ICT supplier).	Arrangements to transfer three payroll staff are being finalised in accordance with agreed HR protocol. System contract is in place. The 8 month implementation programme scheduled started in January 2013.	
<b>Continue the programme of business process reviews</b>	Use business process reviews to improve efficiency and service to customers.	A "pension administration workflow" BPR is in underway to help us to identify how we can work more effectively, thus improving performance and our service to our customers.	31-Mar-2013
<b>Annual Report – attain an unqualified audit opinion</b>	Improve quality of accounting records, including ensuring consistency in validation of investment valuations and data reconciliations (e.g. contributions receivable).	Unqualified audit opinion 2011/12 – achieved.	30-Sep-2012
<b>Undertake strategic investment review and further utilise investment management skills</b>	Review the investment strategies of the Lothian Pension Fund, Lothian Buses Pensions Fund and Scottish Homes Pension Fund - investigate options for the internal investment team to enhance performance and manage investment risks.	Complete. Implementation of revised strategies will be taken forward by Investment Strategy Panel and the internal investment team.	31-Mar-2013
<b>Risk is managed effectively</b>	Review risks regularly. Review and strengthen internal controls, specifically relating to investment	Risk, compliance and internal controls are reviewed each quarter. Procedures and segregation of duties exists to ensure that funds are managed in adherence to guidelines and objectives. A review of investment risk including FSA regulations and industry best practice to identify improvements is planned in the near future. An internal pensions lawyer is expected to join the Fund in March.	31-Mar-2013
<b>Continue to support external change</b>	Contribute as appropriate to any Scottish Government consultation on matters affecting the Scottish LGPS. Contribute to the pensions industry in general.	Participating in Scotland's tri-partite group discussing the Pensions Bill and scheme reform. Engaging with stakeholders of the Fund who are involved in discussion on scheme reform.	31-Mar-2013

# Lothian Pension Fund Service Plan 2012-2013

Updated to : 31 January 2012

## Appendix 1

Priority Outcomes	Action	Progress	Due Date
<b>Monitor the employer covenant to the Fund</b>	Monitor the risk profile of the participating employers.	Ongoing engaging with employers where there are structural changes affecting the Fund. Further review of employer covenant is underway.	31-Mar-2013
<b>Ensure Fund's continuing ability to meet its liabilities</b>	Strengthen cash-flow forecasting by the use of detailed financial modelling techniques, recognising the context of employer workforce strategies.	Cash flow projections have been considered during Investment Strategy Review. Ongoing considerations of further development in this area.	31-Mar-2013
<b>Secure procurement efficiencies</b>	Contribute to collaborate procurement initiatives, including exploring the potential for joint Framework Agreements for a range of services.	Collaboration between pension funds is ongoing. Individual Scottish funds have agreed to give access to new contracts to other Scottish funds. Joint project on member tracing provider.	31-Mar-2013
<b>Strengthen governance</b>	Review the governance and audit scrutiny arrangements of the Fund, taking cognisance of best practice (e.g. independent observer) and regulatory guidance.	Governance review is complete. Interviews for an Independent Professional Observer scheduled for February 2013.	31-Mar-2013
<b>Provide for ongoing contribution stability</b>	Liaise with the Fund's actuary to propose a contribution stability mechanism beyond the actuarial valuation 2011.	Work will be scheduled for 2013 to meet target date of March 2014 ahead of 2014 actuarial valuation.	31-Mar-2014

# Lothian Pension Fund Performance Indicators

## 1. Provide Excellent Customer Care

Code	Indicator	Q1 2012/13	Q2 2012/13	Q3 2012/13	Q4 2012/13	Current Target
LPF:CF1	Customer satisfaction with communication (12 month rolling period)	89.9%	90.9%	89.9%		85%
LPF:CF2	Annual Benefit Forecast for Active members issued by September	Active and deferred members for LGPS all complete. Firefighter actives also complete with deferred members ongoing. To September 2012 percentage achieved was 99.50%				95%
LPF:CF3	Improve service to members: maintain CSE	January 2013 CSE assessment was successful, we maintained best practice mapping and improving customer journeys and received a new best practice for making consultation integral to our service.				Yes
LPF:CF4	Overall customer satisfaction	83.48%	85.00%	86.00%		85%

## 2. To Support and Develop Staff

Code	Indicator	Q1 2012/13	Q2 2012/13	Q3 2012/13	Q4 2012/13	Current Target
LPF:SF1	Monthly Level of Sickness Absence	4.58%	6.82%	3.02%		4%
LPF:SF2	To improve staff satisfaction (annual survey)	53%				60%
LPF:SF3	Improve staff development - annual training requirement > 15hrs training per member of staff	7.40	3.25	5.72		3.75

## 3. To continue to be a top performing pension fund

Code	Indicator	Q1 2012/13	Q2 2012/13	Q3 2012/13	Q4 2012/13	Current Target
LPF:PF1	LPF - 3 year annualised investment return compared with benchmark	-0.12%	0.20%	0.50%		1%
LPF:PF2	Pension Admin Cost per member	£23.86	£24.41	£24.21		£24.01
LPF:PF3	Pension Admin Workflow - Key Tasks	95.19%	93.40%	93.15%		90%
LPF:PF4	Employer contribution paid within 19 days of month end	99.1%	97.4%	97.6%		95%
LPF:PF5a	Data quality: new data post June 2010	Not measured for Quarters				100%
LPF:PF5b	Data quality: old data pre June 2010	Not measured for Quarters				96%
LPF:PF5c	Data quality: conditional and numerical data	Not measured for Quarters				98%

# Pensions Committee

10am, Wednesday, 13 March 2013

## Lothian Pension Fund Service Plan 2013 - 2016

Item number	5.4
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

**Alastair Maclean**

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# Executive summary

## Lothian Pension Fund Service Plan 2013 - 2016

### Summary

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The purpose of this report is to present the Service Plan 2013-16 for the Lothian Pension Funds and propose the 2013-14 budget with a further two years indicative figures for 2014-16.

### Recommendations

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The Pensions and Trusts Committee is recommended to:

- Approve the Service Plan 2013-16 and the budget 2013-14; and
- Note the indicative budgets for years 2014-15 and 2015-16.

### Measures of success

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The funds key measures of success are:

- Meeting key performance indicators; and
- Achieving key actions set out in the Service Plan.

### Financial impact

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The budget for 2013-14 is recommended for approval. The proposed budget for 2013-14 shows an increase of £192K (1.4%) from 2012-13.

The budgets for years 2 and 3 of the Service Plan, i.e. 2014-15 and 2015-16, are indicative only.

### Equalities impact

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There are no adverse equalities impacts arising from this report.

### Sustainability impact

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There are no adverse sustainability impacts arising from this report.



## Consultation and engagement

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Consultation and engagement via a number of sources has informed the service plan including:

- Customer insight including surveys and meetings;
- Feedback from the Fund's Customer Service Excellence assessment;
- Staff survey and staff meetings.

In addition, the Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to governance.

## Background reading / external references

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Not applicable.

## Lothian Pension Fund Service Plan 2013 - 2016

### 1. Background

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- 1.1 The Lothian Pension Funds Service Plan is reviewed on an annual basis to ensure its key performance indicators and objectives are up-to-date, clear, challenging and achievable.

### 2. Main report

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- 2.1 The draft Service Plan for 2013 – 2016 is provided as Appendix 1.

- 2.2 The Fund's three objectives remain unchanged:

- To provide excellent customer care
- To support and develop staff
- To continue to be a top performing pension fund.

- 2.3 The changes to the key performance indicators from the 2012-2015 Service Plan are:

- The indicator for the investment performance of the Lothian Pension Fund has amended as a result of the conclusions from the strategy review. The target of outperforming the benchmark by 1% has been removed and replaced with a target of delivering benchmark return over the long-term with lower volatility of returns. (The intention is to develop a broad set of performance indicators with Committee based on investment and funding issues as the new investment strategy is implemented).
- The indicator for the pension administration cost per member performance has been removed. Changes in the Fund's membership are difficult to predict and make managing the cost per member difficult in the short term. Targets previously set by the Fund have been cognisant of peer-group comparisons. It is proposed that more detail on peer-group comparisons of this indicator are provided to Committee in the annual performance report, referred to in agenda item 7. (Based on the proposed budget for 2013-14 and Fund membership at December 2012, the average cost per member would be £24.40, an increase of 0.8% on the estimated outcome for 2012-13 of £24.21).

- Satisfaction of employers, active members and pensioners with communications has been removed. Compliance with the Customer Service Excellence award and the overall customer satisfaction measure are sufficient to give a clear indication on customer satisfaction with communications. However, this indicator will continue to be monitored internally.
- The staff training requirement of an average of at least 2 days per year has been changed to a minimum of 2 days per year. This more stringent target focuses on ensuring all members of staff receive training and development.
- For the first time an unqualified opinion of the Fund's annual report has been included as a key performance indicator. This measure will clearly demonstrate that the Fund is meeting its responsibility in regards to the safe keeping and accounting of fund assets and preparing of annual reports and accounts.

2.4 The proposed budget for 2013-2014 and indicative figures for 2014-2015 and 2015-2016 are provided in Appendix 2. The following areas account for the movement in budget from 2012-13 to 2013-14 of £192K:

- Investment management -£8K. This includes a reduction in external investment management fees of £191K largely offset by increases in internal management costs. This includes the recruitment of an additional portfolio manager (as agreed by Committee in December 2012) and system costs. Work is ongoing on the implementation of the new investment strategy and therefore the budget for external management fees is largely indicative. It allows for an increase of approximately 10% in the size of the Fund over the year and the removal of active currency management - these two factors would have increased investment management fees by approximately £1million.
- Accounting service +£42K. This is due to the take up of the accounting service from the Fund's custodian partly offset by savings from the termination of associated ICT contracts.
- Employer on-line service £30K. These revenue costs have been offset, to some degree, by capital expenditure savings of £20K in 2012/13.
- Transfer of Pensioner Payroll +£27K. The budget assumes the service (and associated staff) will transfer to the Fund in the summer of 2013. The increase in budget allows for temporary support from the City of Edinburgh payroll department during the transition.
- Various staffing changes +£16K – this is made up of salary increases partially offset by savings from changes to management structure (early

retirement) as well as reductions in pay as a result of the 2010 modernising pay changes.

- Various additional supplies and services (+£71K) associated with general Fund and investment governance including the independent observer, audit of currency trading, overseas tax returns and tracing of deferred members.
- Central Support Costs are provisional, pending receipt of final calculations. Adjustments have been made to reflect estimated savings through in-house provision of pensioner payroll and legal services.

- 2.5 The capital budget 2013/14 includes provision of £260,000 for the procurement of an integrated payroll system. This is rolled forward from the previously approved 2012/13 budget of £230,000, increased by £30,000 to reflect the contract award.
- 2.6 Consideration is currently being given to relocation of the Fund's staff. Such a move would be conditional on costs being within the budget.

### 3. Recommendations

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3.1 The Pensions Committee is recommended to:

- Approve the Service Plan 2013-16 and the budget 2013-14;
- Note the indicative budgets for years 2014-15 and 2015-16; and
- Note that the intention to relocate the Fund's staff within the existing budget.

## Alastair Maclean

Director of Corporate Governance

### Links

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#### Coalition pledges

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

#### Single Outcome Agreement

#### Appendices

Appendix 1 – Lothian Pension Fund Proposed Service Plan 2013-2016

Appendix 2 - Proposed budget for 2013-2014 and indicative figures for 2014-2015



# Service Plan 2013 - 2016



# Service Plan 2013 - 2016

## Introduction

The City of Edinburgh Council is the administering authority for the Local Government Pension Scheme in the Lothian area. As such, the Investment and Pensions Division of the Council administers the benefits and invests the assets of three Local Government Pension Scheme (LGPS) funds, Lothian Pension Fund, Lothian Buses Pension Fund and Scottish Homes Pension Fund.

Lothian Pension Fund is the second largest Local Government Pension Fund in Scotland with assets of approximately £3.8 billion. The audited Annual Report and Accounts 2011/12 shows that the Fund has 185 employers (105 of those with active members) and over 66,300 members participate in the Fund.

The Lothian Buses Pension Fund held assets of £0.27 billion and 4,011 members as at 31 March 2012, while Scottish Homes Pension Fund totaled £0.13 billion with 1,952 members.

The Division also provides pension administration services for the Fire-fighters' Pension Schemes for Lothian and Borders Fire and Rescue Service which will be merged into the Scottish Fire and Rescue Service from 1 April 2013.

## How the Fund is run

All pension matters are delegated to the Pensions Committee of the Council and its members act as 'quasi trustees'. The day to day running of the Fund is delegated to the Investment and Pensions Division under the supervision of the Director of Corporate Governance.

A Consultative Panel, made up of employers and members, meets with the Pensions Committee and it considers the views of the Panel when making decisions.

Investment strategy guidance to the Committee is provided by the Investment Strategy Panel, which includes senior officers and specialist investment advisers.

The Fund has its own internal investment management staff and also appoints external managers to invest in specific investment markets. Additionally, internal staff provide the pension administration, accounting and ICT functions. The fund maintains a comprehensive website for easy access to all relevant pension information and this is found at [www.lpf.org.uk](http://www.lpf.org.uk). This includes the audited Annual Report 2011/12 of the three pension funds.

## Policies

The policies of the Fund, including the Statement of Investment Principles, Funding Strategy Statement, Pensions Administration Strategy and Pensions Discretions Policy are published on the Fund's website.

## Our Service

The Fund is committed to continuously developing to provide the best possible service to our customers.

To ensure we meet this aim we have set the following three objectives for our service:

- to continue to be a top performing pension fund
- to provide excellent customer care
- to support and develop staff

To enable us to achieve these objectives we must:

- meet our statutory responsibilities
- develop our performance, our customer service and our people beyond our statutory responsibilities taking into account internal and external influences. This will ensure that the Fund continuously evolves, develops and improves its service.

## Our Responsibilities

The Fund is responsible for all aspects of the pension funds, including investment, administration and accounting. The principal responsibilities are:

- Carrying out the funding strategy aimed at ensuring the assets of the Fund are sufficient to meet pension liabilities.
- Investing fund assets, implementing investment strategy and investing responsibly.
- Administering pension services including calculating and paying benefits.
- Safe keeping and accounting of fund assets and preparing the Fund's annual report and accounts.
- Providing an excellent service to key stakeholders, including, members of the Fund and employers.
- Ensuring the Fund has committed, knowledgeable and customer-focused staff.

To ensure we meet our responsibilities, we use a range of indicators covering different aspects of the service. We set challenging targets for the performance indicators and monitor performance against the targets on a regular basis.

The key performance indicators and targets are shown next.

## Key Performance Indicators\*

Performance Indicators	Target & (Actual)*				
	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016
<b>Performance</b>					
Performance of Lothian Pension Fund over rolling 5 year periods	n/a	n/a	Meet benchmark return with lower volatility		
Audit of annual report	Unqualified opinion (Yes)	Unqualified opinion			
Proportion of critical pensions administration work completed within standards (see table below)	Greater than 90% (94%)	Greater than 90% (94%)	Greater than 90%	Greater than 90%	Greater than 90%
Percentage of employer contributions paid within 19 days of month end	97% (97%)	97% (98%)	98%	98%	99%
Data quality - compliance with best practice as defined by The Pensions Regulator	Fully compliant (Yes)	Fully compliant			
<b>Customers</b>					
Maintain Customer Service Excellence Standard	Maintain CSE (Yes)	Maintain CSE (Yes)	Maintain CSE	Maintain CSE	Maintain CSE
Overall satisfaction of employers, active members and pensioners measured by surveys	80% (88%)	85% (86%)	86%	86%	86%
Proportion of active members receiving a benefit statement and time of year when statement is issued	Over 95% by Sept (95%)	Over 95% by Sept (97%)	Over 95% by Sept	Over 95% by Aug	Over 95% by Aug
<b>Staff</b>					
Level of sickness absence	3.0% (4.9%)	4.0% (4.4%)	4.0%	4.0%	4.0%
Annual staff survey question to determine satisfaction with present job	55% (45%)	60% (53%)	60%	65%	65%
Minimum number of days training per year for each member of staff	n/a	n/a	2 days	2 days	2 days

\* Actual performance to the time of writing, where known, is shown in brackets against previous targets

### Customer Care Standards:

New starts information sent out  
 Payment death lump sum  
 Payment of dependent's pension  
 Payment of retirement pension  
 Provision of retirement quote  
 Early leaver payment of refund  
 Early leaver - transfer out quote  
 Transfer in

### Target is 90% within time limit below

20 days  
 5 days  
 5 days  
 5 days  
 10 days  
 10 days  
 30 days  
 30 day



# Continuous improvement

We are committed to continuously improving our service and we take a number of factors into account when developing the service including:

**Customer Insight** - The Fund has a wide range of internal and external customers. We use a variety of engagement techniques to develop our understanding of different customer groups and our staff (for example face to face meetings, surveys and customer journey mapping techniques). Their needs, experiences of our service and their perception of the Fund help us to continually improve and become more efficient and effective.

**Risk Management** - The Fund is committed to a strong control environment to ensure that risks are identified, understood, managed and monitored appropriately. The risks faced by the Fund change over time and ongoing management of risk is crucial.

**Scrutiny** - The Fund is subject to both internal and external audit. In addition, we invite external assessment of our customer services via the Customer Service Excellence award. We use the Investors in People award to assess how we support and develop our staff.

## Other Current Influences

Political	<ul style="list-style-type: none"> <li>- The Public Service Pensions Bill is likely to have significant impact on the Local Government Pension Scheme in Scotland by 2015. Changes to the Scheme benefits and governances are expected.</li> </ul>
Economic	<ul style="list-style-type: none"> <li>- Austerity measures within the economy have impacted upon investment markets, with concerns over economic growth and historically low gilt yields.</li> <li>- Continuing budgetary constraints across the public sector have led to sizeable reductions in employee numbers with further cutbacks anticipated. This has significant implications for the Fund. The maturity profile of liabilities is expected to increase and in particular, real pressure is exerted on Fund cash-flows.</li> <li>- Severe funding constraints have highlighted the need to improve efficiency and reduce costs. New ways of working such as joint procurement initiatives with other public sector pension funds are, therefore, being considered.</li> </ul>
Social	<ul style="list-style-type: none"> <li>- Customers' expectations of service delivery continue to increase.</li> <li>- There is a risk to sustainability should significant numbers of members decide to opt-out of the Fund on grounds of affordability or lack of appreciation of the value of pension benefits.</li> </ul>
Technological	<ul style="list-style-type: none"> <li>- Advances in information technology facilitating on-line self-services and data transfer for both scheme members and employers.</li> </ul>
Legal	<ul style="list-style-type: none"> <li>- The Fund's governance arrangements changed during 2012/13 with the introduction of a pensions audit sub-committee and an Independent Observer to the Pensions Committee.</li> <li>- The Pensions Regulator is expected to take on the role of regulatory oversight of public sector pension schemes from 2015.</li> </ul>
Environmental	<ul style="list-style-type: none"> <li>- The Fund continues to strive to be an active shareholder to enhance the long-term value of our investments, including engagement on environmental, social and governance issues.</li> </ul>

## Our Performance

The Public Service Pensions Bill, if enacted, will bring significant changes and challenges for the Fund in terms of both scheme benefits and governance. There will be significant communication demands on the Fund and delivery risks in meeting service standard expectations, should a new scheme bring additional administrative complexity. Changes in the governance of public service pension schemes could also lead to greater scrutiny of the Fund's service.

By striving to continually improve our performance, the Fund will be position to meet these challenges.

### Objective

- To continue to be a top performing pension fund

Action	Description
Ensure effective Governance of the Fund	<ul style="list-style-type: none"> <li>- Embed the Fund's new governance arrangements including the new pensions audit sub-committee and independent observer</li> <li>- Reinforce the separation of the Fund from the City of Edinburgh Council</li> <li>- Continue to improve the Fund's approach to 'trustee' training</li> </ul>
Successful implementation of Scheme changes	<ul style="list-style-type: none"> <li>- Engage in debate on scheme benefits</li> <li>- Communicate with stakeholders</li> <li>- Review internal processes and procedures</li> <li>- Provide training for staff on new arrangements</li> </ul>
Monitor financial and economic pressures and scheme maturity	<ul style="list-style-type: none"> <li>- Implement new investment strategies</li> <li>- Prepare for the Fund's 2014 actuarial valuation</li> <li>- Improve membership and cash flow monitoring and forecasting</li> <li>- Monitor the risk profile of the participating employers</li> <li>- Manage the pension implications of organisational and staffing changes of employers.</li> </ul>
Provide an efficient, accurate and effective service	<ul style="list-style-type: none"> <li>- Implement the transfer of the pensions payroll service</li> </ul>
Risk is managed effectively	<ul style="list-style-type: none"> <li>- Review and strengthen internal controls and documentation</li> <li>- Ensure up-to-date procedure manuals for all key responsibilities are maintained</li> </ul>
Shared services/governance	<ul style="list-style-type: none"> <li>- Provide excellent service to Falkirk Pension Fund</li> <li>- Participate in relevant joint procurement initiatives</li> </ul>

## Our Customers

We aim to provide our customers with the very best service. Our Customer Service Excellence award demonstrates that we consistently strive to meet our customers' needs. Our latest assessment endorsed our approach to consulting with all our customer groups and improving the service as a result. It also recognised that we need to improve our partnership working with our employers to deliver the service our customers expect.

The lack of new entrants to the Fund, particularly younger employees is a very pertinent concern, as is the awareness customers have of the value of their pension benefits and the contributions made by their employer.

Developments in technology mean we have a great opportunity to make it easier for customers to access information regarding their pension and communicate the benefits of the local government pension scheme.

### Objective

#### - To provide excellent customer care

Action	Description
Develop and improve customer insight	<ul style="list-style-type: none"> <li>- Regularly engage with all customer groups and use the insight to improve our service using a variety of techniques including mystery shopping and transactional surveys.</li> <li>- Continue to deliver best practice standards for Customer Journey Mapping and develop greater use of customer insight.</li> <li>- Develop members' awareness of the value of the pension benefits and the contributions their employers make towards their pension.</li> <li>- Improve analysis of consultations to ensure it remains integral to our service.</li> <li>- Seek additional insight to assist the implementation and development of the pension payroll service.</li> </ul>
Improve timeliness and quality of customer service.	<ul style="list-style-type: none"> <li>- Implement "employer on-line" access, thereby facilitating up to date records through electronic transfer of information in standardised formats.</li> <li>- Partnership accountability – review and monitor service standards to ensure we have an effective and accountable partnership with employers.</li> <li>- Re-assess our service standards and targets for members.</li> </ul>
Develop and improve our information and access.	<ul style="list-style-type: none"> <li>- Ensure we communicate regularly with employers including newsletters, events and meetings.</li> <li>- Assess our approach to delivering services to members on a face-to-face basis including pension clinics and presentations.</li> <li>- Continue to review and update the Fund's communications based on customer and staff insight.</li> <li>- Assess potential uses of social media for communicating with stakeholders.</li> <li>- Develop channel usage monitoring.</li> </ul>

## Our Staff

Our people are at the very heart of our business and key to delivering our responsibilities and objectives. We work hard to equip our staff with the right skills and support to drive the service forward. Staff receive support in studying for professional qualifications related to the service.

The Fund is committed to supporting a culture of openness, honesty and transparency. Staff are expected to comply with the Employee Code of Conduct Policy which includes the seven principles of public life (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership). By adopting an open culture, the Fund encourages staff to contribute to the continuous improvement of the service. This includes learning from mistakes by reporting and investigating them in a positive, open and structured way.

Managers receive feedback from staff in a number of ways including informal communication as well as surveys and a staff forum. This feedback is used to improve the service.

### Objective

- To support and develop staff

Action	Description
Develop trust between line managers and staff and promote an open culture	<ul style="list-style-type: none"> <li>- Ensure line managers have regular team meetings and 1-to-1s with all staff, to discuss progress, achievements and changes.</li> <li>- Ensure effective delegation of tasks.</li> </ul>
Communicate effectively, especially around change	<ul style="list-style-type: none"> <li>- Communicate regularly via face-to-face briefings and via email on issues affecting the division.</li> <li>- Review the success of major changes and learn lessons in how we manage change.</li> <li>- Provide clear objectives at annual appraisal meetings and review progress on a regular basis.</li> </ul>
Ensure development and training for all staff	<ul style="list-style-type: none"> <li>- Provide learning opportunities at all levels to suit the needs of the service including ICT skills.</li> <li>- Provide staff with career and personal development opportunities to make the most of their talents.</li> <li>- Review training and development evaluation process.</li> </ul>
Support staff well-being	<ul style="list-style-type: none"> <li>- Encourage suggestions and empower staff to make changes to the way they work to improve the service.</li> <li>- Provide clear feedback in response to staff suggestions.</li> <li>- Explore flexible working options.</li> <li>- Help staff develop to their full potential.</li> </ul>

## SUMMARY PENSION FUND BUDGETS 2013/2014 TO 2015/2016

BUDGET FOR 2012/2013 PROVIDED FOR COMPARISON PURPOSES

Budget Head	Budget 2012/13 £	Movements £	Budget 2013/14 £	Movements £	Budget 2014/15 £	Movements £	Budget 2015/16 £
Employees	1,914,643	246,851	2,161,494	27,764	2,189,258	40,364	2,229,622
Property Costs	0	0	0	0	0	0	0
Plant and Transport	26,735	0	26,735	0	26,735	0	26,735
Supplies and Services	863,855	-20,695	843,160	49,705	892,865	5,000	897,865
Third Party Payments	349,000	242,700	591,700	39,900	631,600	-43,100	588,500
Investment Managers Fees	10,284,098	-170,940	10,113,158	807,453	10,920,611	872,049	11,792,659
Transfer Payments	0	0	0	0	0	0	0
Support Costs	701,586	-149,903	551,683	-123,369	428,314	0	428,314
Capital Funding	44,333	29,867	74,200	26,000	100,200	0	100,200
<b>Gross Expenditure</b>	<b>14,184,250</b>	<b>177,880</b>	<b>14,362,130</b>	<b>827,453</b>	<b>15,189,583</b>	<b>874,313</b>	<b>16,063,895</b>
Specific Government Grants	0	0	0	0	0	0	0
Other Grants and ontributions	0	0	0	0	0	0	0
Customer and Client Receipts	-84,441	34,441	-50,000	0	-50,000	0	-50,000
Interest	0	0	0	0	0	0	0
Income - Fire	0	-20,000	-20,000	0	-20,000	0	-20,000
Income - Other	-800,000	0	-800,000	0	-800,000	0	-800,000
<b>Total Income</b>	<b>-884,441</b>	<b>14,441</b>	<b>-870,000</b>	<b>0</b>	<b>-870,000</b>	<b>0</b>	<b>-870,000</b>
<b>Net Expenditure</b>	<b>13,299,809</b>	<b>192,321</b>	<b>13,492,130</b>	<b>827,453</b>	<b>14,319,583</b>	<b>874,313</b>	<b>15,193,895</b>
<b>Capital Budget</b>	<b>0</b>	<b>260,000</b>	<b>260,000</b>	<b>-260,000</b>	<b>0</b>		<b>0</b>

# Pensions Committee

10am, Wednesday, 13 March 2013

## Appointment of Providers

Item number	5.5
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

### Alastair Maclean

Director of Corporate Governance

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# Executive summary

## Appointment of Providers

### Summary

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#### Emerging Markets Manager

A competitive EU procurement exercise for the provision of investment management services for Lothian Pension Fund's actively managed emerging market equities has been completed.

Four investment managers were appointed to a framework, which lasts for 10 years: Lazard Asset Management, Martin Currie Investment Management, Mondrian Investment Partners and UBS Global Asset Management. Initial funding has been split equally between Mondrian and UBS, who are investing a total of approximately £200m (or 6% of Lothian Pension Fund). Aberdeen Asset Management no longer manage investments for the Fund.

Managers were assessed on a range of criteria: investment philosophy and process, people, business strength, performance and fees.

#### Independent Professional Observer

A search for an independent professional observer to participate in the governance arrangements of the Lothian Pension Fund has concluded. Members of the Pensions Committee received presentations from candidates on 19 February and Sarah Smart of SmartCats Consulting was selected to work with the Committee to enhance the governance of the Fund.

### Recommendations

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That the Pensions Committee notes the appointments of the managers for the Lothian Pension Fund's emerging markets equity portfolio and Sarah Smart as independent professional observer.

### Measures of success

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Investment managers are tasked with investing a proportion of the Funds' assets in accordance with an investment management agreement, which stipulates the investment objectives and details the constraints of the mandate. The performance target for the mandate is 3.0% per annum above the MSCI Emerging Markets Index over rolling 5 year periods.

A process to assess the success of the appointment of the independent professional observer will be put in place including the collation of feedback from members of the Committee.

## Financial impact

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Appropriate provision for costs has been provided within the approved budget 2012/13 and indicative budgets for future years.

## Equalities impact

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There is no relationship between the matters described in this report and the public sector general equality duty.

## Sustainability impact

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Sustainability issues affect the financial performance of the companies in which the appointed managers invest on the Funds' behalf. The managers' approaches to environmental, social and governance (ESG) issues were assessed during the tender process. Voting and engagement is undertaken by investment managers or the Funds' voting and engagement provider, Hermes EOS, and these include consideration of sustainability issues, including ESG matters.

## Consultation and engagement

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Lothian Pension Fund monitors investment managers and portfolios formally on a quarterly basis. Analysis of the investments' risk and return is provided by an independent performance measurement specialist.

## Background reading / external references

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None

## Links

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### Coalition pledges

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

### Single Outcome Agreement

**Appendices** None



# Pensions Committee

10am, Wednesday 13 March 2013

## Reform of the Local Government Pension Scheme in Scotland and Regulatory Update

Item number 5.6

Report number

Wards All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

### Alastair Maclean

Director of Corporate Governance

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# Executive summary

## Reform of the Local Government Pension Scheme in Scotland and Regulatory Update

### Summary

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This report provides an update on pensions regulations, including:-

- The Public Service Pensions Bill (“the Bill”) is making its way through the UK Parliament. Should this Bill be enacted, this would compel reform of the design and structure of the Local Government Pension Scheme (LGPS) in Scotland. The implications for Lothian Pension Fund and Lothian Buses Pension Fund, therefore, are significant.
- Reform of the LGPS in England and Wales scheduled for April 2014.
- Progress towards scheme specific regulations, on behalf of Scottish Ministers, for a new LGPS in Scotland.
- Amendments made to future pensions taxation relief by the Chancellor in his Autumn Statement.
- A UK Government White Paper “The single-tier pension: a simple foundation for saving” which outlines proposals to reform the State Pension into a single-tier State Pension. The proposals would mean the end of contracted-out National Insurance and therefore a significant additional cost burden for LGPS employers and employees, effective from April 2017 at the earliest.

### Recommendations

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Pensions Committee should note the regulatory update in this report, the significant implications for Lothian Pension Fund and Lothian Buses Pension Fund of the Public Service Pensions Bill and the tight timescales for implementation of a new LGPS in Scotland.

### Measures of success

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This report is purely advisory at this stage.

## Financial impact

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There are no financial implications arising directly from this report. Future legislative change to the design of the Local Government Pension Scheme, however, will have financial consequences for Lothian Pension Fund and Lothian Buses Pension Fund, participating employers and members. These are currently unknown and will be addressed in future reports to the Pensions Committee.

## Equalities impact

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There are no adverse equalities impacts arising from this report. Changes to the design of the LGPS will be subject to an Equality Impact Assessment by the Scottish Government.

## Sustainability impact

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There are no adverse sustainability impacts arising from this report. The Public Service Pensions Bill aims to make pensions more sustainable.

## Consultation and engagement

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Lothian Pension Fund is committed, on an ongoing basis, to keeping its employers and members fully informed of all the key developments on reform of the LGPS in Scotland. Consultation will take place at appropriate times.

## Background reading / external references

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The Public Sector Pensions Bill and its progress through Parliament to eventual enactment can be viewed at <http://services.parliament.uk/bills/2012-13/publicservicepensions.html>.

Proposals for a new LGPS design in England and Wales can be viewed at <http://www.lgps.org.uk/lge/core/page.do?pagelId=15431012>.

Changes to taxation rules on pensions are summarised on the LPF web-site, [http://www.lpf.org.uk/info/3/current\\_members/106/pension\\_tax\\_relief\\_changes/2](http://www.lpf.org.uk/info/3/current_members/106/pension_tax_relief_changes/2)

The White Paper “The single-tier pension: a simple foundation for saving” can be viewed on the DWP web-site <http://www.dwp.gov.uk/policy/pensions-reform/state-pension/>.

The Local Government Pension Scheme (Miscellaneous Amendments)(Scotland) Regulations 2013 should be available soon on the Scottish Public Pensions Agency, web-site <http://www.sppa.gov.uk/>.

## Reform of the Local Government Pension Scheme in Scotland and Regulatory Update

### 1. Background

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- 1.1 The Public Service Pensions Bill (“the Bill”) was published by the UK Government on 13 September 2012. Should this Bill be enacted, then there would be significant changes required to the design and governance of the Local Government Pension Scheme (LGPS) in Scotland.
- 1.2 Specifically, the Bill embodies the key recommendations of Lord Hutton’s Independent Public Sector Pensions Commission, published in March 2011, namely:
- The end of final salary benefit arrangements;
  - Retirement age linked to State Pension Age (SPA);
  - Cost control system to provide affordability and sustainability;
  - Measures to strengthen governance.
- 1.3 Pension savings are subject to limits and tax charges apply to any savings in excess of the limits. Legislation was amended with effect from 6 April 2011 which reduces the annual allowance to £50,000 (it was £255,000 in the 2010/11 tax year) and allows unused annual allowance to be carried forward for up to three years.

### 2. Main report

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#### **Public Service Pensions Bill – progress through Parliament**

- 2.1 The Public Service Pensions Bill (“the Bill”) was published by the UK Government on 13 September 2012. On 21 January 2013, the Bill completed its passage through the House of Lords Committee stage, with the Report Stage and Third Reading following on 12 February 2013. Amendments following such “line by line examination of the Bill”, however, do not materially affect the fundamental principles of the Bill. The implications for the LGPS in Scotland remain unchanged from the previous report to Pensions Committee in December 2012. The Bill still appears on schedule to receive Royal Assent in May 2013.

## **Reform of the LGPS in England and Wales 2014**

- 2.2 On 21 December 2012, the Department of Communities & Local Government (CLG) published its statutory consultation on draft Local Government Pension Scheme Regulations for the new scheme in England & Wales. This first set of draft Regulations covers membership, contributions and benefits and related administration issues and is due to come into force on 1 April 2014.
- 2.3 The high level features of the new scheme have been known for some time now, namely:
- Career Average Revalued Earnings (CARE) scheme with a 1/49th accrual.
  - Survivor benefits, on a similar CARE basis, based on a 1/160th accrual.
  - Average employee contribution remains at 6.5% of payroll.
  - Pensionable pay range to be increased in line with the Consumer Price Index each year.
  - 50/50 membership option enabling members to elect to pay half contributions for half the pension benefits (half the accrual rate).
- 2.4 The UK Government is still discussing other aspects of the scheme design with employers and trades unions. These cover governance, cost control (some potential features of a proposed cost control mechanism are set out in an Appendix to the consultation document) and remaining scheme administration issues. As a result further, separate, consultations are expected early in 2013 covering these outstanding items, together with provisions on transitional protections and compatibility with the Public Service Pensions Bill ('the Bill').

### **LGPS 2014 England and Wales - Shadow Pension Board**

- 2.5 Stakeholders in the LGPS have taken the first steps toward creating a pension board (as required by the Public Service Pensions Bill) which will address issues that impact on all 89 funds in England and Wales. The creation of this board was a central proposal of the agreement reached by the Local Government Association and unions and also featured in the Hutton report on public sector pensions. The proposal has now also received backing from the Government and indeed the Public Service Pensions Bill now includes a recent amendment “requiring the board to include employer representatives and member representatives in equal numbers.”

- 2.6 A working group has been set up to create a shadow board by spring 2013 which in turn will be responsible for refining the details of the remit and membership of the formal board for April 2014. Initial discussion suggests that the board will seek to encourage best practice, increase transparency and coordinate technical and standards issues. It is also likely that it will have a liaison role with the Pensions Regulator.

### **LGPS 2014 England and Wales - Councillors' Pensions**

- 2.7 On the 19 December 2012, the Parliamentary Under-Secretary of State for Communities and Local Government, Mr Brandon Lewis issued a Written Ministerial Statement in respect of councillors' pensions. The statement outlined that the current administration does not agree with the provision of the LGPS for councillors. Brandon Lewis MP said "we do not believe that an occupational pension scheme intended for employees, and paid for by taxpayers, is an appropriate vehicle for councillors". The statement goes on to outline that, subject to consultation, it is proposed to remove access to the LGPS for councillors from 1 April 2014 with no further accrual from this date and protection for accrued rights for those councillors who are already members of the scheme.

### **LGPS in Scotland 2015**

- 2.8 Further meetings of the Scottish Local Government Pensions Advisory Group (SLOGPAG) have been held to consider the implications of the Public Service Pensions Bill and address future reform requirements.
- 2.9 The timeframe for implementation of a new scheme design by the deadline of April 2015 remains extremely tight. The Scottish Government has indicated that it is hopeful that the requisite negotiation, regulation writing and pre-implementation preparation phases could run concurrently to some degree.
- 2.10 Principles for LGPS reform have been agreed by representatives from CoSLA, trades unions and Scottish Government. These aim "to facilitate the delivery of a scheme that takes a balanced consideration of the unique Scottish position, continues to provide valued benefits for scheme members, and is affordable, sustainable and fair to employers, scheme members and tax payers".
- 2.11 SLOGPAG established a comprehensive set of governance principles during the last round of pension reforms which were then issued by the Scottish Government in 2011. It is expected that these should form the basis of the governance principles for the revised scheme in April 2015, to be updated where necessary to accord with specific new provisions of the Public Sector Pension Bill 2012.

- 2.12 CoSLA's political direction for the design and governance of the LGPS 2015 is being informed by its "Pensions Sounding Board". This provides advisory input to the CoSLA Resources & Capacity Executive Group and Strategic Human Resources Management Executive Group.

### **LGPS in Scotland 2015 - Councillors' Pensions**

- 2.13 The Scottish Public Pensions Agency has affirmed that, unlike the position in England & Wales, there is no intention in Scotland to review the current entitlement of councillors to membership of the LGPS.

### **Pensions Tax Relief Amendments**

- 2.14 The Chancellor gave his Autumn Statement on the 5 December 2012 and included details of a reduction to the lifetime allowance and annual allowance from the 2014/15 tax year. The lifetime allowance is being reduced from £1.5m to £1.25m and the annual allowance from £50,000 to £40,000. For those affected by the reduction to the lifetime allowance, further fixed protection (yet to be consulted on) will be available from April 2014.

### **Annual Allowance – 'Scheme Pays' Guidance**

- 2.15 The annual allowance provides a threshold of the annual increase in value of a scheme members pension above which a tax charge may apply. A member who is subject to a tax charge of over £2,000 arising from an annual allowance excess, may elect that the charge is met by the pension scheme, subject to certain conditions, in return for a requisite reduction in scheme benefits. An election, known as the 'scheme pays' option, must be made before a member becomes entitled to pension benefits.
- 2.16 Guidance on the method and calculation of any reduction in benefits has now been received from the Government Actuary's Department (GAD) and is similar in operation to "pension debits" which are used in divorce settlements.
- 2.17 For information, no members of Lothian Pension Fund exceeded the £50,000 threshold for 2011/12, some because notional unused annual allowance from the previous three years were used to "off-set" an excess in the tax year being assessed. Details of members annual allowance position for 2011/12 are provided through the 'My pension' on-line service. Additionally, The Fund wrote to members who initially exceeded, or were within £5,000 of, the threshold. A small number of members of the Firefighters' Pension Scheme did exceed the threshold in 2011/12 and have been informed of the availability of the scheme pays option.

### **State Pension White Paper**

- 2.18 On 14 January 2013, the Government (Department of Work and Pensions) published a White Paper "The single-tier pension: a simple foundation for saving" outlining proposals to reform the State Pension into a single-tier State Pension.

The current basic and additional State pensions will be replaced with a single-tier pension (StP) at some point during the next Parliament (i.e. following the general election), but not before 'April 2017 at the earliest.' The StP will be set above the basic level of means-tested support at the time of implementation (£142.70 per week currently) and increased at least in line with average earnings.

- 2.19 The proposals would mean the end of reduced National Insurance and therefore an additional cost burden for LGPS employers and employees. This is due to the ending of contracting-out, a key element of the reforms relating to State pensions. The increase for employers is 3.4% of relevant earnings. Employees in the LGPS would see their NI contributions increase by 1.4% of relevant earnings. CoSLA's response to the 2011 statutory consultation stated, "for Scottish Local Government, indications suggest that this could amount to as much as an additional £100m per annum".
- 2.20 The Work and Pensions Select Committee will make recommendations for any changes before the final Bill is introduced.
- 2.21 The Fund has highlighted the "White Paper on the Single Tier Pension" to its employers in the "Employers' Bulletin", issued on 29 January 2013.

### **Regulatory Update – General**

- 2.22 Local Government Pension Scheme (Miscellaneous Amendments)(Scotland) Regulations 2013 were laid before the Scottish Parliament on 20 December 2012 and came into force on 1 February 2013. The Regulations incorporate the joint response made to the consultation by the Scottish Pension Liaison Group, as reported to the Pensions Committee at its meeting in December 2012.

## **3. Recommendations**

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- 3.1 Pensions Committee should note the regulatory update in this report, the significant implications for Lothian Pension Fund of the Public Service Pensions Bill and the tight timescales for implementation of a new LGPS in Scotland.

## **4. Background reading / external references**

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The Public Sector Pensions Bill can be viewed at

<http://services.parliament.uk/bills/2012-13/publicservicepensions.html>.

Proposals for a new LGPS design in England and Wales can be viewed at

<http://www.lgps.org.uk/lge/core/page.do?pagelId=15431012>.

Changes to taxation rules on pensions are summarised on the LPF web-site,

[http://www.lpf.org.uk/info/3/current\\_members/106/pension\\_tax\\_relief\\_changes/2](http://www.lpf.org.uk/info/3/current_members/106/pension_tax_relief_changes/2)

The White Paper "The single-tier pension: a simple foundation for saving"

<http://www.dwp.gov.uk/policy/pensions-reform/state-pension/>



The Local Government Pension Scheme (Miscellaneous Amendments)(Scotland) Regulations 2013 should be available soon on the Scottish Public Pensions Agency, web-site <http://www.sppa.gov.uk/>.

**Alastair Maclean**

Director of Corporate Governance

**Links**

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<b>Coalition pledges</b>	
<b>Council outcomes</b>	CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.
<b>Single Outcome Agreement</b>	
<b>Appendices</b>	None

# Pensions Committee

10am, Wednesday, 13 March 2013

## Update on Employers' participation in Lothian Pension Fund

Item number	5.7
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

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# Executive summary

## Update on Employers' participation in Lothian Pension Fund

### Summary

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This report provides updates on:

- Employers who have recently joined the Fund and employers currently looking to join;
- Employers leaving the Fund;
- Mergers of Colleges;
- Other current matters.

### Recommendations

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To recommend that the Pensions Committee note the changes to the employers participating in the Lothian Pension Fund.

### Measures of success

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Employers continue to take decisions in full knowledge of Local Government Pension Scheme (LGPS) regulations and with awareness of policies put in place by the Fund to protect the Fund as a whole.

### Financial impact

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There is no financial impact arising directly from this report. Proactive monitoring of employers participating in the Fund and appropriate admission agreements for new employers helps to protect the financial position of the Fund and the existing employers.

### Equalities impact

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There is no equalities impact as a result of this report.

### Sustainability impact

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There is no sustainability impact arising from this report.

## Consultation and engagement

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The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to governance.

The Fund engages with employers on a regular basis as follows:

- monthly bulletins are issued to employer contacts highlighting relevant issues;
- employer events are held throughout the year;
- by providing dedicated resource in the form of an Employer Relations Officer.

Changes to relevant regulations and policies and the implications of these changes are communicated to employers, with consultation exercises carried out where appropriate.

## Background reading / external references

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The Fund's consultation response to the Forth Road Bridge Bill is available on the Fund's web-site

[http://www.lpf.org.uk/downloads/file/470/forth\\_road\\_bridge\\_bill\\_financial\\_memorandum](http://www.lpf.org.uk/downloads/file/470/forth_road_bridge_bill_financial_memorandum)

## Update on Employers' participation in Lothian Pension Fund

### 1. Background

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- 1.1 Responsibilities of both the Council, as administering authority of Lothian Pension Fund ('the Fund') and the participating employers are set out in the Funding Strategy Statement (FSS) and the Pensions Administration Strategy (PAS). Both these documents have been previously approved by Committee.
- 1.2 The FSS includes the 'Admission Policy' (for employers joining the Fund), the 'Policy on Employers leaving the Fund' (cessation policy) and the 'Charging Policy' outlining when charges will be levied by the Fund.
- 1.3 The PAS sets out standards for exchange of information, including the requirement for the employer to keep the Fund informed about planned changes to their pension provision including bulk transfers of staff and any outsourcing.

### 2. Main report

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#### **Employers joining the Fund**

- 2.1 The report to Committee in October 2012 noted that BaxterStorey had applied for admission to the Fund under Regulation 5 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 following the transfer of nine staff from Queen Margaret University (QMU). The admission process has yet to be completed. The Fund is working with QMU and BaxterStorey to finalise this as quickly as possible.

#### **Mergers of Colleges**

##### **Scotland's Rural College**

- 2.2 Oatridge College was a Scheduled body with the Fund (i.e. a Scheme employer under Schedule 2 of the Local Government Pension Scheme (Administration) Regulations 2008). On 1 October 2012, staff employed by Oatridge College transferred to the Scottish Agricultural College. This followed the merger of three land-based colleges (Oatridge College, Barony College and Elmwood College) with the Scottish Agricultural College to form a new merged organisation: Scotland's Rural College (SRUC).

- 2.3 In order to ensure continuity of pension provision for current members employed by Oatridge College, SRUC applied for admission to the Fund as a community admission body. This application is on a 'closed' basis – that is, no new employees of SRUC will be offered membership of the LGPS with the Fund. The admission agreement also requires that SRUC will accept liability for former members of Oatridge College. The Scottish Government have agreed to act as the guarantor for SRUC.

### **Edinburgh College**

- 2.4 Three further education colleges (Telford College, Stevenson College and Jewel and Esk College) merged on 1 October 2012 to form a new body – Edinburgh College. All three colleges contributed to the Fund as Scheduled Bodies. Edinburgh College is also a Scheduled Body therefore an admission agreement is not required.
- 2.5 Article 3 of the Jewel and Esk College and Stevenson College Edinburgh (Transfer and Closure) Scotland Order 2012 states that 'All property, rights, liabilities and obligations of each of the Jewel and Esk Board and the Stevenson Board are transferred to and vested in the Telford Board'.
- 2.6 A change of name from Telford College to Edinburgh College is currently with the Scottish Government awaiting parliamentary approval. However, the board of management of Telford College wrote to the Fund to confirm that the Board of the new body accepts liability for the Funding of past pension liabilities for the three predecessor colleges.
- 2.7 A revised employer contribution rate to reflect the combined membership and liabilities of the new body is being calculated by the Fund's actuary.

### **Employers leaving the Fund**

- 2.8 As required under the Scheme Regulations, Children 1<sup>st</sup> (an admitted body with the Fund) has given three months notice of their intention to leave the Fund. They currently have one active member. Following the expiry of this notice period, the Fund will instruct the Fund's actuary, to carry out a cessation valuation as required under the Fund's cessation policy. Arrangements will then be made for payment of any deficit to be made.
- 2.9 As noted to Committee in October 2012, Lothian Centre for Inclusive Living has now left the Fund. A cessation valuation has been carried out by the Fund's actuary and arrangements are being made for the employer to pay the deficit identified in the valuation.

2.10 The Fund is in discussion with Canongate Youth Project Training Services Ltd (an admitted body with the Fund). It is expected to be wound up with all assets and liabilities transferred to its parent company, the Canongate Youth Project Ltd (also an admitted body in the Fund). Canongate Youth Project Ltd has indicated that they would guarantee the pension liabilities for Canongate Youth Project Training Services Ltd.

### **Forth Estuary Transport Authority (FETA)**

2.11 As a result of the new Forth Crossing, FETA will be dissolved and all remaining employees are expected to transfer to the contractor who will operate the bridge. This contractor is expected to apply for admission to Lothian Pension Fund in due course.

2.12 FETA pension liabilities remain in respect of former members. Discussions regarding fund have been held with Transport Scotland and the Scottish Government. It has been agreed in principle that the Scottish Ministers will guarantee in full both the legacy pension liabilities and the new contractor. Appropriate legal documentation is being drawn up. Further updates on FETA will be provided to Committee over the coming year.

2.13 The Scottish Government's Finance Committee wrote to stakeholders affected by the Forth Road Bridge Bill in January 2013. This letter included a questionnaire requesting comments on issues relating to the consultation process, costs and wider issues. The Fund's response (sent to the Scottish Government on 30 January 2013), welcomed the Scottish Ministers agreement in principle to act as guarantor and provided requisite clarity and context to pension liabilities quoted in the Financial Memorandum to the Bill. The consultation response is available on the Fund's website.

## **3. Recommendations**

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3.1 To recommend that the Pensions Committee note the changes to the employers participating in the Lothian Pension Fund.

### **Alastair Maclean**

Director of Corporate Governance

### **Links**

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#### **Coalition pledges**

**Council outcomes** CO26 – The Council engages with stakeholders and works in

partnerships to improve services and deliver agreed objectives.

**Single Outcome Agreement**

**Appendices**

None



# Pensions Committee

10am, Wednesday, 13 March 2013

## EU Tax Claims

Item number	5.8
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

**Alastair Maclean**

Director of Corporate Governance

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# Executive summary

## EU Tax Claims

### Summary

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This report summarises activity on EU tax claims made on behalf of the Lothian Pension Fund.

### Recommendations

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Committee is asked to note the progress made in reclaiming EU taxes suffered on dividends.

### Measures of success

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Success is measured by the amount of tax recovered exceeding the cost of pursuing the claims.

### Financial impact

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EU tax claims totalling in excess of £10.3m have now been lodged with the relevant tax authorities. Professional fees amounting to £463.1k have been incurred to date. As previously agreed by Committee, it is likely that further legal costs will be incurred in pursuing the claims. However, any costs are being shared across a pool of fellow claimants and Lothian Pension Fund has the right to cease participation without incurring further costs.

Currently, claims paid to date exceed the costs incurred by £332.9k. The financial position can be summarised as follows:

	<b>Total Claims £'000</b>	<b>Claims Settled £'000</b>	<b>Claims Outstanding £'000</b>	<b>Costs to Date £'000</b>
<b>Claim Type</b>				
Manninen	2,626.7	Nil	2,626.7	49.5
Fokus Bank	3,814.2	796.0	3,018.2	293.0
Manufactured Dividends	3,928.6	Nil	3,928.6	120.6
	<b>10,369.5</b>	<b>796.0</b>	<b>9,573.5</b>	<b>463.1</b>

## **Equalities impact**

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There are no equalities impacts arising from this report.

## **Sustainability impact**

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There are no sustainability impacts arising from this report.

## **Consultation and engagement**

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The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to governance. The Audit Sub-Committee, which shall consider future progress reports on the EU tax claims, should further strengthen financial and risk management assurance.

## **Background reading / external references**

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None

## EU Tax Claims

### 1. Background

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- 1.1 EU tax claims relate to the recovery of tax deducted from dividend payments prior to receipt. They relate to a fundamental principle of EU law, that all member states should not discriminate in the application of national taxes between home tax payers and those in other member states.
- 1.2 The claims can be divided into three main types – Manninen, Fokus and Manufactured Dividends.

### 2. Main report

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#### Claims for EU Tax Credits – Manninen

- 2.1 This claim is against the UK tax authorities and is based on HMRC permitting the repayment of tax credits deducted from UK dividends but not on Foreign Income Dividends.
- 2.2 The European Court of Justice's ruling in the Manninen tax case in September 2004 opened an avenue for claims for tax credits on EU dividends. Committee had previously agreed to pursue potential claims.
- 2.3 Based on the decision in the Manninen case, KPMG's EU Tax Group is undertaking claims on behalf of UK pension funds to claim a repayment of tax credits on dividend income from EU companies for the period 6 April 1992 to 1 July 1997.
- 2.4 The claims are based on 20% of the gross dividends received. While the UK tax authorities are disputing the validity of such claims, the estimates show that the Lothian Pension Funds could benefit by up to £2.6m from a successful claim. A cost benefit analysis concluded that a claim should be lodged, and this was done on 9 February 2006.
- 2.5 HMRC has rejected all claims of this nature. As a result, KPMG has appointed a firm of solicitors (McGrigors – now part of Pinsent Masons) to pursue recovery. In March 2011, the First-tier Tribunal (FTT) published its judgement on the test case.

- 2.6 The FTT held that the withholding of tax credits on foreign income dividends was a breach of EU law, as was the denial of tax credits on dividends received from a non-UK company. This is a very positive result as it is extremely unusual for a UK Tribunal to decide in favour of the tax payer with regards to a direct tax claim based on EU law without a reference to the European Court of Justice.
- 2.7 Unfortunately, the FTT also decided that claims were out of time because they were made more than six years after the end of the tax year in which the relevant dividends were received. The FTT rejected legal arguments that the statutory time limits should be extended. This issue was known at the time claims were lodged. Member States are allowed to impose time limits on EU claims but previous decisions of the European Court of Justice have suggested that it is possible to extend national limitation periods in circumstances where those time limits are discriminatory or make it impossible or excessively difficult to exercise EU rights.
- 2.8 An appeal against the FTT judgement was heard by the Upper Tribunal in July 2012, the legal arguments lasted six days. Final judgement was expected in February 2013 and we are awaiting news on the outcome.
- 2.9 If the Upper Tribunal judgement goes as anticipated, it is expected that HMRC will be given leave to appeal to the Court of Appeal on the substantive points and the claimants will be given leave to appeal on the time limit points. The Court of Appeal hearing would be likely to take place towards the end of this year.
- 2.10 With a further appeal possible to the Supreme Court, it could be well into 2015 before a final decision is reached.
- 2.11 Fees incurred to date, by Lothian Pension Fund, on these claims amount to £49.5k, compared to £44.6k reported at the December 2011 meeting of the Pensions and Trusts Committee. Assuming that the case is pursued to a final conclusion, total costs for the Fund are capped at £90k. This compares with the claim for £2.6m.

### **Claims for EU Tax Credits – Fokus Bank**

- 2.12 These claims are against the tax authorities of the EU member states (and Norway) in which we have invested. The basis of the claims is that the tax authorities have applied favourable tax treatment to domestic pension funds that they have denied to pension funds in other member states.
- 2.13 The Pensions and Trusts Committee of October 2007 approved making claims under the principle established in the Fokus Bank case. Claims estimated at around £3.8m have been made. Progress on the claims is summarised in the table below.

Country	Claim Period From / To	Estimated Amount Claimed £'000	Amount Received £'000	Notes
Austria	2006 2010	83.0	83.0	Claim paid in September 2012.
France	2003 2009	998.6	-	15% tax imposed on all pension funds from 1 January 2009. In May 2012, the EU Court ruled in the Santander test case that refunds must be paid to investment funds.
Germany	2003 2010	886.3	-	KPMG are currently preparing a test case in respect of the German claims.
Italy	2004 2010	489.3	-	The Italian tax authorities have not responded to the claims that KPMG has lodged for its clients. We await a decision from KPMG on its proposed course of action.
Netherlands	2003 2006	440.0	440.0	Claim paid in 2009.
Norway	2004 2010	273.0	273.0	All claims paid - final instalment received in February 2013 (£73k)
Spain	2003 2009	644.0	-	In November 2012, the Spanish courts supported claims by a number of KPMG clients. News is awaited of any appeal from the Spanish tax authorities.
<b>TOTAL</b>		<b>3,814.2</b>	<b>796.0</b>	

2.14 Exchange rate movements change the potential value of the claims in sterling terms.

2.15 Fees incurred to date on these claims amount to £293.0k, compared to £263.0k reported at the December 2011 meeting of Pensions and Trusts Committee.

### **Claims for EU Tax Credits – Manufactured Dividends**

2.16 This claim is against the UK tax authorities. It is based on the fact that manufactured dividend receipts relating to UK shares are not subject to any UK withholding tax but receipts relating to overseas dividends suffer a UK withholding tax of 15%.

- 2.17 Note that manufactured dividends are dividends created when a security is out on loan at the time the company pays a dividend.
- 2.18 Claims in respect of manufactured dividends totalling £3.9m has been lodged with HMRC.
- 2.19 KPMG has appointed a firm of solicitors (McGrigors – now part of Pinsent Masons) to pursue recovery. Pinsent Masons have been working with HMRC to agree a test case process, the aim being to have the case heard by the First-tier Tribunal (FTT).
- 2.20 Due to inaction from HMRC, Pinsent Masons have made an application to the FTT for a direction that the test case should proceed. A response is awaited.
- 2.21 KPMG has discussed the case with independent Tax Counsel and has received a positive opinion on the chances of success.
- 2.22 The earliest expected date for receipt of a judgement from the FTT is in the second quarter of 2013. Reference to the European Court of Justice would take a further two years. With potential subsequent referrals (maximum of three), a final decision may not be made until 2016/2017.
- 2.23 Fees incurred to date on these claims amount to £120.6k, compared to £77.4k reported at the December 2011 meeting. Potential subsequent referrals are estimated to cost £20k for each stage.

### 3. Recommendations

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- 3.1 Committee is asked to note the progress made in reclaiming EU taxes suffered on dividends.

#### **Alastair Maclean**

Director of Corporate Governance

#### **Links**

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#### **Coalition pledges**

**Council outcomes** CO26 – The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives.

#### **Single Outcome Agreement**

**Appendices** None

# Pensions Committee

10.00am, Wednesday, 13 March 2013

## Appointment of Convener of the Pensions Audit Sub-Committee

Item number	5.9
Report number	
Wards	All

### Links

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Coalition pledges

Council outcomes [CO25](#)

Single Outcome Agreement

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# Executive summary

## Appointment of Convener of the Pensions Audit Sub-Committee

### Summary

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A Pensions Audit Sub-Committee will undertake the audit scrutiny of the pension funds. It is expected to meet three times a year and will cover issues relating to financial statements, internal and external audit and the risk control framework.

The membership of the Sub-Committee consists of Councillors Cook, Orr and Rose. Eric Maclennan and Eric Adair will attend as non-voting representatives of the Consultative Panel.

In accordance with the Committee Terms of Reference and Delegated Functions paragraph A5.1, the Pensions Committee is asked to appoint a Convener from the sub-committee's membership.

### Recommendations

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1. To appoint the Convener of the Pensions Audit Sub-Committee from its membership.

### Measures of success

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Not applicable

### Financial impact

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Not applicable

### Equalities impact

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Not applicable

### Sustainability impact

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Not applicable

### Consultation and engagement

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Not applicable

## Background reading / external references

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[City of Edinburgh Council minute 20 September 2012](#)

[Pensions Committee minute 18 December 2012](#)

## Links

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### Coalition pledges

**Council outcomes** CO25 – The Council has efficient and effective services that deliver on objectives

**Single Outcome Agreement Appendices**