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# **PART 1**

## **SUMMARY AND EXPLANATION**

# WEST MIDLANDS PENSION FUND CONSTITUTION

## THE FUND'S CONSTITUTION

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The West Midlands Pension Fund has agreed a constitution which sets out how the Fund operates, how decisions are made and the procedures which are followed to ensure these are efficient, transparent and that we are accountable to our members.

Some of these processes are required by law, while others are left to the Fund to determine.

This constitution should be read in conjunction with the constitution of Wolverhampton City Council

## WHAT'S IN THE CONSTITUTION?

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The constitution details the basic rules governing the Fund's business, including who is responsible for taking decisions, the role of officers, the governance structure and the financial management of the Fund.

## HOW THE FUND OPERATES

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Wolverhampton City Council is the Administering Authority for the West Midlands Pension Fund under the Local Government Pension Scheme (LGPS). The LGPS is established by statute and its purpose is to provide death and retirement benefits for all eligible employees.

The Fund is not a legal body in its own right and all contracts and assets are held in the name of Wolverhampton City Council who became the Administering Authority in 1974 under the local authority reorganisation brought about by the Local Government Act 1972.

The Fund covers the seven districts in the West Midlands

- Wolverhampton
- Birmingham
- Sandwell
- Dudley
- Solihull
- Coventry
- Walsall

Together with numerous other public sector employers. A full list of the employers within the Fund is contained within the Fund's annual report available on request.

## HOW DECISIONS ARE MADE

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Wolverhampton City Council delegates responsibility for the administration and management of the Pension Fund to the Pension Committee which comprises 20 Trustees (10 Wolverhampton City Council members, 1 Elected Member from each of

# WEST MIDLANDS PENSION FUND CONSTITUTION

the 6 District Councils and 4 (non-voting) trade union representatives), together with 12 Pension Board Members and 115 FTE staff.

The Managing Director of Wolverhampton City Council, who is also the Head of Paid Service, delegates certain responsibilities to the Strategic Director of Pensions, who in turn, delegates to officers.

All meet together as the Pension Fund which has ultimately responsibility for decision making.

## SCRUTINY

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The scrutiny function is carried out by the following statutory bodies

- the Pensions Regulator
- the Scheme Advisory Board
- the Secretary of State.

All of whom have powers of regulation and enforcement against the Fund should it be considered to be failing in its duty to members.

Further information regarding their powers may be found on their respective websites.

## THE FUND'S STAFF

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The Fund has people working for it (described as “officers”) to give advice, implement decisions, and manage the day-to-day delivery of its services. Some officers have a dual role with the Administering Authority and the Fund and have a specific legal duty to ensure that the Fund acts within the law.

All officers are subject to a code of conduct and a protocol governs the relationships between officers and members of the Council.

## RIGHTS OF MEMBERS

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Members have a number of rights in their dealings with the Fund. Some of these are legal rights whereas other rights are defined in the Fund’s policies and processes.

Members rights include

- Right to attend meetings of the Committees and Pension Board (except where confidential or exempt information is being discussed)
- Right to inspect agendas, reports, minutes and documents of the Fund

## WEST MIDLANDS PENSION FUND CONSTITUTION

- Right to complain that the Fund is failing in its duty to meet statutory obligations or adhere to its own policies.
- To inspect the Fund accounts and make their views known to the Auditor
- Contact Trustees or Pension Board Members about any matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Pension Committees and Pension board except where, for example, personal or confidential matters are being discussed;
- Present petitions in accordance with the Fund's adopted petition scheme
- See reports and background papers and any record of decisions made by the Fund except those containing confidential or exempt information;
- Complain to the Fund in accordance with its feedback procedure;
- Complain to the Local Government Ombudsman if they think the Fund has not followed its procedures properly. However, they should only do this after using the Fund's own complaints process;
- Speak at meetings at the discretion of committee or in accordance with the rules set out in this Constitution.

The Fund welcomes participation by its members in its work. Details of the rights of members to inspect agendas and reports and to attend meetings are set out in Article 3 and the Access to Information Procedure Rules. Information on this can be obtained from the Fund offices and from the Fund's website at [www.wmpfonline.com](http://www.wmpfonline.com)

# **PART 2**

## **ARTICLES OF THE CONSTITUTION**

## ARTICLE 1 - THE CONSTITUTION

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### 1.01 Powers of the Fund

The Fund will exercise all its powers and duties in accordance with the law and this Constitution.

### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the West Midlands Pension Fund which should be read in conjunction with the constitution of Wolverhampton City Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to set out in a single place and in clear language, how the Fund works and how it makes decisions, thereby:

- (a) enabling decisions to be taken efficiently and effectively;
- (b) creating a powerful and effective means of holding decision makers to public account;
- (c) ensuring that no one will review or scrutinise a decision in which they were directly involved;
- (d) ensuring that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (e) maintaining the highest standards of conduct of members and officers of the Fund;
- (f) providing a comprehensive document that explains how the Fund conducts its business.
- (g) assisting Trustees to discharge their duty as decision makers efficiently and effectively.

### 1.04 Interpretation and Review of the Constitution

This constitution is a live document and will be reviewed on an ongoing basis to identify where changes in legislation or policy require. Such changes to be reviewed and agreed with the Fund's Statutory Officers.



## ARTICLE 2 – TRUSTEES OF THE FUND

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### 2.01 Composition and Eligibility

#### 2.01.1 Composition.

The fund consists of the following bodies

- Pension Committee
- Investment Advisory Sub Committee
- Pension Board
- Investment Advisory Panel

#### 2.01.2 Pension Committee

Pension Committee consists of Trustees who sit as the decision making body of the Fund.

As a statutory public service scheme the Fund has a different legal status compared with trust based schemes in the private sector. Although those making decisions relating to the Fund are required, in many ways, to act as if they were trustees in terms of their duty of care they are subject to a different legal framework and are not trustees in the strict legal sense.

The Pensions Committee adheres to the Standing Orders of Wolverhampton City Council and all matters of due process so far as they do not conflict with the ability of the Fund to conduct its business under this constitution. Any such decisions will be taken on advice from the Council's Monitoring Officer.

### 2.02 Election and Terms of Trustees

#### 2.02.1 Election and Terms.

Wolverhampton City Council each year at annual council appoints elected councilors to sit on the Pension Committee and allows nominations from the district councils to sit as full members. These nominations are received each year and are appointed at annual council.

Wolverhampton City Council also appoints a Chair and Vice-Chair of the Pension Committee to sit for one year.

### 2.03 Roles and Functions of all Trustees

#### 2.03.1 Key Roles

All Trustees will:

- (i) act corporately for the good governance of the Fund
- (ii) on a regular basis, attend meetings of the Fund, including committees, sub committees, working parties or external bodies to which the Trustee has been appointed and to fully participate in policy formation and decision making in accordance with the principles of good public governance, including a requirement to act at all times in accordance with
  - a) statutory and other legal requirements
  - b) the code of conduct
  - c) standing orders
  - d) the Trustee/officer relations protocol
- (iii) ensure they have the required knowledge to perform their duties, including attending training sessions
- (iv) if appointed to an external body on behalf of the Fund, represent the interests of the Fund on that body.

## **2.03.2 Rights and Duties**

- (i) Trustees will have such rights of access to such documents, information, land and buildings of the Fund as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Trustees will not make public information which is confidential or exempt without the consent of the Fund or divulge information given in confidence to anyone other than a Trustee or officer entitled to know it.
- (iii) For these purposes “confidential” and “exempt” are to be read as defined in Schedule 12A of the Local Government Act 1972  
(AS AMENDED BY THE LOCAL AUTHORITIES (ACCESS TO INFORMATION) (EXEMPT INFORMATION) (ENGLAND) ORDER 2006)

## **2.04 Cessation of Membership**

A Trustee will cease to be a member if they resign by giving notice in writing, if they fail to observe the requirements to attend Fund meetings as prescribed by this constitution or if they are disqualified from holding office by virtue of Section 80 of the Local Government Act 1972 or any other statutory provision.

## **2.05 Conduct**

Trustees will at all times observe the Code of Conduct and adhere to the seven principles of public life;

## **2.06 Pension Board**

The Pension Board consists of employer and member representatives whose role is to assist in the good governance of the Fund.

The Pension Board is to conduct the duties imposed on it under Section 5 of the Public Service Pensions Act 2013 and associated legislation together with those duties outlined in the Statutory Guidance.

The Pensions Board adheres to the Standing Orders of Wolverhampton City Council and all matters of due process so far as they do not conflict with the ability of the Fund to conduct its business under this constitution. Any such decisions will be taken on advice from the Council's Monitoring Officer.

### **2.06.1 Election and Terms of Pension Board Members**

#### **2.06.2 Election and Terms.**

The Fund will in the first year seek nominations from employer and member groups to sit on the Pension Board, together with receiving two nominations from Wolverhampton City Council for 2 Councillors to sit as one employer and one member representative. Making 12 members in total.

The term of office for a person appointed to the Pension Board shall be for a period no shorter than one year and no longer than two rotations of nominations or their term of office (where the person is an elected Councillor, whichever is the shortest).

Nomination to the Pension Board shall take a 4 year rotation with one third nominations received in year 2 and one third nominations received in year 4, and so on. Such rotation not to fall in the same year as Pension Committee rotation. This is to ensure a consistency of knowledge within the Pension Board and to assist with the development of knowledge and experience.

Wolverhampton City Council appoints a Chair and Vice-Chair of the Pension Board to sit for one year.

Nominations to the Pension Board will be sought from the nominating body group on each occasion as the rotation for appointment arises. Where more than one nomination is received interviews for the vacant position will be held by the Director of Pensions, the Chair of Pensions Committee and one other Trustee.

## 2.06.3 Roles and Functions of all Pension Board Members

### 2.06.4 Key Roles

All members will:

- (i) act corporately for the good governance of the Fund
- (ii) on a regular basis, attend meetings of the Fund, including committees, sub committees, working parties or external bodies to which the Trustee has been appointed and to fully participate in policy formation and decision making in accordance with the principles of good public governance, including a requirement to act at all times in accordance with
  - a) statutory and other legal requirements
  - b) the code of conduct
  - c) standing orders
  - d) the Trustee/officer relations protocol
- (iii) ensure they have the required knowledge to perform their duties, including attending training sessions
- (iv) if appointed to an external body on behalf of the Fund, represent the interests of the Fund on that body.

### 2.06.5 Rights and Duties

- (i) Pension Board members will have such rights of access to such documents, information, land and buildings of the Fund as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Pension Board members will not make public information which is confidential or exempt without the consent of the Fund or divulge information given in confidence to anyone other than a Trustee or officer entitled to know it.
- (iii) For these purposes “confidential” and “exempt” are to be read as defined in Schedule 12A of the Local Government Act 1972 (as amended).

### 2.06.6 Cessation of Membership

A Pension Board member will cease to be a member if they resign by giving notice in writing, if they fail to observe the requirements to attend Fund meetings as prescribed by this constitution or if they are disqualified from holding office by virtue of their own employment.

## 2.06.7 Conduct

Pension Board members will at all times observe the Code of Conduct and adhere to the seven principles of public life;

## ARTICLE 3 - MEMBERS AND THE FUND

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### 3.01 Member's Rights

Members have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and Petitions.** Members have the right to present a petition, in accordance with the adopted petition scheme of Wolverhampton City Council and to address Trustees in support. This is however subject to the Rules of Procedure in Part 4 of this Constitution and the petition scheme. A copy of the petition scheme is available on the Council's website.
- (b) **Information.** Members have the right to:
  - (i) attend meetings of the Fund, monitoring bodies, boards and committees except where confidential or exempt information is likely to be disclosed;
  - (ii) see reports and background papers, and any records of decisions made by the Council and the Cabinet;
  - (iii) speak at meetings of the Committees or Pension Board
  - (iv) inspect the Fund's accounts and make their views known to the External Auditor.
- (c) **Participation.** Members have the right to participate in the Fund's question time at Committee
- (d) **Complaints.** Members have the right to complain to:
  - (i) the Fund under its feedback scheme;
  - (ii) the Ombudsman after using the Fund's own complaints scheme;
  - (iii) Wolverhampton City Council's Monitoring Officer about a breach of the Council's Code of Conduct for Trustees
  - (iv) The Pension Fund's Head of Governance about a breach of the Fund's Code of Conduct for Pension Board Members.

## 3.02 Member's Responsibilities

- (a) Members must not be violent, abusive or threatening to Trustees or officers and must not wilfully damage things owned by the Fund, Trustees or officers.
- (b) When attending meetings members must not behave improperly, offensively or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.

## ARTICLE 4 - THE FUND

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### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
  - Valuation Report
  - Service Plan
  - Administering Authority Policy Statement
  - Compliance with Myners Principles
  - Compliance with the UK Stewardship Code for Institutional Investors
  - Funding Strategy Statement
  - Governance Statement
  - Communications Policy
  - Pensions Administration Strategy
  - Policy on Termination Funding for Employers
  - Socially Responsible Investment Policy
  - Statement of Investment Beliefs
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, and decisions relating to the control of the Fund's borrowing requirement, the control of its capital expenditure and the setting of investment limits.

### 4.02 Functions of the Fund

The functions and responsibilities of the Fund are set out in Part 3 to this Constitution.

## 4.03 Pension committee and Pension Board Meetings

There are three types of meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Procedure Rules in Part 4 of this Constitution.

## 4.04 Responsibility for Functions

The Fund will maintain the tables in Part 3 of the Constitution setting out the responsibility of the Fund's functions as delegated from Wolverhampton City Council.

## ARTICLE 5 - CHAIRING PENSION COMMITTEE

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### 5.01 Role and Function of the Chair

The Chair of the Pension Committee and, in his or her absence, the Deputy Chair will have the following roles and functions:

#### (a) Ceremonial Role

The Chair represents the symbol of the Fund and its employers and members. He or she is seen as the lead Trustee citizen of the Fund and in ceremonial matters will take precedence.

The Chair also represents an expression of social cohesion. He or she will act as a link between the various bodies and organisations and the Fund.

#### (b) Chairing the Committee Meeting

The Chair of the Fund and his/her deputy, will be nominated by Wolverhampton City Council annually and will have the following responsibilities:

- (i) to uphold and promote the purposes of this Constitution, and to interpret the Constitution when necessary in consultation with the Council's Monitoring Officer;
- (ii) to preside over meetings of the Committee so that its business can be carried out efficiently and with regard to the rights of Trustees and the interests of the Fund's members and employers;

- (iii) to ensure that the Committee meeting is a forum for the debate of matters of concern to the West Midlands
- (iv) to promote public involvement in the Fund's activities;
- (v) to be the conscience of the Fund; and
- (vi) to attend such civic and ceremonial functions as the Fund and he/she determines appropriate.
- (vii) the Deputy Chair will deputise for the Chair whenever the Chairman is unavailable or unable to act.

## ARTICLE 6 - SCRUTINY

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### 6.01 Scrutiny Bodies

The scrutiny function is carried out by the following statutory bodies

- the Pensions Regulator
- the Scheme Advisory Board
- the Secretary of State.

### 6.02 Functions of the Pensions Regulator

The Pension Regulator's statutory objectives are to:

- protect the benefits of pension scheme members
- reduce the risks of calls on the Pension Protection Fund
- promote and improve understanding of the good administration of work based pension schemes
- maximise compliance with the duties and safeguards of the Pensions Act 2008
- minimise any adverse impact on the sustainable growth of an employer

The regulator has a number of regulatory tools including issuing codes of practice to enable it to meet its statutory objectives.

### 6.03 Functions of the Scheme Advisory Board

The purpose of the Board is to both be reactive and proactive. It will seek to encourage best practice, increase transparency and coordinate technical and standards issues.

It will consider items passed to it from the Department of Communities and Local Government ("DCLG"), the Board's sub-committees and other stakeholders as well as items formulated within the Board. Recommendations



may be passed to the DCLG or other bodies. It is also likely that it will have a liaison role with the Pensions Regulator. Guidance and standards may be formulated for local scheme managers and pension boards.

## ARTICLE 7 - JOINT ARRANGEMENTS

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### 7.01 Joint Arrangements

- (a) The Fund may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (c) Details of the Fund's joint arrangements, including delegations under Section 101 of the Local Government Act 1972, are detailed in the scheme of delegations in Part 3 of the Constitution.

### 7.02 Access to Information

- (a) Access to Information rules are contained in the Access to Information Procedure Rules in Part 4 of the Constitution.

### 7.03 Delegation to and from Other Local Authorities

- (a) The Fund may delegate their powers and functions to another local authority or, in certain circumstances.
- (b) The decision whether or not to accept such delegation from another local authority shall be reserved to Pension Committee.

## ARTICLE 8 - OFFICERS

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### 8.01

- (a) **General.** The Fund may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Officers.** The Fund will engage persons for the following posts.

# WEST MIDLANDS PENSION FUND CONSTITUTION

- (c) The Fund has designated the following posts as shown:

<b>Post</b>	<b>Designation</b>
Strategic Director of Pensions	To manage and administer the scheme on behalf of the Administering Authority
Assistant Director (Investments)	To lead on the Fund's investment strategy and to deputise for the Strategic Director of Pensions as required
Assistant Director (Pensions Administration)	To lead on the administration of the Fund including actuarial valuations and to deputise for the Strategic Director of Pensions as required.
Head of Finance	To act as deputy S151 officer for the Fund
Head of Governance	To ensure the good governance of the fund and the due diligence of decision making.

These posts have the functions described in Article 12.02 - 12.04 below.

- (d) **Structure.** The Strategic Director of Pensions will determine as appropriate and publicise a description of the overall departmental structure of the Fund showing the management structure. This is set out at Part 6 of this Constitution.

## 8.02 Functions of the Strategic Director of Pensions

- (a) **Discharge of Functions by the Council.** The Strategic Director of Pensions has delegated responsibility for the management and administration of the pension fund.
- (b) **Restrictions on Functions.** The Strategic Director of Pensions may only act in accordance with agreed policy and strategy set by the Pension Committee.

## 8.03 Functions of the Head of Governance

- (a) **Maintaining the Constitution.** The Head of Governance will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public. The Head of Governance is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Pension Committee or to reflect changes to the structure of the Pension Fund.

- (b) **Ensuring Lawfulness and Fairness of Decision Making.** After consulting with the Strategic Director of Pensions and the Monitoring Officer, the Head of Governance will report to the Pension Committee if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Unless the report relates to a finding of maladministration such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Head of Governance may advise one of the scrutiny bodies of the circumstances to enable scrutiny to consider whether it wishes to conduct a short enquiry.
- (c) **Conducting Investigations.** The Head of Governance will conduct investigations into matters referred as relevant and make reports or recommendations about them to the Pension Committee.
- (d) **Providing Advice.** The Head of Governance will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Trustees. The Head of Governance will be responsible for ensuring that the Access to Information Rules are complied with.

### 8.04 Functions of the Head of Finance

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Strategic Director of Pensions and the Head of Finance will report to the Pension Committee if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Fund is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs.** The Head of Finance will have responsibility for the proper administration of the financial affairs of the Fund.
- (c) **Contributing to Corporate Management.** The Head of Finance will contribute to the corporate management of the Fund, in particular through the provision of professional financial advice.
- (d) **Providing Advice.** The Head of Finance will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Trustees and will support and advise Trustees and officers in their respective roles.
- (e) **Give Financial Information.** The Head of Finance will provide financial information to the media, members of the public and the community.

### 8.05 Conduct

Officers will comply with the Employees' Code of Conduct of Wolverhampton City Council and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## **8.06 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

## **8.07 Functions and Delegation**

The officers shall be responsible for exercising those delegated functions and responsibilities set out in the Scheme of Delegation in Part 3 of this Constitution.

Unless a decision is specifically reserved in this Constitution to the Pension Committee, the Pension Board or Committee of Trustees it shall be deemed to have been delegated to the relevant officer in accordance with the scheme.

## **8.07 Statutory Officers**

The Fund sits under the Administering Authority of Wolverhampton City Council who together have statutory officers performing a dual role for both bodies.

## **8.08 The Head of Paid Service**

The Head of Paid Service responsibility is currently held by the Managing Director of Wolverhampton City Council.

The duties and responsibilities of the Head of Paid Service are outlined in the constitution of Wolverhampton City Council.

## **8.09 The Chief Finance Officer**

The Chief Finance Officer, also known as the S151 Officer is currently held by the Strategic Director of Finance of Wolverhampton City Council.

The duties and responsibilities of the Chief Finance Officer are outlined in the constitution of Wolverhampton City Council.

## **8.10 The Monitoring Officer**

The Monitoring Officer is currently held by the Strategic Director of Governance of Wolverhampton City Council.

The duties and responsibilities of the Monitoring Officer are outlined in the constitution of Wolverhampton City Council.

The Monitoring Officer will appoint deputy monitoring officers.

## ARTICLE 9 - DECISION MAKING

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### 9.01 Responsibility for Decision Making

The Fund will issue and keep up to date a record of what part of the Fund or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 9.02 Principles of Decision Making

All decisions of the Fund will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining what options were considered and giving the reasons for the decision.

### 9.03 Decision Making by the Pension Committee

The Committee meeting will follow the Standing Orders set out in Part 4 of this Constitution when considering any matter.

### 9.04 Decision Making by the Pension Board

The Pension Board meeting will follow the Standing Orders set out in Part 4 of this Constitution when considering any matter.

## ARTICLE 10 - FINANCE, CONTRACTS AND LEGAL MATTERS

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### 10.01 Financial Management

The management of the Fund's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this.

## **10.02 Contracts**

Every contract made by the Fund will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

## **10.03 Legal Proceedings**

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Fund or in any case considers that such action is necessary to protect the Fund's interests. The Monitoring Officer may designate nominated officers to carry out this function on his or her behalf.

## **10.04 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Fund, it will be signed by the Strategic Director of Pensions or by some other persons authorised by him/her, unless any enactment otherwise authorises or requires, or the Pension Committee has given requisite authority to some other person. The Contract Procedure Rules set out in Part 4 of the Constitution details the threshold for signatures to contracts.

## **ARTICLE 11 - REVIEW AND REVISION OF THE CONSTITUTION**

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### **11.01 Duty to Monitor and Review the Constitution**

- (a) The Head of Governance will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) A key role for the Head of Governance is to be aware of the strengths and weaknesses of the Constitution adopted by the Fund, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Head of Governance may:
  - 1. observe meetings of different parts of the Trustee and officer structure;
  - 2. undertake an audit trail of a sample of decisions;
  - 3. record and analyse issues raised with him/her by Trustees, officers, the public and other relevant stakeholders; and
  - 4. compare practices in this Fund with those in other comparable authorities, or national examples of best practice.

5. make revisions to the Constitution to reflect decisions taken by the Pension committees and to correct matters of fact or changes in legislation or changes to the Fund structure.

## 11.02 Changes to the Constitution

### Approval.

- (i) the Head of Governance is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Pension Committees.
- (ii) Other changes to the Constitution shall be made by resolution of the Pension Committee

## ARTICLE 12 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

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### 12.01 Suspension of the Constitution

- (a) **Limit to Suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Pension Committee to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of voting attendees is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension.** The following rules may be suspended in accordance with Article 16.01:
  - (i) Standing Orders
  - (ii) Budget and Policy Framework Procedure Rules
  - (iii) Financial procedure Rules

### 12.02 Interpretation

The ruling of the Chair of the meeting as to the construction or application of this Constitution or as to any proceedings of the meeting shall not be challenged at any meeting. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 12.03 Publication

- (a) The Fund will make available a copy of this Constitution to each Trustee and Pension Board member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being appointed.
- (b) The Head of Governance will ensure that the Constitution is published on the Fund's website and that copies are available for inspection at the Fund's Offices, and can be purchased by members of the local press and the public on payment of a reasonable fee.



# **PART 3**

## **SCHEME OF DELEGATION**

**SECTION 1: Introduction**

**SECTION 2: Fund Functions**

**SECTION 3: Bodies Exercising fUND Functions**

**SECTION 4: Advisory Bodies and Working Parties**

**SECTION 5: Scheme of Delegation to Staff**

**SECTION 6: Proper Officer Designations**

## SECTION 1 - INTRODUCTION

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- (i) This part of the Constitution sets out which bodies and individuals are responsible for particular functions of the Fund.
- (ii) These are described in more detail in this part of the Constitution. Also included in this part of the Constitution are details of the membership of boards and committees, the Scheme of Delegation to Officers.

## SECTION 2 – PENSION COMMITTEE FUNCTIONS

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- 2.1. To exercise all those functions of Wolverhampton City Council which are required to be performed by it in its role as Administering Authority for the Local Government Pension Scheme under the Public Service Pensions Act 2013 (and any associated legislation) adhering to the principles required by Statutory Guidance and the Code of Practice issued by the Pensions Regulator.
- 2.2 Under Section 4 of the Public Service Pensions Act 2013 the Scheme Manager for the Administering Authority shall be the Pensions Committee. The Administering Authority shall at Full Council every year approve the delegation of Scheme Manager under Section 101 of the Local Government Act 1972 to the Pensions Committee and appoint representatives to sit on the Committee for that year.
- 2.3 To exercise all the general powers and duties of the Council granted to the Cabinet and Cabinet Panels and Regulatory or other Committees provided that those parts of the Council's Financial Procedure Rules and Contracts Procedure Rules which relate to the acquisition and disposal of land, Fund Investment transactions, custody of assets, appointment of advisors, approval of expenditure and their related activities, shall not apply in relation to such acquisitions and disposals and expenditure in connection with the Pension Fund.
- 2.4 To ensure that equality issues are addressed in the development of policies and the provision of services and are appropriately monitored.
- 2.5 To ensure that consideration is given to the impact which the Committee's policies and provision of services have with regard to environmental matters.
- 2.6 **PENSION COMMITTEE TERMS OF REFERENCE**
  - 2.6.1 To adhere to the Fund's financial procedure rules, contract procedure rules and internal financial limits concerning procurement. The Pensions Committee has authority to enter into contracts, procure

services, purchase goods and manage financial investment through the internal controls of the West Midlands Pension Fund and in compliance with all applicable legislation.

2.6.2 The Pensions Committee may call upon the Pension Board to seek assistance on matters to be discussed at the committee meeting. Where such assistance is sought it must be considered as part of the decision making process.

2.6.3 Any reference within the Council's constitution that refers to Council or Cabinet and includes powers relevant to the work of the Pensions Committee should be read to include Pensions Committee, including the setting of the Budget and Policy framework of the Fund.

2.6.4 The Pensions Committee shall adhere to the Standing Orders of Wolverhampton City Council and all matters of due process so far as they do not conflict with the preceding delegation.

### 2.6.5 **Membership**

2.6.5.1 The membership of the Pensions Committee shall consist of 10 Wolverhampton City Council members, 1 Elected Member from each of the 6 District Councils and 4 (non-voting) trade union representatives.

2.6.5.2 The quorum is 8

2.6.5.3 A substitution for any person appointed to the Pension Committee shall follow the Council's procedure

2.6.5.4 The term of office for a person appointed to the Committee shall be for a period no shorter than one year and no longer than eight years or their term of office (where the person is an elected Councillor, whichever is the shortest). This is to ensure a consistency of knowledge within the committee and to assist with the development of knowledge and experience.

2.6.5.5 Should an elected Councillor no longer be a member of their authority, their appointment on the Committee shall cease and a further nomination will be sought from that authority.

2.6.5.6 The Committee shall meet a minimum of quarterly

2.6.5.7 All persons appointed to the Committee will adhere to the Committee's code of conduct

2.6.5.8 Person's sitting on the Committee are expected to make themselves available to attend committee meetings. Person's who fail to attend 3 or more events (to include

committees and training) will be asked to leave the committee and a replacement sought from their nominating body unless there are exceptional reasons for their failure to attend. Such reasons to be considered by the committee.

### **2.6.6 Chairing the committee**

2.6.6.1 It will be the first business of the Committee at its annual meeting to receive nominations of a Chair and Vice Chair from Full Council who will sit for the term of one year.

2.6.6.2 In the event of a tie of votes of any business to be conducted, the Chair will have the casting vote. In the circumstances where the vote is to appoint a new Chair, the outgoing Chair will have the casting vote in the event of a tie.

### **2.6.7 Duties of the Pension Committee**

2.6.7.1 The Pensions Committee to act as the Pension Scheme Manager for the Administering Authority in the management and administration of the local government pension scheme for the West Midlands.

2.6.7.2 To adhere to the principles set out in the Statutory Guidance and Codes of Practice issued by the Pensions Regulator and undertake it's duties in compliance with the obligations imposed on it.

2.6.7.3 To provide independent assurance to members of the fund of the adequacy of the risk management framework and the associated control environment, responsible for the fund's financial and non-financial performance to the extent that it affects the fund's exposure to risk.

2.6.7.4 To administer all aspects of the West Midlands Pension Fund on behalf of Wolverhampton City Council.

10.6.7.5 To determine staffing structures, changes to vacant posts or the establishment of new posts and to receive reports on matters of staffing and employment of officers within the Fund.

2.6.7.6 To ensure that equality issues are addressed in the development of policies and the provision of services and are appropriately monitored.

2.6.7.7 To communicate with members of the fund keeping accurate records and publishing information as required about the fund and its work.

## 2.6.8 Training

In compliance with the requirements of the Public Service Pensions Act 2013 persons appointed to the Committee shall undertake at least 3 training sessions per year. The first training session will be organised within 28 days of their appointment to the Committee with subsequent training scheduled after 3 months of appointment and after 9 months of appointment.

## SECTION 3 - BODIES EXERCISING PENSION FUNCTIONS

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### 3.1 Investment Advisory Sub-Committee

Under Section 101 the Pensions Committee has delegated responsibility for Investments to the Investment Advisory Sub-Committee.

All persons appointed to the Sub-Committee will adhere to the Committee's Code of Conduct.

### 3.2 Membership

- 3.2.1 The membership of the Sub committee shall be drawn from the Pensions Committee in proportionate numbers
- 3.2.2 The quorum shall be 5
- 3.2.3 The substitute for any persons appointed to the Sub Committee shall follow the Council's procedure
- 3.2.4 The Sub Committee shall meet a minimum of quarterly
- 3.2.5 In compliance with the legislative requirements of knowledge and understanding, person's appointed to the Committee are expected to make themselves available to attend committee meetings. Person's appointed who fail to attend 3 or more events (to include committees and training) will be asked to leave the committee and a replacement sought from their nominating body unless there are exceptional reasons for their failure to attend. Such reasons to be considered by the committee.

### 3.3 Chair

- 3.3.1 It will be the first business of the Sub Committee at its annual review to nominate a Chair who will sit for the term of one year.

- 3.3.2 In the event of a tie of votes of any business to be conducted, the Chair will have the casting vote. In the circumstances where the vote is to appoint a new Chair, the outgoing Chair will have the casting vote in the event of a tie.

### 3.4.1 Role

- 3.4.1 To advise on the establishing of policies in relation to investment management including the appointment and approval of terms of reference of independent advisers to the Fund.
- 3.4.2 To monitor investment activity and the performance of the Fund.
- 3.4.3 To oversee the administrative and investment management functions of the Pension Fund.

### 3.5 Local Pensions Board

- 3.5.1 The Pension Board is to conduct the duties imposed on it under Section 5 of the 2013 Act and associated legislation together with those duties outlined in the Statutory Guidance.
- 3.5.2 To adhere to the Codes of Practice issued by the Pension Regulator.
- 3.5.3 To assist the Pension Committee, as Scheme Manager, in securing compliance with the legislation relating to the governance and administration of the fund.
- 3.5.4 Undertake any other duties imposed by the Pension Committee from time to time.
- 3.5.6 The Pension Board is not a decision making body.
- 3.5.7 The Pension Board is not a scrutiny function.
- 3.5.8 The Pension Board will be collectively and individually accountable to the Pensions Committee.
- 3.5.9 The Pensions Board shall adhere to the Standing Orders of Wolverhampton City Council and all matters of due process so far as they do not conflict with the business of the board.

### 3.6 Pension Board Terms of Reference

- 3.6.1 All persons appointed to the Board will adhere to the Committee's Code of Conduct, including the duty to report conflicts and undertake training

as required to ensure they meet the legislative requirement to have the knowledge and understanding required of them to undertake their role.

3.6.2 While not a formal committee of Council, meetings of the pension board will be formal occasions to be minuted adhering to the due process and rules of procedure so far as such do not make the business of the board unviable. Business to be conducted by the Pension Board shall be noted on a formal Agenda at least five working days in advance of the meeting. Additional business may be added to the Agenda at a later date with the consent of the Chair. Business not noted on the Agenda may only be considered at the meeting if agreed by majority vote. This is to ensure all information is available and has been read and understood by pension board members.

3.6.3 The Pensions Board shall meet a minimum of twice yearly on a bi-annual basis. The ability to call additional meetings rests with the board and with pensions committee, such additional meetings to meet the minimum quorum requirement.

3.6.4 Persons appointed to the pensions board have the same right of access to information and documents to be considered as elected members as outlined in the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the The Openness of Local Government Bodies Regulations 2014. Save as all other provisions of these regulations do not apply to the pension board.

3.6.5 The Pension Board shall have the reporting obligations as set out in the Fund's 'Pension Board Reporting Policy'.

3.6.6 The Pension Board shall adhere to the operational policies of the Fund.

### **3.7 Membership**

3.7.1 The Pensions Board consists of 12 persons made up of 5 employer and 5 member representatives in equal proportion plus 2 Wolverhampton City Council Elected Members. The employer and member representatives will hold the majority.

3.7.2 Recruitment to the board will follow the Fund's 'Pension Board recruitment policy'

3.7.3 The quorum is 7

3.7.4 Substitutions for the Pension Board shall be available by representative group not by individual board member. Substitutions will be sought as part of the appointing process. Where substitutions are required to attend the pension board meetings, formal notice of their attendance



should be provided to the Fund at least two working days in advance of the meeting to afford the opportunity of papers to be circulated and read.

- 3.7.5 The term of office for a person appointed to the Pension Board shall be for a period no shorter than one year and no longer than two rotations of nominations or their term of office (where the person is an elected Councillor, whichever is the shortest). Nomination to the Pension Board shall take a 4 year rotation with one third nominations received in year 2 and one third nominations received in year 4, and so on. Such rotation not to fall in the same year as Pension Committee rotation. This is to ensure a consistency of knowledge within the Pension Board and to assist with the development of knowledge and experience.
- 3.7.6 Nominations to the pensions board will be sought from the nominating body group on each occasion as the rotation for appointment arises. Where more than one nomination is received interviews for the vacant position will be held by the Director of Pensions, the Chair of Pensions Committee and one other.
- 3.7.7 Person's appointed to the Pensions Board are expected to make themselves available to attend meetings. Person's appointed who fail to attend 3 or more events (to include meetings and training) will be asked to leave the Board and a replacement sought from their nominating body unless there are exceptional reasons for their failure to attend. Such reasons to be considered by the pensions board.
- 3.7.8 Other than by ceasing to be eligible to sit on the pensions board (to include failure to attend meetings), a person appointed to the pensions board may only be removed from the position during their term of office by majority vote of the pensions board.
- 3.7.9 A person appointed to the pensions board may retire their position at any time. In such cases a nomination will be sought from their nominating body.

### **3.8 Chairing the Board**

- 3.8.1 It shall be the first business of the Board at its annual meeting to nominate a Chair and a Vice-Chair for that year

- 3.8.2 In the event of a tie of votes of any business to be conducted, the Chair will have the casting vote. In circumstances where the vote is to appoint a new Chair, the outgoing Chair will have the casting vote in the event of a tie.

## 3.9 Information

- 3.9.1 Information relating to the work of the pension board (including any relevant minutes) will be published on the fund's website, save where such information is confidential or exempt under Schedule 12A.

- 3.9.2 Information detailing the pensions boards terms of reference shall be published on the fund's website together with the any vacancies as they arise.

## SECTION 4 - ADVISORY BODIES AND WORKING PARTIES

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The Fund may from time to time establish working parties or advisory bodies which include in their membership Trustees, Pension Board Members and/or officers and/or representatives from partner organisations or the local community. These are not constituted as boards or committees and are not authorised to make decisions on behalf of the Fund.

## SECTION 5 - SCHEME OF DELEGATION TO STAFF

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### 1. SCOPE OF THE SCHEME

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This scheme sets out the extent to which the powers and duties of the Fund are delegated to officers.

### 2. EXERCISE OF DELEGATED POWERS

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- (i) Functions, tasks and responsibilities listed in this scheme of delegation may be exercised by the nominated officer(s) and includes anything which facilitates, or is conducive or incidental to, the discharge of these functions, tasks, or responsibilities.
- (ii) Where an officer has been given delegated authority by this scheme he or she may authorise any member of his or her staff to act on his or her behalf except the signatories to financial documents on matters relating to the Fund's banking.

# WEST MIDLANDS PENSION FUND CONSTITUTION

- (iii) An officer may always refer a delegated matter to the Pension Committee or to one of its Boards or Committees for consultation or decision rather than take the decision him/herself.
- (iv) When exercising delegated powers officers must always have regard to the financial, legal and human resource implications of the decision. When necessary, advice should be taken.
- (v) Before taking a decision under delegated powers, an officer shall notify the Strategic Director of Pensions of any action which is likely to be contentious or politically sensitive.
- (vi) The Strategic Director of Pensions shall keep the Chair informed of the work of their service area.
- (vii) When exercising delegated powers officers shall consult with staff in another service area if the decision is likely to impact on the work of that service area.
- (viii) When exercising delegated powers an officer shall always have regard to the requirements of the Constitution.
- (ix) Officers may authorise one officer to exercise their delegated powers in their absence except the signatories to financial documents on matters relating to the Fund's banking.
- (x) This scheme does not delegate to an officer any matter which:
  - (a) has been reserved to the Pension Committee
  - (b) has been reserved to any board or committee
  - (c) may not by law be delegated to an officer.

## 3. DELEGATIONS TO THE STRATEGIC DIRECTOR OF PENSIONS

### Delegations to the Director of Pensions

Function	Limits or restriction on delegation
<p><b>West Midlands Pension Fund</b></p> <p>3.1 The administrative management of matters in connection with Wolverhampton City Council's role as administering authority for the West Midlands Pension Fund.</p>	<p>In accordance with the statutory provisions and any determinations of the Pensions Committee.</p>

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|---|--|
| <p>3.2 The investment and general management of the Fund in accordance with the Pensions Committee's investment strategy set out in its policy statement.</p> | <p>In accordance with the statutory provisions and any determinations of the Pensions Committee.</p> |
| <p>3.4 To provide services to the West Midlands Integrated Transport Authority Pension Fund.</p>  | <p>In accordance with the agreement between the Council and the ITA.</p>                             |
| <p>3.5 The general delegations to Strategic Directors as they relate to the Council's role as administering body and to the following</p>                     |  |
| <p>3.5.1 Financial Administration</p>   | <p>In accordance with the Fund's Financial Procedure Rules</p>                                       |
| <p>3.5.2 Contracts and tendering</p>  | <p>In accordance with the Fund's Contract Procedure Rules</p>  |
| <p>3.5.3 Management of Human Resources</p>  | <p>In accordance with the Fund's employee and staffing schedule and only for Fund staff</p>          |
| <p>3.5.4 Day to day administration and operational management</p>   | <p>In accordance with the Constitution and any specific restrictions or limitations imposed.</p>     |
| <p>3.5.5 Management of operational land and premises used for service delivery</p>  | <p>In accordance with the Fund's financial and contract procedure rules</p>                          |
| <p>3.5.6 Compliance with the Health and Safety at Work etc Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.</p>                                   | <p>In accordance with the Council's Health and Safety policies and procedures.</p>                   |
| <p>3.5.7 Compliance with the Council's equal opportunities policy and relevant legislation</p>  | <p>In accordance with the Council's equal opportunities policies and procedures.</p>                 |
| <p>3.5.8 Compliance with the Human Rights Act 1998</p>  |  |
| <p>3.5.9 Compliance with the Data Protection Act and the Freedom of</p>   |  |

Information Act 2000.

3.5.10 To maintain written delegations for employee responsibility for their Business Units.

<INSERT SMT STRUCTURE CHART>

# **PART 4**

## **RULES OF PROCEDURE**

## 4.1: MEETING PROCEDURE RULES

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The Fund adheres to the Standing Orders of Wolverhampton City Council as the Administering Authority and all committees and pension board meetings will be conducted in accordance with these rules so far as they do not conflict with the business and duty of the Fund.

A copy of the Standing Orders are available on the City Council's website.

## 4.2: ACCESS TO INFORMATION PROCEDURE RULES

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### 1. SCOPE

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- 1.1 These rules apply to all formal meetings of the Pension Committees and Local Pension Board (together called “meetings”).

### 2. ADDITIONAL RIGHTS TO INFORMATION

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- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 3. RIGHTS TO ATTEND MEETINGS

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- 3.1 Members of the public may attend all meetings subject to the exceptions in these rules.

### 4. NOTICES OF MEETING

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- 4.1 The Fund will give at least five clear days notice of any meeting by posting details of the meeting at the Council Offices, Wolverhampton (“the designated office”).

### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

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- 5.1 The Fund will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Fund’s website at least five clear days before the meeting except:

5.1.1 Where the meeting is convened at shorter notice, copies of the agenda and report(s) shall be open to inspection from the time the meeting is convened, and

5.1.2 Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any reports for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.

### 6. ITEMS OF BUSINESS

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- 6.1 An item of business may not be considered at a meeting unless either:

6.1.1 A copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened, or



- 6.1.2 By reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2 “Five clear days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3 “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item of report could not have been available for inspection for five clear days before the meeting.

### 7. SUPPLY OF COPIES

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- 7.1 The Fund will in the first instance direct an interested person to the Fund’s website where such information is available, but where copies are required the Fund will supply copies of:
- 7.1.1 any agenda and reports which are open to public inspection;
- 7.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 7.1.3 if the designated officer thinks fit, copies of any other documents supplied to Trustees in connection with an item to any person on payment of a charge for postage and any other costs.

### 8. ACCESS TO MINUTES, ETC AFTER THE MEETING

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- 8.1 The Fund will make available copies of the following for six years after a meeting:
- 8.1.1 The minutes of the meeting or records of decisions taken, together with reasons, for all meetings excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 8.1.2 A summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 8.1.3 The agenda for the meeting; and
- 8.1.4 Reports relating to items when the meeting was open to the public.

## 9. BACKGROUND PAPERS

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### 9.1 List of Background Papers

9.1.1 The Proper Officer will set out in every report a list of those documents (background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report;
- but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### 9.2 Public Inspection of Background Papers

9.2.1 The Fund will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. The documents will also be available on the Council's website.

## 10. SUMMARY OF PUBLIC'S RIGHTS

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10.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Fund Offices Wolverhampton.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

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### 11.1 Confidential Information - Requirement to Exclude the Public

11.1.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 11.2 Exempt Information - Discretion to Exclude the Public

11.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

11.2.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting

will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

## 11.3 Meaning of Confidential Information

11.3.1 Confidential information means information given to the Fund by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 11.4 Meaning of Exempt Information

Exempt information means information falling within any of the following 7 categories as defined by Schedule 12A of the Local Government Act 1972 (as amended).

(The definition of “the authority” has been slightly abbreviated as it relates to committees and subcommittees)

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
1. Information relating to any individual		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual		Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>3. Information relating to the <u>financial</u> or <u>business affairs</u> of any particular person (including <u>the authority</u> holding that information)</p>	<p><u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined</p> <p><u>Financial or business affairs</u> includes contemplated, as well as past or current activities</p> <p><u>Registered</u> in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of the Act)</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be <u>registered</u> under -</p> <p>(a) the Companies Act 1985</p> <p>(b) the Friendly Societies Act 1974</p> <p>(c) the Friendly Society Act 1992</p> <p>(d) the Industrial and Provident Societies Act 1965 to 1978</p> <p>(e) the Building Societies Act 1986</p>
		<p>(f) the Charities Act 1993</p>

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Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any <u>labour relations matter</u> arising between <u>the authority</u> or a Minister of the Crown and <u>employees</u> of, or <u>office holders</u> under, the authority</p>	<p><u>The authority</u> is reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined</p> <p><u>Employee</u> means a person employed under a contract of service</p> <p><u>Labour relations matter</u> means:</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

## WEST MIDLANDS PENSION FUND CONSTITUTION

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
	<p>(applies to trade disputes relating to office holders as well as employees)</p> <p><u>Office holder</u> in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>		<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

## WEST MIDLANDS PENSION FUND CONSTITUTION

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>6. Information which reveals that <u>the authority</u> proposes -</p> <p style="margin-left: 40px;">(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p style="margin-left: 40px;">(b) to make an order or direction under any enactment</p>	<p><u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>		<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>8. Information relating to the personal circumstances of any person</p>		
<p>9. Information which is subject to any obligation of confidentiality</p>		
<p>10. Information which relates in any way to matters concerning national security</p>		

## 12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

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- 12.1** If the Proper Officer (those acting in the capacity of the Monitoring Officer) thinks fit, the Fund may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## 13. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

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### 13.1 Rights of Trustees

- 23.1.1 All Trustees are entitled to inspect any document which is in the possession or under the control of the Pension Committee or Pension Board or any of its groups and contains material relating to any business previously transacted at a public or private meeting. Where the document contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information the Trustees will be required to sign a register kept for the purpose of such requests.

### 13.2 Rights of Pension Board Members

- 13.2.1 Persons appointed to the pensions board have the same right of access to information and documents to be considered as elected members as outlined in the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the The Openness of Local Government Bodies Regulations 2014. Save as all other provisions of these regulations do not apply to the pension board.





## 4.4: CONTRACT PROCEDURE RULES

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<b>Rule</b>	<b>Subject</b>	<b>Page</b>
<b>1:</b>	<b>Introduction</b>	
<b>2:</b>	<b>Value for Money</b>	
<b>3:</b>	<b>Special Circumstances (Waiver and Exemption)</b>	
<b>4:</b>	<b>Framework Agreements</b>	
<b>5:</b>	<b>Types of Contracts</b>	
<b>6:</b>	<b>Contracts to which the Public Procurement Regulations Apply</b>	
<b>7:</b>	<b>Types of Tender</b>	
<b>8:</b>	<b>Submission of Tenders</b>	
<b>9:</b>	<b>Opening and Acceptance of Tenders</b>	
<b>10:</b>	<b>Tender Evaluation and Award of Contracts</b>	
<b>11:</b>	<b>Contract Conditions</b>	
<b>12:</b>	<b>Contract and Performance Management</b>	

## 1. INTRODUCTION

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- 1.1 These Standing Orders are made pursuant to s135 of the Local Government Act 1972.
- 1.2 These Standing Orders set out how the Fund will invite tenders, obtain quotations and award contracts for the supply of supplies, services or works. Their role is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the Administering Authority's policies. They apply equally where payment is expected to be received or where payment is to be made by the Fund.
- 1.3 It shall be the responsibility of the Senior Managers to ensure that staff within his or her Service comply with these Standing Orders.
- 1.4 No contract shall be entered into unless adequate budgetary provision has been made for the award of that contract.
- 1.5 Any officer, whether a direct employee of the Administering Authority or engaged through an external organisation or supplier who is engaged to work on behalf of the Fund shall, if they become aware of any relationship (current or past), whether pecuniary or not, with any supplier or potential supplier, make a Declaration of Interest to the Strategic Director of Pensions at the earliest opportunity.
- 1.6 An officer with an interest in a contract shall take no part in advising on the Fund's dealing with that contract. If the officer is present at a meeting when the contract is discussed, he or she shall forthwith declare that interest and withdraw from the meeting while it is under discussion, unless the chair of the meeting invites him or her to remain.
- 1.7 The Compliance and Risk Manager shall record in a book, to be kept for the purposes of recording any notice given by an officer of the Fund, under 1.6 above and/or Section 117 of the Local Government Act 1972 and the book shall be open during office hours to the inspection of any Trustee of the Fund.
- 1.9 Officers should have regard to the Procurement Toolkit provided by the Administering Authority.
- 2.0 Where these Standing Orders refer to the "Fund" this should be read to mean a function of the Administering Authority. The Fund is not a legal entity and all contracts will be entered into in the name of Wolverhampton City Council as the Administering Authority.
- 2.1 Contracts relating to the investment function of the Fund including investment management contracts do not fall under these Standing Orders and are instead determined by governing legislation.

**2.2** The fund, in compliance with the Local Authority Transparency Code will publish, on the Administering Authority’s website, details of

- all invitations to tender for goods or services with a contract value over £25,000.
- Contract
- commissioned activity
- framework agreement
- legally enforceable agreement exceeding £25,000

## 2. AUTHORITY TO ENTER INTO CONTRACTS

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Pension Committee has delegated to officers the ability to enter into contracts at the following values and limits. The Head of Finance must approve all expenditure before a contract is entered into.

<b>Value</b>	<b>Officer Approval</b>
Up to £25,000	Head of Finance + 1 other SMT
£25,001 – £50,000	Strategic Director + Head of Finance
£50,001 +	Pension Committee

## 3. VALUE FOR MONEY

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### **Initial Considerations**

- 3.1** The Fund is under a duty to ensure that monies are spent in a way that achieves “value for money” for the Fund. Officers involved in procuring supplies, services or works should be mindful of this duty.
- 3.2** When an officer has identified a need to procure new supplies, services or works, they shall first consider these options in turn:

- 3.2.1 any current arrangements in existence in-house (to include in-house at the Administering Authority);
- 3.2.2 any existing contracts entered into by the Fund;
- 3.2.3 any provision available through ESPO; and
- 3.2.4 any provision available through other third party contracts or framework agreements, where they can be shown to offer value for money for the Fund.
- 3.3 Where the officer determines that no provision is available from the above sources, they shall have regard to these Standing Orders in determining which procurement option is the appropriate one to follow.

#### 4. SPECIAL CIRCUMSTANCES (WAIVER EXEMPTION)

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- 4.1 Notwithstanding the provisions of these Standing Orders and subject only to the requirements of statute or regulation:
- 4.1.1 Exemption from any of the provisions of these Standing Orders may be granted by the Chair and Vice Chair of Pension Committee in conjunction with the Strategic Director of Pensions (or where appropriate the Assistant Director), in consultation with the Head of Finance and the Head of Governance, upon it being shown to their satisfaction that there are **special circumstances** justifying such exemption. Such special circumstances shall fall under at least one of the following categories:
- (a) only one supplier is available for technical or artistic reasons;
- (b) extreme urgency exists for unforeseen reasons which are not attributable to the Authority and the various time limits cannot be met.
- 4.1.2 Any request under 4.1.1 above shall be made in writing and be certified by the officers specified in 4.1.1 above.
- 4.1.3 The Pension Committee shall be informed of the exercise of any authority pursuant to this Standing Order by the Strategic Director and any such report will include confirmation that the officers specified in 4.1.1 have been consulted and such exemption granted
- 4.2 If, in exceptional circumstances, authority is sought to waive these Standing Orders, the report to Pension Committee must give adequate reasons and specify precisely the procedures to be waived and must first be approved by the Strategic Director.

#### 5. FRAMEWORK AGREEMENTS

- 5.1 Where it is determined to use a framework agreement to meet the identified need of the Fund, the officer shall seek the advice of the Administering Authority's Procurement Team and Legal Services in relation to the use of such framework and the contractual arrangements.
- 5.2 When calling-off supplies, services or works under a framework agreement, the selection procedure, including award criteria, from within the framework agreement shall be used. Officers must comply with all rules and regulations set out within a framework agreement in relation to direct call-off of contracts and re-opening of competition between providers appointed on to that framework (mini-competition).

## 6. TYPES OF CONTRACTS

### Initial Considerations

- 6.1 In relation to any contract for the supply of supplies, services or works to the Fund the functions described in Section 17(4) of the Local Government Act 1988 shall be exercised without any reference to any of those matters set out in Section 17(5) of that Act. (Section 17.4 describes the functions to which this legislation applies and Section 17.5 details what is regarded as non commercial issues that must be ignored when entering into a contract for the supply of supplies, services or works). This shall at all times be subject to the provisions of 6.2 below.
- 6.2 In relation to any contract for the supply of services not through an existing framework or existing arrangement, the officer shall have regard to the considerations set out in the Public Services (Social Value) Act 2012. Specifically, the officer must consider how the services might (in addition to the service requirement) improve the economic, social and environmental well-being of the region and how the procurement itself might be conducted to secure that improvement.

### Procedures for Determining Which Procurement Option to Follow

- 6.3 When an officer has identified the need to procure supplies, services or works, the relevant Senior Manager shall assess the value of the proposed arrangement.
- 6.4 Whenever possible, purchases should be aggregated to make the best use of purchasing power. Where a recurring pattern of purchases can be identified for similar supplies, services or works, consideration shall be given to whether one or more framework agreements would represent better value in terms of price, service, invoicing or other administrative costs. It is the Senior Manager's responsibility to have due regard to the aggregation of contract values.

## WEST MIDLANDS PENSION FUND CONSTITUTION

- 6.5** The principles of aggregation in EU procurement law are designed to ensure that authorities do not deliberately split contracts which have similar characteristics into separate contracts so that they fall below the relevant thresholds.
- 6.6** Nothing in this rule shall prohibit, where appropriate, the sub-division of procuring supplies, services or works into lots, facilitating access for small and medium enterprises.
- 6.7** When the officer has assessed the value of the proposed arrangement, the appropriate procurement route shall be determined in accordance with the Threshold Table (below).

**Threshold Table**

Contract Value		Process	Award Procedure based on	Contract Opportunity	Documentation
From	To				
£0	£9,999	Verbal Quotation	Minimum of three verbal quotations	Source from preferred supplier solution in first instance	Employee to record details for Audit purposes
Band A (Minor)					
£10K	£34,999	Written Quotation	Minimum of three written quotations	Source from preferred supplier solution in first instance	Must be based on a written specification provided to the supplier.
Band B (Small)					
£35K	£74,999	RFQ (Request for quotation)	Three written quotations based on a RFQ template with simplified T&C's	Source Admin Authority	Must be based on a written specification provided to the supplier.
Band C (Medium)					
£75K	EU	Formal Tender	Full Tender Process	Source Admin authority Specialist publication if appropriate	PQQ & ITT documentation with sealed bids. Should wherever possible be submitted using WCC tendering process
Band D (Large)					
EU	Above	Formal Tender	Full Tender Process	OJEU Source Admin authority Specialist publication if appropriate	PQQ & ITT documentation with sealed bids. Should wherever possible be submitted using WCC tendering process
Band E (EU)					

### **Band A (Minor) Contracts**

- 6.8** For any single contract, not related to or part of any larger procurement, whose value is less than £10,000, three verbal quotations shall be obtained.
- 6.9** Officers shall first obtain three verbal quotations

## 6.10 Where officers are seeking verbal quotations:

- 6.10.1 Senior Managers shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;
- 6.10.2 officers must select the quotation which offers value for money for the Fund. In most Band A (Minor) contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;
- 6.10.3 The Senior Manager shall keep a record for audit purposes, in a form agreed by the Compliance and Risk Manager of:
  - (a) all those contractors that were requested to provide a quotation;
  - (b) the reasons why those particular contractors were selected to provide a quotation;
  - (c) if applicable, the reasons why less than three contractors were selected to provide a quotation; and
  - (d) the reason for selecting the winning quote;
- 6.10.4 in the event that three quotations are not received the Senior Manager can still proceed to award the contract provided that they can demonstrate that it is reasonable to do so and has obtained Strategic Director approval to do the same;
- 6.10.5 notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Fund;

### **Band B (Small) Contracts**

**6.11** For any single contract not related to or part of any larger procurement, whose value is more than £10,000, but less than £25,000, the officer shall produce a written specification for the supplies, services or works being sought and three written quotations shall be obtained.

## 6.12 Where officers are seeking written quotations:



- 6.12.1 Senior Managers shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;
- 6.12.2 officers must select the quotation which offers value for money for the Fund. In most, but not all, Band B (Small) contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;
- 6.12.3 In the event that three quotations are not received the Senior Manager can still proceed to award the contract provided that they can demonstrate that it is reasonable to do so and has obtained Strategic Director approval to the same;
- 6.12.4 The Senior Manager shall keep a record for audit purposes, in a form agreed by the Compliance and Risk Officer of:
- (a) all those contractors that were requested to provide a quotation;
  - (b) the reasons why those particular contractors were selected to provide a quotation;
  - (c) if applicable, the reasons why less than three contractors were selected to provide a quotation; and
  - (d) the reason for selecting the winning quote;
- 6.12.5 Notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Fund.

### **Band C (Medium) Contracts**

- 6.13** For any single contract, not related to or part of any larger procurement, whose value is £25,000 or more, but less than £50,000, the officer shall obtain three written quotations using the relevant form. The Request for Quotation shall be accompanied by a written specification and a set of contract terms, prepared with advice from Legal Services.
- 6.14** Where officers submit a Request for Quotation:
- 6.14.1 the Request for Quotation shall be provided in the format available from the Procurement Toolkit and the Administering Authority's website and shall be open for a minimum of 5 working days or such shorter time as the relevant Senior Manager may determine;

- 6.14.2 Senior Managers shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;
- 6.14.3 officers must select the quote which offers value for money for the authority. In some Band C (Medium) contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;
- 6.14.4 in the event that three quotations are not received the Senior Manager can still proceed to award the contract provided that he/she can demonstrate that it is reasonable to do so and has obtained Strategic Director approval to the same;
- 6.14.5 the Senior Manager shall keep a record for audit purposes, in a form agreed by the Compliance and Risk Manager of:
- (a) all those contractors that were requested to provide a quotation;
  - (b) the reasons why those particular contractors were selected to provide a quotation;
  - (c) if applicable, the reasons why less than three contractors were selected to provide a quotation; and
  - (d) the reason for selecting the winning quote;
- 6.14.6 Notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Fund.

### **Band D (Large) Contracts**

- 6.15** For any single contract, not related to or part of any larger procurement, whose value is £50,000 or more, but below the thresholds set out in the relevant procurement regulations (as amended from time to time), tenders shall be sought in accordance with the procedures under Standing Order 7, below.
- 6.16** The contract opportunity shall be advertised in the format available in the Procurement Toolkit and the Administering Authority's website. Such adverts shall be uploaded by the Procurement Team. Where it is deemed appropriate and proportionate by the officer, the opportunity should also be advertised in relevant specialist publications.

- 6.17** The procuring officer must note that these Standing Orders contain minimum timescales for a procurement exercise and therefore it is imperative that advice is sought from both Legal Services and the Procurement Team well in advance of the commencement of the procurement exercise.
- 6.18** Senior Managers shall be responsible for ensuring that any Band D contracts proposed to be entered into by the Fund in the coming financial year are notified to the Head of Finance by the end of September each year for inclusion in the budget plan.

### **7. CONTRACTS TO WHICH THE PUBLIC PROCUREMENT REGULATIONS APPLY (BAND E – EU)**

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- 7.1** For any contract whose value is more than the amounts set out in the thresholds in the Public procurement regulations (as amended from time to time), tenders shall be sought in accordance with those regulations.
- 7.2** Under the Regulations a contract may be tendered under the open, restricted or negotiated procedure or, in the case of complex procurements, under the competitive dialogue procedure.
- 7.3** The procuring officer must note that the Regulations contain minimum timescales for a procurement exercise and therefore it is imperative that advice is sought from both Legal Services and the Procurement Team of the Administering Authority well in advance of the commencement of the procurement exercise.
- 7.4** The provisions of these Standing Orders shall continue to apply to such a contract only to the extent that they do not conflict with the provisions of the Public Procurement Regulations.

### **8. TYPES OF TENDER**

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#### **Restricted Tendering**

- 8.1** This is a two stage procedure by which a contract is let following publication of an advertisement seeking expressions of interest from tenderers to participate. Following evaluation of the pre-qualifying submissions, no fewer than 5 qualified bidders shall be invited to tender for the contract. This route to the market is particularly suitable where a large response is anticipated.
- 8.2** The advertisement shall:
- 8.2.1 specify details of the supplies, services or works the Fund is procuring;

- 8.2.2 specify the contract duration and proposed commencement date;
- 8.2.3 invite persons or bodies to contact a specific officer to request a Pre-Qualification Questionnaire;
- 8.2.4 specify a contact reference number;
- 8.2.5 specify a time limit, being not less than 30 days from the date of the advertisement within which such expressions of interest are to be received by the Fund.

### **8.3** In relation to construction works or services only:

- 8.3.1 in the event that 5 bidders cannot be selected the Senior Manager can still proceed to invite between 3 and 5 bidders provided that they can demonstrate that it is reasonable to do so and has obtained Strategic Director approval to do the same;
- 8.3.2 in the event that less than 3 bidders can be selected, an advertisement shall be placed in accordance with 8.2 (above).

### **8.4** After the expiry of the period specified in the advertisement and following proper evaluation of the returned Pre-Qualification Questionnaires, in accordance with the criteria specified, invitations to tender for the contract shall be sent to:

- 8.4.1 not less than 5 of the persons or bodies who returned a satisfactorily completed PQQ and has been shortlisted, selected by the Fund; or
- 8.4.2 where fewer than 5 persons or bodies have applied or have satisfactorily completed the PQQ, those persons or bodies which the Fund consider suitable.

### **Open Tendering**

### **8.5** This is a procedure by which a contract is let following publication of an advertisement inviting all those expressing an interest in the contract to submit a bid at the same time. This route to the market is not recommended where a large response is anticipated. This is a one stage procedure.

### **8.6** The advertisement shall:

- 8.6.1 specify details of the supplies, services or works the Fund is procuring;
- 8.6.2 specify the contract duration and proposed commencement date;
- 8.6.3 invite persons or bodies to contact a specific officer to request an Invitation to Tender;

8.6.4 specify a contract reference number;

8.6.5 specify a date and time, being not less than 52 days from the date of the advertisement, by which such expressions of interest are to be received by the Fund; and

## **Competitive Dialogue**

**8.7** This procedure is available for procurements in which the Fund is unable to define the financial, legal or technical elements of the project. This, like the restricted procedure, requires a pre-qualification stage, carried out with a call for competition. This is the most complex route to the market and will only be used in the most exceptional of cases and with the written consent of the Strategic Director in consultation with the Head of Legal Services.

## **9. SUBMISSION OF TENDERS**

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### **Submission of Tenders for Band D (Large) Contracts**

**9.1** Where in pursuance of these Standing Orders invitation to tender is made, every invitation shall state:

91.1 if the tender process is being conducted electronically via the Administering Authority's e-tendering solution, the process for registering and submitting tenders and the signed Form of Tender; or

9.1.2 if the tender is to be submitted by hard copy, that no tender will be considered unless it is enclosed in a plain sealed envelope which shall bear the word "Tender" - followed by the contract to which it relates but shall bear no other name or mark indicating the sender.

**9.2** The tenders shall be returned to the relevant Senior Manager or such other officer of the Fund as may be nominated by that Senior Manager and shall be kept by him or her in a secure place until the time and date specified for their opening.

**9.3** No tender received after the time and date specified in the invitation shall be considered under any circumstances.

**9.4** Every invitation to tender shall state:

9.4.1 that the Authority is not bound to accept any tender, including the lowest;

9.4.2 the tender evaluation criteria, with full explanation;

- 9.4.3 a statement that the Authority will be obliged to comply with the Freedom of Information regime;
- 9.4.4 closing date and time for receipt of tenders and the name and postal address or the web address to which tenders should be sent; and
- 9.4.5 a requirement that the tenderers accept full responsibility for ensuring compliance with the terms of these Standing Orders and that any failure to do so may render that tender liable to disqualification.

### **Evaluation Criteria**

**9.5** Evaluation criteria must be designed to secure an outcome providing value for money for the Authority. The basic criterion shall be one of:

- 9.5.1 Lowest price – where payment is to be made by the Fund;
- 9.5.2 Highest price – where payment is to be received by the Fund;
- 9.5.3 Most Economically Advantageous Tender – where considerations other than just price apply. If relying on this criterion, appropriate sub-criteria must also be included referring to relevant considerations and guidance should be given to tenderers on how their responses will be scored. Further advice can be provided by the Administering Authority's Procurement Team.

**9.6** Evaluation criteria must not include:

- 9.6.1 Non-commercial considerations, save as expressly set out in these Standing Orders;
- 9.6.2 Matters which discriminate against suppliers from the European Economic Area;
- 9.6.3 A general provision allowing for the highest mark to be awarded for tenders which exceed the specification.

**9.7** Within every invitation to tender there shall be reference made to the requirements on public bodies with regard to the Freedom of Information Act 2000. Such a reference shall include notice to the tenderer that:

- 9.7.1 the Fund has a duty of 'openness' under the act;
- 9.7.2 it is the Fund and not the tenderer who makes the decision on the release of information within a tender;
- 9.7.3 any claim by the tenderer that information within a tender is exempt under the act will be considered by the Fund. However, a simple

assertion that any disclosure would prejudice commercial interests is not sufficient. The assertion must be supported by reasoned argument and where practical, by empirical evidence; any decision to treat all or some information within a tender as exempt may be reviewed if any further requests are received over time;

9.7.4 the Fund will consult with them before making any disclosure;

9.7.5 the Fund has a system for dealing with any appeals under the act.

### **Submission of Tenders for Band E (EU) Contracts**

**9.8** Tendering processes shall comply with the procedures described above, together with further requirements in compliance with the Public Contracts Regulations. In the event of a conflict between these Standing Orders and the Public Contracts Regulations, the latter shall take precedence.

**9.9** Senior Managers shall be responsible for ensuring that any Band E contracts proposed to be entered into by the Fund in the coming financial year are notified to the Head of Finance by the end of September each year for inclusion in the budget plan.

**9.10** The EU procurement regime requires a standstill (or Alcatel) period of a minimum of 10 days from the date on which the outcome of the tender is notified to all the bidders. Should a challenge from an unsuccessful bidder be received during this period, the award of the contract shall be delayed until the challenge is resolved. If no challenge is received within the standstill period, the contract may be awarded in accordance with the Constitution.

**9.11** An award notice must be placed in the Official Journal of the European Union within 48 days of contract award. The award notice must be approved by the Procurement Team. In addition, information as to the contract's award and value must be published on the contracts register which is published quarterly by the Fund in compliance with the Local Government Transparency Code.

## **10. OPENING AND ACCEPTANCE OF TENDERS**

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**10.1** This Rule shall apply to Band D (Large) and Band E (EU) contracts

**10.2** Tenders received under these Standing Orders shall be opened at one time and only in the presence of:

10.2.1 the Strategic Director of Pensions or duly appointed representative;

10.2.2 the Head of Finance or duly appointed representative; and

- 10.2.3 the appropriate Senior Manager or duly appointed representative.
- 10.3** Provided that no Senior Manager or any member of his or her staff shall be present if a tender has been submitted in his name.
- 10.4** All tenders received shall be recorded and all officers present shall sign the tender book, maintained by the Compliance and Risk Manager.
- 10.5** A register of all tenders accepted shall be kept and maintained by the Compliance and Risk Manager. Such register shall for each contract specify the name of the contractor, the works to be executed, the services to be supplied or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the fund during normal office hours.
- 10.6** Tenderers shall be notified of the acceptance or rejection of their tenders.

### **11. TENDER EVALUATION AND AWARD OF CONTRACTS**

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- 11.1** All tenders shall be properly evaluated by the Strategic Director or nominated officer in accordance with the published award criteria and in accordance with any specific requirements of any relevant EU Directive or English legislation. A member of the Procurement Team shall be invited to participate in the evaluation process.
- 11.2** Any tenderer whose tender is found to contain a qualification which will give that tenderer an unfair advantage over other tenderers will be asked either to withdraw the qualification or withdraw the tender.
- 11.3** A tenderer's error in the computation of the pricing of their tender will be corrected and the tenderer asked by the Strategic Director to stand by the corrected tender or to withdraw the tender.
- 11.4** Post tender negotiations shall only be by exception and in accordance with Public Procurement Regulations. Authorisation to enter into post tender negotiations may only be granted by the Monitoring Officer and the Strategic Director of Pensions. Officers who are authorised to carry out post-tender negotiations shall ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 11.5** Where award is based on lowest or highest price, a tender other than the lowest tender if payment is to be made by the Fund or the highest tender if payment is to be received by the Fund shall not be accepted except where there are justifiable reasons for doing so, for instance:
- 11.5.1 the procurement of a named product required to be compatible with an existing product, i.e. computer software;



11.5.2 an alternative pre-tender evaluation criteria has been determined;

in such circumstances the Head of Legal Services shall be consulted and written confirmation of their agreement retained for audit purposes.

**11.6** If the Director considers the lowest priced tender, highest priced tender or most economically advantageous tender (as appropriate) to be abnormal given the nature of the contract, the tenderer shall be asked to clarify in writing the reasons for its tender and the Fund shall take that explanation into account in deciding which tender will be accepted.

**11.7** Contracts shall be awarded by:

11.7.1 Pension Committee and/or

11.7.2 officers (in accordance with the general delegations to be discharged by the Senior Manager and Strategic Director

**11.8** All contract awards shall be notified promptly to the Administering Authority's Procurement Team and the Fund's Compliance and Risk Manager.

## 12. CONTRACT CONDITIONS

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**12.1** Every procurement shall be a formal contract in writing. The procuring officer should seek the advice of Legal Services at the earliest opportunity in this regard. No contract shall be entered into without the prior approval of the Strategic Director of Pensions or their nominated officer.

**12.2** Such contract shall, unless the Strategic Director of Pensions deems it disproportionate,

12.2.1 specify the supplies, services or works to be supplied or executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties or specified in these Standing Orders;

12.2.2 where a contract exceeds £200,000 and the Head of Finance deems appropriate, contain a requirement that a contractor give sufficient security for the due performance of the contract provided that this shall not apply where the goods and materials are supplied and payment is not made until completion of works;

12.2.3 include provisions for the termination and recovery of any sums paid where there has been evidence of bribery or corruption or any

breach of the Bribery Act 2010 or section 117(2) Local Government Act 1972;

- 12.2.4 include provisions entitling the Fund to terminate part or all of the contract or to obtain substituted provision of the supplies, services or works to be supplied under the contract in the event of a breach of contract by or the insolvency of the contractor;
- 12.2.5 include prohibitions on the contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Fund and providing that the contractor shall remain liable to the Fund for any part of the contract that may be sub-contracted;
- 12.2.6 include provisions securing the contractor's compliance with relevant legislative requirements, including as a minimum in relation to:
  - (a) Health and Safety;
  - (b) Human Rights;
  - (c) Freedom of Information;
  - (d) Data Protection;
  - (e) Workforce transfer regulations;
  - (f) Bribery and corruption; and
  - (g) Equalities and discrimination.
- 12.2.7 provide for indemnities in favour of the Fund for any breach of the above and for the acts and omissions of the contractor in carrying out the contract;
- 12.2.8 provide for compliance with those of the Fund's policies relevant to the provision of the supplies, services or works;
- 12.2.9 provide for the protection of the Fund's intellectual property rights, where appropriate;
- 12.2.10 provide for, where the supplies, services or works require it, appropriate restrictions or conditions precedent in relation to the protection of vulnerable persons, including requiring Criminal Records Bureau checks;
- 12.2.11 provide for the Fund's right to monitor and audit the supplies, services or works under the contract and for the contractor's provision of assistance in such monitoring and in securing improvements in economy, efficiency and effectiveness, as specified in Section 3 of the Local Government Act 1999. Such assistance may include setting performance indicators, benchmarking implementing performance plans and/or periodically reviewing the services;

- 12.2.12 provide for adequate confidentiality and data protection provisions;
- 12.2.13 be governed by the laws of England and subject to the exclusive jurisdiction of the Courts of England;
- 12.2.14 comply with the laws of England and any applicable EU legislation or regulation.
- 12.3** Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standard Specification or Code of Practice.
- 12.4** Every contract for the supply of goods or services which exceeds £250,000 shall be in writing and under the Common Seal of the Authority.
- 12.5** Where a contract exceeds £50,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified, where the appropriate Head of Service considers appropriate.
- 12.6** The provisions of these Standing Orders do not prevent the use of a formal contract for a procurement less than £25,000 where the appropriate Senior Manager considers it appropriate.
- 12.7** It shall be a condition of any agreement between the Fund and any person (not being an officer of the Fund) who is required to supervise a contract between the Fund and a third party on the Fund behalf that, in relation to such contract, he/she shall comply with the requirements of these Standing Orders as if he/she were an officer of the Fund.
- 12.8** In all areas of tendering, negotiating, letting or renewing, performing, reviewing, amending, discharging or terminating any contract to which the Fund is either a party or of which it is a beneficiary, regard shall be had to the requirements of economy, efficiency and effectiveness specified in Section 3 of the Local Government Act 1999.
- 12.9** Ensure compliance with Risk Management Guidelines on insurance levels and require such insurances as the relevant Senior Manager determines appropriate in consultation with the Head of Finance.
- 12.10** Where a main contractor indicates in their tender submission the use of sub-contractors, the officer will ensure that:
- 12.10.1 the main contractor verifies they have vetted the sub-contractor to ensure that they meet the standards in all areas that the main contractor has undertaken to meet in their submission;

12.10.2 the insurance levels of the sub-contractor meet the levels required in the tender document;

12.10.3 the supplies, services or works they have been sub-contracted by the main contractor to provide, remains the responsibility of the main contractor.

**12.11** Where a framework agreement is used to meet the Fund's need for supplies, services or works, this Standing Order shall only apply to the extent that the framework's call-off terms do not include these provisions and the framework agreement does not provide for a variation to such terms.

### **13. CONTRACT AND PERFORMANCE MANAGEMENT**

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**13.1** Contract management arrangements shall be set out in any invitation to tender and incorporated into any subsequent contract.

**13.2** A named contract manager shall be appointed for each Band C, D and E contract.

**13.3** The Pension Committee may agree the variation or novation of any contract originally awarded by the Strategic Director. The variation or novation of a contract originally awarded by the Pension Committee shall only be agreed by the Pension Committee.

**13.4** No contract entered into by the Authority may be extended by duration or value unless:

13.4.1 where the contract is a Band E contract, such extension was provided for in the original OJEU notice and contract documentation;

13.4.2 where the contract is a Band D contract or of lesser value, such extension would not mean that, had it been included in the original contract, the overall value would have exceeded the EU threshold; and

13.4.3 alternative options have been considered and the relevant Senior Manager is satisfied that this option represents value for money and is in the best interests of the Fund in light of the contractor's performance.

**13.5** All extensions to Band D and Band E contracts shall be promptly notified to the Procurement Team of the Administering Authority.

**13.6** A contract is a live document. Contract managers and officers shall have regard to the provisions of the contract in observing and monitoring performance of the contract, handling disputes and terminating a contract. Where officers are unclear of the provisions or operation of a contract they should promptly seek advice from Legal Services.

## 4.5 FINANCIAL PROCEDURE RULES (FINANCIAL REGULATIONS)

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### 1. Status of the financial procedure rules

- 1.1. The financial procedure rules apply to all business carried out by or on behalf of West Midlands Pension Fund, whether by councillors, employees, members of the Pensions Committee (including its sub-committees) and Pensions Board, or third parties. They complement the financial procedure rules of the administering authority, City of Wolverhampton Council ('the council').
- 1.2. Failure to comply with the financial procedure rules may lead to disciplinary action in the case of employees, or investigation by the Monitoring Officer and/or the Standards Committee in the case of councillors.
- 1.3. It is the responsibility of managers to ensure that all employees reporting to them, directly or indirectly, are aware of and comply with the financial procedure rules.
- 1.4. Managers must notify the Strategic Director of Pensions or the Head of Finance of any failures to comply with the financial procedure rules as soon as they become aware of them.
- 1.5. Over and above complying with these rules, employees and councillors are expected at all times to demonstrate prudence and good stewardship of the Fund's resources, and to act in the best interests of the Fund.
- 1.6. In particular, employees should always give consideration to the impact of any proposed actions (including decisions about staffing) on the cost per scheme member, which is a critical financial measure for the Fund.
- 1.7. Employees should contact the Head of Finance for advice if they are unclear about any part of these rules.

### 2. Budget and medium term financial plan

- 2.1. The budget for the Fund's net operating expenses shall be determined on an annual basis, and approved by Pensions Committee no later than 31 March of the preceding financial year.
- 2.2. No expenditure shall be incurred unless that expenditure is provided for in the approved budget.

- 2.3. The Fund's operating expenses will be recharged by the City of Wolverhampton Council directly to the Fund.
- 2.4. Fees payable to external managers of the Fund's investment assets are subject to change with unpredictable movements in the market value of those assets, as a result of which it is difficult to make an accurate estimate of the total cost for budgeting purposes. In respect of these, the normal requirement to remain within the approved budget does not therefore apply, and instead the responsible employees are required to ensure that charges are justifiable in the context of returns, and with reference to other potential means of managing those assets, and should actively pursue all opportunities to reduce charges.
- 2.5. The Head of Finance is responsible for approving transfers of budget during the financial year, so long as such transfers do not cause the total approved budget to be exceeded, and do not represent a significant change to the plans approved by Pensions Committee. Any such transfers will be reported to the Pensions Committee at the next opportunity.
- 2.6. Any proposed actions that would require an increase in the total approved budget (subject to paragraph 2.4) require the approval of Pensions Committee.
- 2.7. The Pensions Committee is responsible for approving the Fund's medium term financial plan. This will be prepared by the Head of Finance and will include financial forecasts in respect of all of the Fund's activities, for a span of no less than five future years.

### **3. Budget managers**

- 3.1. The Strategic Director of Pensions is responsible for designating budget managers.
- 3.2. Budget managers are responsible for incurring expenditure within the approved budget, and for generating any income included in the approved budget.

### **4. Budget monitoring**

- 4.1. The Head of Finance is responsible for preparing regular budget monitoring reports, which will include forecast outturn for the year, with reference to the approved budget, and explanations of any significant variances from budget. These reports will be provided monthly to Senior Management Team, and quarterly to Pensions Committee.

- 4.2. If a budget manager forecasts an unavoidable over spend, or that the Fund has a liability which is not provided for in the approved budget or a relevant provision, they must notify the Strategic Director of Pensions and the Head of Finance of this at the earliest opportunity.
- 4.3. If the Strategic Director of Pensions considers that the consequences of such an over spend or liability are material to the finances of the Fund, he/she shall submit a report to the Pensions Committee.

### **5. Annual Report**

- 5.1. The City of Wolverhampton's Audit Committee is responsible for approving the Fund's statement of accounts.
- 5.2. The Pensions Committee is responsible for approving the Fund's annual report.
- 5.3. The City of Wolverhampton's Section 151 Officer is responsible for certifying the Fund's statement of accounts.
- 5.4. The Head of Finance is responsible for preparing the Fund's annual report, including its statement of accounts.
- 5.5. The Head of Finance shall submit a report to Pensions Committee seeking approval of the annual report no later than the statutory deadline for approval of the annual report. A report shall be submitted for each of the draft and audited annual reports.
- 5.6. The Head of Finance shall submit a report to Pensions Committee on the outturn position with regard to operating budgets. This will include explanations of any significant variances from the budget.

### **6. Accounting**

- 6.1. The Head of Finance shall determine the Fund's accounting policies and, where appropriate, estimation techniques.
- 6.2. The Head of Finance shall ensure that the Fund complies with relevant tax legislation, in conjunction with the council's accounting function.
- 6.3. The Head of Finance will designate the software package(s) that shall be the Fund's definitive accounting record. This will record all of the following:

expenditure and income, commitments, forecast expenditure, the approved budget, balances and cash flows.

- 6.4. No other accounting records shall be created or maintained, except with the approval of the Head of Finance.
- 6.5. Any employee entering data in the definitive accounting record shall be responsible for ensuring the accuracy of that data, including the correct coding.
- 6.6. All accounting records shall be retained in line with the current corporate policy and guidance for document retention, or longer if so determined by the Head of Finance.
- 6.7. The Head of Finance shall be responsible for ensuring that access to accounting systems are controlled and restricted appropriately.

## **7. Leasing arrangements**

- 7.1. Except for those entered into as an investment activity, leasing arrangements require the prior approval of the Head of Finance.
- 7.2. The financial limits in the procurement procedures for approving and reporting on contracts apply to the approval and reporting of leasing arrangements.

## **8. Treasury management**

- 8.1. All investments of money under the Fund's control and borrowings on the Fund's behalf shall be made in the name of the council or the name of nominees approved by Pensions Committee as appropriate.
- 8.2. The Head of Finance shall maintain records of all cash investments and borrowings made by the Fund.

## **9. Financial implications in committee reports**

- 9.1. All reports to Pensions Committee, any sub-committees of Pensions Committee and Pensions Board shall include a statement with reference to the financial implications of the recommendations made by those reports.
- 9.2. A recommendation shall be deemed to have financial implications if, when pursued to a reasonable and logical conclusion, that recommendation could be expected to result in one or more of the Fund's income, expenditure, assets,



liabilities or reserves being higher or lower than if that recommendation were not pursued; or if that recommendation creates, or significantly increases, a risk to the financial resources of the Fund.

### **10. Write-offs of irrecoverable debt**

10.1. All write-offs shall be approved by the Head of Finance, in conjunction with the Head of Pensions Administration where appropriate, and reported to the Pensions Committee.

### **11. Audit**

11.1. The Strategic Director of Pensions shall be responsible for making appropriate arrangements for internal audit of the Fund.

11.2. For audit purposes, the lead internal auditor, the Section 151 Officer, or their authorised representative, shall be entitled, without prior notice, to receive:

- (a) access to any records (both computer and manual), documents and correspondence relating to any financial or other relevant transactions, including documents of a confidential nature.
- (b) access at all times to any Fund premises or land. Where land or premises are in the control of a contractor such access shall be in accordance with the contract;
- (c) the production or identification by any employee of any cash, stores, or other property belonging to the Fund, under the employee's control;
- (d) explanations concerning any matter under examination.

11.3. Wherever any matter arises which involves actual or potential financial irregularities, misappropriations or indications of corruption, the Fund's compliance team and/or the lead internal auditor should be notified immediately and he/she shall take such action as he/she considers necessary by way of investigation, report and referral to the Police. Compliance team and/or lead internal auditor shall, where necessary, consult with the Monitoring Officer concerning referral to the Police and notify the Managing Director and the Fund's external auditor in significant cases of fraud or corruption.

### **12. Orders and Payment of Accounts**

12.1. Purchase orders shall be in a form agreed by the Head of Finance, and issued through the Fund's computerised purchasing system wherever possible.

- 12.2. Where it is not possible to raise a purchase order, suitable documentary evidence must be generated and retained to justify subsequent payments.
- 12.3. Purchase orders must only be issued where there is provision for the expenditure in the approved budget, and the procurement procedures have been fully observed.
- 12.4. Payment of accounts will be approved by the Head of Finance or his/her delegate.
- 12.5. Payment of accounts will be made by electronic bank transfer wherever possible, or if not possible, by cheque. Payment of accounts by cash is specifically prohibited.

### **13. Salaries and Expenses**

- 13.1. The arrangements for payment of salaries and expenses shall be made in line with the council's financial procedure rules.
- 13.2. Managers are responsible for ensuring that the council's payroll function is provided with accurate information to enable the calculation of salaries, other related payments and deductions from salaries, and that the council's policies in respect of these are followed.
- 13.3. Payment of expenses will be by electronic transfer, or if this is not possible, by cheque. Payment of expenses by cash is specifically prohibited.
- 13.4. The Head of Governance, in conjunction with the Head of Finance, will maintain the Fund's staffing establishment, which will be the definitive list of approved posts, and which will be reconciled to the approved budget.
- 13.5. Before committing to any expenditure on salaries or expenses, including payments for any agency staff, managers must ensure that there is provision in the approved budget, and that the post in question is included within the Fund's staffing establishment.

### **14. Banking Arrangements**

- 14.1. Banking arrangements will be approved by the Head of Finance and the Strategic Director of Pensions.

- 14.2. All supplies of banking stationery will be approved by the Head of Finance, who will make appropriate arrangements for the custody and record-keeping in relation to such stationery.
- 14.3. Cheques drawn on the Fund's bank accounts will bear the facsimile signature of the council's Section 151 Officer. Any cheques for amounts in excess of £20,000 require a second signature, which may be provided by the Strategic Director of Pensions, or an Assistant Director of the Fund.
- 14.4. The Head of Finance is responsible for maintaining a list of authorised signatories for the Fund's bank accounts.

### **15. Cash**

- 15.1. Petty cash balances will not routinely be held. Any cash belonging to the Fund in the custody of an employee will be deposited with the Head of Governance, who will make arrangements for the safekeeping of such cash.
- 15.2. All employees receiving cash on behalf of the Fund must ensure that they comply with the council's Anti-Money Laundering Policy and Procedures.
- 15.3. All individual cash payments receipted by the Fund, in excess of the limit specified in the Anti-Money Laundering Policy, shall be reported to the council's Money Laundering Reporting Officer.
- 15.4. Foreign currency cash should only be obtained for the purposes of making payments to suppliers in limited circumstances, and should be banked, and converted back to sterling, at the earliest opportunity.

### **16. Income**

- 16.1. The Head of Finance is responsible for the arrangements for the receipt and allocation of income to the Fund, including the prompt raising of invoices and subsequent monitoring of outstanding balances.
- 16.2. Invoices shall be raised through the Fund's computerised debt management system, and will be in a format approved by the Head of Finance.
- 16.3. Any cash received on behalf of the Fund must be paid into the Fund's bank account as soon as possible, and until such time deposited with the Head of Governance.

16.4. The Head of Finance will determine the payment terms for invoices, in conjunction with the Head of Governance or Pensions Administration where relevant.

16.5. The Monitoring Officer will determine whether legal action should be taken with regard to an outstanding debt.

### **17. Stocks**

17.1. Employees in control of physical assets held on behalf of the Fund for operational purposes, shall make the appropriate arrangements for the safekeeping and recording of such assets, and shall provide the Head of Finance with such information as is required for accounting purposes.

### **18. Insurances**

18.1. Insurance cover shall be arranged by the council in accordance with the council's financial procedure rules, and employees will comply with those rules and any other requirements made by the Section 151 Officer with regard to insurance.

## 4.6: OFFICER EMPLOYMENT PROCEDURE RULES

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Officers of the West Midlands Pension Fund are employed by Wolverhampton City Council and are subject to the City Council's officer employment rules which are available for inspection in the Wolverhampton City Council Constitution.

# **PART 5**

## **CODES AND PROTOCOLS**

**5.1: Code of Conduct of the West Midlands Pension Fund  
Local Pension Board**

**5.2: Protocol on Member/Officer Relations**

**5.3: Employees' Code of Conduct**

**5.4: Compliance and Assurance Framework**

**5.5: Procedure and Resolution of Complaints/IDRP**

**5.6: Outline Roles and Responsibilities for Trustee and  
Pension Board Members**

## 5.1 CODE OF CONDUCT OF THE WEST MIDLANDS PENSION FUND LOCAL PENSION BOARD

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This code applies to all persons nominated to the Pension Committee (including its sub committees) and the Pension Board (together Committees) in consideration of the principles set out in the Public Service Pensions Act 2013 and the Codes of Practice issued by the Pensions Regulator.

The Code of Conduct is intended to promote high standards of behaviour amongst those appointed to the Committees and is underpinned by the seven principles of public life adopted by the Administering Authority for its own elected members. These should be borne in mind when interpreting the meaning of the Code.

- (i) **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- (ii) **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- (iii) **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- (iv) **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- (v) **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (vi) **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (vii) **Leadership** Holders of public office should promote and support these principles by leadership and example.

## PART ONE

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### 1.0 GENERAL PROVISIONS

- 1.1 This Code applies to you as a person appointed to the Committees of the West Midlands Pension Fund (The Fund).



1.2 It is your responsibility to comply with the provisions of the Code and ensure all obligations are met.

1.3 In this Code “**Meeting**” means any meeting of any of the Committees within the Fund, any external meeting at which you are a representative of the Fund and any meeting where your behaviour may be perceived as a reflection on the Fund.

## 2.0 SCOPE

2.1 You must comply with this Code whenever you are conducting the business of the Fund or acting in the capacity of a person appointed to a Committee of the Fund.

## 3.0 RESPECT

3.1 **You must treat others with respect.**

It is the collective responsibility of all persons appointed to the Committees of the Fund to create a fair, safe and enjoyable environment for Members, Employers and Officers which is free from discrimination, intimidation and abuse.

3.2 **You must not:**

3.2.1 do anything which may cause the Fund to breach the Equality Act 2010;

3.2.1 bully any person;

3.2.3 intimidate or attempt to intimidate any person

3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Fund.

## 4. Confidentiality

4.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

4.1.1 you have the consent of a person authorised to give it;

4.1.2 you are required by law to do so;

4.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

4.1.4 the disclosure is:

- (aa) reasonable and in the public interest; and
- (bb) made in good faith and in compliance with the reasonable requirements of the Authority.

***Any assessment as to (aa) or (bb) above shall be conducted with the Director of Pensions and no decision as to the release of information under these two provision shall be taken until the Director of Pensions has given her agreement to its release.***

4.2 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **5. You must not**

5.1 Conduct yourself in a manner which could reasonably be regarded as bringing the Fund into disrepute.

5.2 Place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

5.3 Use or attempt to use your position as a person appointed to improperly confer on, or secure for yourself or any other person, an advantage or disadvantage including providing or offering to provide information as to the Fund's business/transactions or investment or a reference for any candidate for employment or promotion.

5.4 Use or allow to be used Fund resources improperly for political purposes (including party political purposes) and act in accordance with the Fund's reasonable requirements.

## **6. You must**

6.1 When reaching decisions on any matter have regard to any relevant advice provided to you by:

6.1.1 Officers of the Fund

6.1.2 Officers of the Administering Authority,

(where that officer is acting pursuant to his or her statutory duties).

6.1.3 The Pension Board or other Committees within the fund

6.1.4 Any third party appointed by the Fund to provide specialist advice

- 6.2 Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.
- 6.3 Make all choices, such as making appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit.
- 6.4 Make all decisions in relations to investments and the financial management of the Fund objectively, in a fair business-like manner with reasonable care skill and caution and with reasonable alert to the interest of members of the Fund.
- 6.4 Be as open as possible about your decisions and actions and the decisions and actions of the Fund and should be prepared to give reasons for those decisions and actions, notwithstanding your other obligations under this Code.

### **7. Accountability**

- 7.1 You are accountable to the members for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your appointment.

## **PART TWO – CONFLICTS OF INTERESTS**

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Under Section 5 of the Act the Scheme Manager must be satisfied that persons appointed to the Pensions Board do not have a conflict of interest in matters to be considered.

The Pensions Committee as Scheme Manager has taken this one step further and requires all persons appointed to any committee of the Fund to declare any interest which amounts to a conflict of interest in a matter to be discussed.

The responsibility for ensuring this compliance has been delegated to the Head of Governance.

### **8.0 Declaring Interests**

- 8.1 Subject to paragraph 8.6 (sensitive interests) you must within 28 days of
- (i) this code being adopted or
  - (ii) your appointment to a Committee (where that is later) or
  - (iii) an interest becoming known to you
- notify the Fund's Head of Governance of any matter which may, during the course of your appointment, cause or create a conflict of interest.
- 8.2 Interests which may constitute a conflict include interests of yours, your spouse, a family member or close associate and are usually financial interests, business interests or personal interests which may create bias.

- 8.3 Where such an interest exists and you have not previously notified the Head of Governance, you are required to announce it at the meeting where the conflict arises.
- 8.4 The Head of Governance will retain an interests register.
- 8.5 Where you have an interest which may give rise to a conflict you must not remain in the meeting or participate in the discussions on the matter on which you hold that interest.
- 8.6 Sensitive interests are interests which, if disclosed, could lead to the person appointed being subject to violence or intimidation. Sensitive interests will never be made public and the person appointed is not required to declare the nature of the interest at a public meeting but merely that the interest exists and could give rise to a conflict.

### GUIDANCE ON THE CODE OF CONDUCT

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In accepting these Obligations you are committed to behaving in a manner that aims to achieve best value for our members and maintain public confidence in this Fund by the character and behaviour you present while acting in the course of your public duty.

To assist the West Midlands Pension Fund has produced a Guidance note on the Code of Conduct, a copy of which can be obtained from the fund's website. Further guidance can be sought from the Fund's Head of Governance.

## 5.2: PROTOCOL ON TRUSTEE/PENSION BOARD MEMBER/OFFICER RELATIONS

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### 1. INTRODUCTION

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1.1 The purpose of this document is to provide a guide to good working relationships between officers, Trustees and Pension Board Members of the Fund.

### 2. THE RESPECTIVE ROLES

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2.1 Trustees are elected to make decisions in the interests of the Fund and to represent its members.

2.2 Officers are employed by and serve the whole Fund. They advise the Fund, its Committee and Sub-committee and the Pension Board. They implement decisions of the Committee, the Pension Board and decision making groups. Officers also make decisions under powers delegated to them.

2.3 Officers are responsible to their line manager and, ultimately their Senior Manager. Senior Managers and the Strategic Director of Pensions are accountable to the Managing Director of the Administering Authority. The Managing Director is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including the Managing Director, as the Head of Paid Service. Other officers also hold statutory posts such as Section 151 Officer under the Local Government Act 1972 for financial legality and the Monitoring Officer who is responsible for overseeing the conduct of councillors and the legality of decisions made by the Committee.

2.4 The Senior Managers and Team Managers have responsibility for delivering their respective services in accordance with the Fund's Policies and the provisions of the Fund's Constitution.

### 3. OFFICERS' ADVICE AND POLITICAL NEUTRALITY

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3.1 Officer advice and support will be provided to:

Committee Meetings;

Meetings of the Committee and any Sub-committee established by it

Pension Board Members

Meetings of Task Groups/Working Parties, etc;

Groups;

Trustees of the Fund on Fund business.

- 3.2** Officers will also provide advice and assistance to individual members in respect of Fund Business, including issues raised by members, where appropriate.
- 3.3** Trustees and Pension Board Members should not discuss matters relating to staffing, establishment or the organisational structure of the Fund or its operational services, with officers other than Senior Managers or the Strategic Director. Officers must not discuss with or advise Trustees on such matters.
- 3.4** Officers must not be requested to advise upon matters of political party business or private matters.
- 3.5** All officers must treat political Groups and individual Trustees in a fair and even-handed manner. Officers must maintain political neutrality and Trustees must respect this.

## **4. OFFICERS' ADVICE ON DECLARATIONS OF INTEREST**

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- 4.1** All Pension Board members are required to abide by the Code of Conduct, which sets out standards governing their conduct. The Head of Governance will provide advice and information to members on declarations of interest. However, only the member concerned will know the nature and extent of any interest they may have. It is the member's responsibility, therefore, to decide whether any interest should be declared and whether the interest is one arising to a conflict of interest. Members are normally expected to seek advice prior to a meeting. Raising such issues for the first time at a board meeting or public meeting can place officers in a difficult position, and does not reflect well on the Fund. Officers must, when requested to do so, respect members' confidentiality when providing advice on declarations of interest but may otherwise draw to a member's attention the need to declare a known interest.

## **5. PERSONAL RELATIONSHIPS**

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- 5.1** Close personal familiarity between individual trustees/pension boardmembers and officers can damage working relationships and prove embarrassing to the Fund. There is the danger of favouritism being shown. There may be a risk that confidential information will be passed to an outside party.

- 5.2** For these reasons, such personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.

A trustee/pension board member must declare to the Head of Governance and his/her respective any relationship with an officer that might be seen as influencing his/her work for the Fund. This includes a family or close personal relationship. Similarly, the officer concerned should notify his/her Senior Manager and the Strategic Director as appropriate.

### **6. APPOINTMENT OF OFFICERS**

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- 6.1** The Constitution of the Administering Authority contains rules of procedure for the appointment of staff. Trustees cannot appoint staff below Assistant Director level. Where Trustees are involved in making appointments, they must not take any part in the appointment of anyone to whom they are:

Married;

A partner;

Otherwise related;

A close friend;

A business associate.

- 6.2** Trustees may be involved in interviewing internal candidates who will be well known to them. On such occasions, members must not allow that knowledge to influence their judgement one way or the other.

### **7. UNDUE PRESSURE**

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- 7.1** A member should not apply pressure on an officer to do anything that he/she is not empowered to do, or which is against the officer's professional judgement, or to undertake work outside normal duties or normal hours.

- 7.2** Similarly, an officer must not seek to influence an individual member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees except in accordance with law. Members who receive any such approach from an officer should advise the Chief Executive and/or the appropriate Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.

- 7.3** Members may contact officers for information/advice about matters relating to officers' responsibilities. Members are expected to exercise caution when approaching junior staff who may feel intimidated by such approaches.

Heads of Service (Team Managers) are responsible for organising their staff's workloads and priorities. Members should not ask individual members of staff below Team Manager level to carry out work or research of a particular nature, which might involve staff spending time on matters that may not necessarily form part of the priorities of that particular service. In addition, members must not request individual members of staff to attend meetings or visit particular sites. All such requests must be made to the relevant Team Manager who will decide whether or not the work should be carried out.

- 7.4** Whilst senior officers endeavour to see members without prior appointment this can cause difficulties. Generally speaking, members should make appointments to speak to officers. It can be disruptive to walk in unannounced, and this should be avoided wherever possible. Members should not turn up unannounced with members of the public and must not use their position to secure priority treatment for someone.

### **8. OFFICERS' REPORTS AND ADVICE**

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- 8.1** The report author named in a report to the Committee or any part of its formal decision making structure will always be fully responsible for the contents of it. Under scrutiny arrangements, an officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given. However, reports will often have been researched and written by other staff who may also be named as 'contact officers' at the end of the report.

### **9. OFFICER DECISIONS MADE UNDER DELEGATED POWERS**

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- 9.1** Officers may make decisions under powers delegated to them pursuant to the Scheme of Delegation or by specific authority from the Pension Committee. This may be in consultation with specified Trustees but it is the officer, and not any Trustee, who makes the decision or takes the action and it is the officer who is accountable for it. Officers will not take decisions they believe to be wrong or unlawful.
- 9.2** Officers will at all times exercise delegated powers in accordance with the principles of the scheme of delegation. In particular, they will comply with the requirement to consult relevant members, and will keep ward members informed, where appropriate, of decisions affecting their wards in accordance with any agreement arrangements for doing so.

### **10. CONSTRUCTIVE CRITICISM/COMPLAINTS**

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- 10.1** It is important that there should be mutual courtesy between Trustees and officers. It is important that there are reasonable standards of courtesy and no Trustee or officer should seek to take unfair advantage of their position.
- 10.2** Members and officers should not undermine respect for the other at Committee meetings or any other meetings they attend in their capacity as a



Trustee or Fund employee. A personal attack by a Trustee on a member of staff, or on staff generally, at a formal meeting will never be acceptable.

- 10.3** Trustees should not raise matters relating to the conduct or capability of an individual Fund officer or officers collectively at any meeting where members of the public are present, including private meeting with a member of the public.
- 10.4** If a Trustee believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an officer he/she should raise the matter with the relevant Senior Manager. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Strategic Director who will look into the matter afresh. If the Director believes that there is a case to answer, he/she may determine the action to be taken which might include formal disciplinary procedures.
- 10.5** If an officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Trustee, or conduct of a Trustee, he/she should raise the matter with his/her Senior Manager. If he/she is not satisfied with any action that has been taken as a result, he/she should raise the matter with the Strategic Director.
- 10.6** Where an officer or Trustee is concerned about potential unlawful conduct of an officer or Trustee, the Administering Authority's Whistle Blowing Policy may also be relevant.

### **11. ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

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- 11.1** Trustees and Pension Board Members (together "members") have the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any agenda of the Committees of the Fund including the meetings of the pension board. However, members do not have an automatic right of access to all documents relating to confidential ("Exempt") items on the agenda. These might include, for instance, information relating to market/investment data.
- 11.2** In respect of such confidential information, members will normally receive, or have access to all papers unless they are of particular sensitivity. A member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a member of the Fund. The relevant question to be asked is whether he/she needs to know the information to perform such duties. This would normally include matters relating to particular wards.
- 11.4** Where a member has a private, personal, pecuniary or conflict of interest in a matter, the member will only be entitled to the same rights of access to documentation as would apply to the public generally, although the member would continue to receive the same documentation as is sent to other

members of the body concerned. A member who has a prejudicial/conflict of interest in any matter under the Code of Conduct will not be allowed access to confidential background papers. A member who has such an interest must not seek to obtain such confidential information in relation to that matter.

- 11.5** Any information provided to a member must only be used by the member in connection with the proper performance of the member's duties as member of the Fund. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Fund or anyone else.
- 11.6** Any confidential information provided to members should be clearly marked as such prior to its provision.
- 11.7** A member has no general entitlement to inspect draft documents, correspondence or working papers.

### **12. PUBLIC RELATIONS AND PRESS RELEASES**

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- 12.1** By law the Fund is prohibited from publishing material which appears to be designed to affect public support for a political party. Press releases are written by officers, but they may contain quotations from a Trustee. Such news releases are issued on behalf of the Fund and it would not, therefore, be appropriate when repeating quotations from Trustees to indicate their party political affiliation. The aim will be for the new releases to be objective, factual and informative. All press releases and media interviews should be conducted in accordance with the Fund's Press Release Protocol. All press releases will be issued by the Fund's Communications Team.
- 12.2** The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.
- 12.3** Pension Board Members have no authority to speak on behalf of the Fund.

### **13. CORRESPONDENCE**

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- 13.1** Unless a Trustee/Pension Board Member or officer requests confidentiality, it may be assumed that correspondence (including e-mail) between a them and an officer is not confidential and may be shown to others. Where confidentiality is not requested, Trustees and officers will exercise discretion in determining whether it is appropriate to disclose correspondence to others. The originator of the correspondence must accept that it may be disclosed to others unless confidentiality has been requested. However, both officers and Trustees have a personal responsibility to maintain confidentiality in any matter which appears to be of a personal or confidential nature, whether or

not this has been specifically stated. If, in an officer's view, correspondence on a non-confidential matter between an individual Trustee and an officer is of interest to other members, to keep them fully informed, the original member should be informed when copies are provided to other members.

- 13.2** Where issues are raised by, or with, individual members relating to a matter of general interest in a Fund matter, copies of correspondence may be sent to all Trustees at the discretion of the Strategic Director. An exception will be made where the Trustee specifically requests that correspondence is not copied to other members, or there is a political, or other reason, why this is not appropriate.
- 13.3** Officer letters on behalf of the Fund should normally be sent out in the name of the appropriate officer, rather than in the name of a Trustee. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Trustee, such as the Chairman of the Pension Committee, but this should be the exception rather than the norm.
- 13.4** Trustees should ensure that any letters they send out in their own name do not purport to be or give the impression that they are 'official' letters setting out the Fund's position. Nor should Trustees say anything which appears to commit the Fund to a course of action or a position without authority to do so.

## 5.3: EMPLOYEES' CODE OF CONDUCT

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As officers employed by Wolverhampton City Council as the Administering Authority for the West Midlands Pension Fund, they are required to adhere to the City Council's employee code of conduct.

A copy of the employee code of conduct can be found in the City Council's constitution.

## 5.4: COMPLIANCE AND ASSURANCE FRAMEWORK

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<Emma please>

## 5.5: PROCEDURE FOR RESOLUTION OF COMPLAINTS

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### 5.5.1 Complaints Policy

The West Midlands Pension Fund believes in putting our members first and we are constantly looking at ways we can improve the services we provide through regular feedback and focus groups.

The Fund encourages engagement from members and employers and has found that one of the best ways to obtain a true opinion on the services we provide is through the comments, compliments and complaints we receive.

This policy sets out how the Fund manages and responds to comments, compliments and complaints and details what service members can expect to receive when providing this feedback.

### 5.5.2. Scope

This policy applies to all correspondence received by the Fund where a member or stakeholder is providing feedback on any aspect of service the Fund provides and should be adhered to by all Fund staff including those representing it (such as Trustees or pension board members).

### 5.5.3. Comments

Comments are statements provided to the Fund that give an opinion on how we performed or the way the member felt when receiving a service.

Comments can be good or bad and do not necessarily fall into the category of compliment or complaint.

### **5.5.4. Compliments**

Compliments are statements of good opinion. Where the member believes the fund has performed well, are happy with the service they received and want to share that good feeling with others.

### **5.5.5. Complaints**

Complaints are the opposite to compliments and often contain an opinion about an alleged breach of service standards, a failure to answer a member's question or a feeling by the member that the service they received is not good enough.

To assist in determining a complaint, the Fund has created the below list which seeks to cover a broad range of matters a member may complain about

- A failure to provide a service at the level or standard expected by the customer
- A perceived unhelpful/discourteous attitude from a staff member
- Neglect or delay in responding to a request for service
- A failure to follow the Fund's agreed policies, rules or procedures
- A failure to consider all information in coming to a decision
- Malice, bias or unfair discrimination of all natures.

### **5.5.6. Methods of communication**

When seeking feedback the Fund encourages contact through every available medium and will address any comments, compliments or complaints received in any form.

Contact may be made through our customer helpline, verbally on the phone. By letter, email or through feedback forms from one of our events or roadshows.

We also host a feedback form on our website [www.wmpfonline.com](http://www.wmpfonline.com)

### **5.5.7. Exceptions**

While the Fund will always try to address any contact received from customers, there may be occasions where we will not be able to deal with the query under this process either because it is covered by a different policy or because we are unable for reasons of business/commercial sensitivity.

The types of areas that we won't deal with through this process include

- Staff/ex staff complaints about employment matters including grievances or disciplinary hearings
- Cases where legal action has started

- Questions or comments that might lead to the release of commercially sensitive information (where this applies the customer will be informed this is the reason)
- Complaints about Trustees or Pension Board Members
- Where the matter is already being dealt with another way

The Fund will offer support and assistance to anyone wanting to provide feedback on our services and where it is not deemed appropriate to deal with the feedback under this policy, we will try to assist by directing them to a more appropriate channel or procedure.

### **5.5.8. Process – Comments**

Any comment received will be recorded in a central file on Sharepoint (the Fund's intranet) by the individual receiving it and highlighted to the team manager responsible for the service being commented on.

It is not usual for contact to be made with a customer who is providing a comment.

### **5.5.9. Process – Compliments**

When the Fund receives a compliment in any topic relevant to the work of the Fund, it is recorded on a central log on Sharepoint by the individual receiving the compliment (whether about them or not). The Fund's compliance and risk team have access to this log and will report monthly to the Senior Management Team on the number of compliments received in that period. Any department or individual who has received a compliment will receive feedback and recognition for the work they have done in assisting that customer.

### **5.5.10. Process – Complaints**

When dealing with complaints the Fund will always try to resolve a customer's comments in the first instance however we understand that sometimes customers may feel that the response they receive does not address their concerns.

Where we have made a mistake, we will always try to put it right and the way we might do this includes

- Making an apology
- Providing a full explanation of the circumstances that lead to the mistake
- Review our procedures to ensure they are as effective as possible achieving what they are designed to achieve
- Identify training needs amongst staff.

## 5.5.11 What will happen to your complaint?

To ensure a fair and balanced approach, the fund has created a 3 stage complaints process, each of which progressing in escalation. Under each process the investigating officer is required to highlight any potential training needs or staff development opportunities feeding this back to the manager for the service area involved.

## 5.5.12 Informal process

Where possible the Fund will always deal with complaints at the first point of contact. Often customers contact the fund via our helpline and it is the responsibility of our call handlers to ensure customers calling to complain are given every opportunity to explain their concerns. Call handlers will try and resolve the matter at this point reducing the need for further action. There will be times when our call handlers are unable to resolve a query raised or the customer requires a further explanation. Where this occurs the formal complaints process will begin and the matter will be formally logged as a complaint and passed to the Fund's compliance and risk team.

### Stage One

Where a complaint cannot be resolved in the first instance or is received via email/letter/written correspondence this will start the stage one process which requires the person receiving the complaint to notify the Fund's compliance and risk team. The complaint will be logged on the central system.

Once the compliance and risk team are notified that the complaint has been received, the complainant will receive an acknowledgment that their correspondence has been received and is being reviewed by the Fund's Governance team confirming, the name of the officer appointed to review the complaint.

When investigating the complaint the fund officer will speak to staff members involved and where necessary review members' records.

A response will be issued within 21 days of receiving the complaint. Should this deadline need to be extended in order to provide the opportunity for further investigation, the complainant will be notified before the 21 day deadline.

## **Stage Two**

Where a complaint cannot be resolved under Stage One or the complainant believes their concerns have not been adequately addressed, the matter will progress to Stage Two.

When a complaint progresses to Stage Two, it will be investigated by a Senior Manager at the Fund, usually the Head of Governance, who will review the complaint, review the response provided under Stage One and consider whether the issue has been addressed.

As with Stage One, an acknowledgment will be sent to the complainant confirming their complaint is being considered under the Stage Two process and a full response issued within 21 days.

## **Stage Three**

Should a complaint not be resolved under Stage One or Stage Two, and a member or employer wants to progress further with their complaint, the matter will then progress to Stage Three where the complainant has a right to ask the Strategic Director of Pensions to review their complaint and the responses received.

There may be occasions where a complaint details an event or a circumstance that suggests something has happened that is so serious, it will progress automatically to the Stage Three process.

Under Stage Three the Strategic Director will review all correspondence relating to the complaint and will conduct an investigation as to whether all appropriate action has been taken.

A response will be issued within 21 days.

## **Local Government Ombudsman**

Stage Three is the final stage of the Fund's complaints process. Should a complainant remain unhappy with the response received they do have a right of appeal to the Local Government Ombudsman.

The Local Government Ombudsman does not usually investigate or respond to complaints unless the in-house process has been exhausted. Complainants will therefore need to progress through all 3 stages of the Fund's complaints process before the Ombudsman will become involved.



The Ombudsman may be contacted at the address below  
Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

Tel: 0300 061 0614  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)

### 5.5.13 Complaints monitoring

As part of the Fund's objective in being a customer focused service, we will review all complaints on a monthly basis as part of the Senior Management Team (SMT) meeting. Where it appears that patterns may be emerging in the complaints being received, either by subject or staff member, SMT will discuss this with the service area responsible implementing a review of process or training needs as determined appropriate.

In addition, the compliance monitoring report is presented at each pension committee meeting and any areas for concern with regards complaints, are highlighted at this meeting.

### 5.5.14 Officer contacts

Emma Bland, Compliance and Risk Manager  
[emma.bland@wolverhampton.gov.uk](mailto:emma.bland@wolverhampton.gov.uk)  
Tel: 01902 554387

Jennifer Dugmore, Compliance and Risk Officer  
[Jennifer.dugmore@wolverhampton.gov.uk](mailto:Jennifer.dugmore@wolverhampton.gov.uk)  
Tel: 01902 552092

## 5.6: INTERNAL DISPUTE RESOLUTION PROCEDURE

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The West Midlands Pension Fund believes in putting our members first and we are constantly looking at ways we can improve the services we provide through regular feedback and focus groups.

The Fund encourages engagement from members and employers and has found that one of the best ways to obtain a true opinion on the services we provide is through the comments, compliments and complaints we receive.

This policy sets out the Fund's Internal Dispute Resolution Procedure and details what service you can expect to receive when using this service.

## 1. Internal Dispute Resolution Procedure (IDRP)

From the day a person starts a job with an employer, to the day when pension benefits are paid, the employer and administering authority have to make decisions (in compliance with the legislation) that affect you as our Member. Where you are notified of a decision, you must check, as far as possible, that the decision is based on the correct information.

If you are not satisfied with a decision made about you, you have the ability to challenge that decision and invoke the Internal Dispute Resolution Process (IDRP). You may also use this procedure if you believe a decision should have been made, but has not been made.

At any stage during the procedure you can contact the Pension Advisory Service for support and assistance, their details are provided in the Useful Contacts section of this document.

Before starting this procedure, we would encourage you to speak to your employer or in-house pension department, often many issues can be resolved without the need for formal processes.

## 2. Who can make a complaint?

This procedure applies to disagreements or disputes relating to the Pension Scheme, including decisions made or not made.

Persons who can use this policy include

- Active, deferred and pensioner Members of the scheme
- A widow, widower or surviving dependent of a deceased member of the scheme
- Prospective members of the scheme
- Any person who in the previous six months was entitled to be considered as one of the above
- Any person who believes they should be included in one of the above categories

(In this document all of the above category of persons are referred to as "Members".)

You can also ask someone to take your complaint forward on your behalf, this may be a trade union representative, welfare officer, a family member or friend. In order to provide information to a representative, the Fund will require confirmation from you that have appointed them and are happy for them to receive correspondence on your behalf.

### 3. Exceptions

While the Fund will always try to address any contact received from Members, there may be occasions where we will not be able to deal with the query under this process either because it is covered by a different policy or because the complaint is already being addressed under another route. The types of areas that we won't deal with through this process include

- Staff/ex staff complaints about employment matters including grievances or disciplinary hearings
- Cases where legal action has started
- Complaints about Trustees or Pension Board Members
- Where the matter is already being dealt with another way

### 4. Time Limits

A member seeking to use this process must do so within six months from the date of the decision or event they wish to complain about.

### 5. Specified Person

In compliance with the legislation, the Fund has appointed "Specified Persons" to investigate and determine first stage IDRPs. The Specified Person will be the employer or person who made the decision you wish to challenge.

### 6. Discretionary policies

Under the Scheme rules, employers are entitled to have discretion on how they apply certain aspects of pension legislation. The West Midlands Pension Fund has no authority to request employers to change these policies and when reviewing appeals under the IDRPs process, we can only review them in consideration of the discretionary policy implemented by the employer.

### 7. What will happen to your complaint?

To ensure a fair and balanced approach, the fund has created a 2 stage IDRPs process.

#### Methods of communication

When seeking to use this procedure, all correspondence must be in writing and contain the following information

- Name
- Contact details including address, telephone number
- Date of birth
- National insurance number
- The name of any representative acting on your behalf

- Details of the complaint

## **Stage One**

1. On receiving the complaint, the Specified Person will acknowledge its receipt within five working days. Within this acknowledgement will be details of the Pension Advisory Service who are available to assist members and beneficiaries with any difficulties.
2. The Specified Person will then investigate the matter which may include a request for additional information from you and a review of the Scheme rules. The Specified Person will aim to complete their investigation within 4 months. Where an investigation is likely to take longer, you will be notified of the reasons why.
3. On concluding the investigation the Specified Person will issue a decision notice within 15 days of reaching a decision detailing
  - A statement of the decision
  - Any reference to the legislation which supports that decision
  - Whether a discretion has been exercised by the decision-maker when making the decision which is the subject of the complaint
  - Detailing the right to appeal the outcome of the investigation
  - Provide details of the Pension Advisory Service

## **Appeals – Stage Two**

You may appeal against the outcome of the investigation by the Specified Person within 6 months of receiving the notice of their decision. An appeal may also be brought if you have made a challenge under Stage One but it has not been acknowledged or dealt with within the timeframe allowed.

Where you wish to appeal, you must send your appeal to the West Midlands Pension Fund in writing providing

- All of the details provided to the specified person under Stage One
- A copy of the specified person's decision notice
- An explanation of why the Member is unhappy with the decision
- A formal request to review the decision

If an appeal is received after 6 months of the specified person issuing their decision, the Fund may choose not to consider your request for appeal.

## **Appeal process**

1. The Fund will acknowledge the appeal request within five working days providing details of the contact officer investigating the request.
2. The officer will investigate the matter and may request further information from you or the Specified Person. The investigation may take up to four

months to complete; any delay in this timescale will be notified to you with the reasons for the delay.

3. On completing the investigation, the officer will notify you of the outcome providing detail as to
  - The decision reached
  - An explanation of how this decision compares to the decision made under Stage One
  - Any reference to the legislation
  - Whether any discretion has been relied upon
  - Contact details for the Pension Advisory Service
  - Information about the Pensions Ombudsman.

The Appeal investigation will involve the fund reconsidering the matters in dispute and we may take into account new information/evidence not presented under the Stage One process provided such new information/evidence is not so extensive that it creates an entirely new matter to be investigated.

### 9. Useful contacts

#### **WMPF**

Write to us at:

West Midlands Pension Fund

PO Box 3948

Wolverhampton

WV1 1XP

[pensionfundenquiries@wolverhampton.gov.uk](mailto:pensionfundenquiries@wolverhampton.gov.uk)

Telephone Customer Services on:

0300 111 1665

Visit our website at:

wmpfonline.com

Fax us on:

0845 230 1565

Minicom/Typetalk:

01902 554607

#### **The Pension Advisory Service**

TPAS

11 Belgrave Road

London

SW1V 1RB

Fax: 0207 233 8016

Email: [enquiries@pensionsadvisoryservice.org.uk](mailto:enquiries@pensionsadvisoryservice.org.uk)

## **The Pensions Ombudsman**

11 Belgrave Road  
London  
SW1V 1RB

Tel: 0207 834 9144  
Fax: 0207 821 0065

Email: [enquiries@pensionsombudsman.org.uk](mailto:enquiries@pensionsombudsman.org.uk)  
Website: [www.pensionsombudsman.org.uk](http://www.pensionsombudsman.org.uk)

## **5.7: ROLES AND RESPONSIBILITIES OF TRUSTEES AND PENSION BOARD MEMBERS**

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### **Trustees**

Trustees are the decision makers for the Fund and when attending in this capacity must wear a different hat to that of elected councillor for their authority.

When sitting on the pension committee and representing the fund, they must act only in that capacity considering only the interests of members of the fund.

There may be occasions where the information they are privy to or acquire in this role will conflict with their day role but they must only consider the fund when taking decisions.

### **Pension Board Members**

To assist in the good governance of the scheme through the review of administration and operational policies.

Pension Board Members must wear a separate hat to their everyday role and attend meetings in consideration of their role as a pension board member only.

When sitting on the pension board and assisting the fund, they must act only in that capacity considering only the interests of members of the fund.

There may be occasions where the information they are privy to or acquire in this role will conflict with their day role but they must only consider the fund when taking decisions.

All members must sign a letter of appointment which confirms their appointment to the pension board and gives an undertaking from them that you will act in accordance with this duty, in the best interests of our members.

# **PART 6**

## **FUND STRUCTURE**



**<Insert structure chart of committee and officers from service plan>**

# **PART 7**

## **POLICIES AND STRATEGIES**

## **Table of policies and strategies**

The Fund is required to publish a number of policies and strategies detailing how it manages the Fund and its investments together with strategies for its administration.

Copies of the policies and strategies can be found on the Fund's website and are updated as required reviewed annually by Pension Committee.

Below is a list of the current policies and strategies adopted by the Fund.

## WEST MIDLANDS PENSION FUND CONSTITUTION

Name of Policy	Responsible Officer	Frequency of review
Administering Authority Policy Statement	Assistant Director of Pensions	Annually
Communications Policy	Head of Governance	Annually
Compliance with the Stewardship Code for Institutional Investors	Assistant Director Investments/Responsible Investment Officer	Annually
Funding Strategy Statement	Assistant Director of Pensions	Annually
Governance Compliance Statement	Head of Governance	Annually
Pensions Administration Strategy	Assistant Director of Pensions	Annually
Policy on Termination Funding for Employers	Assistant Director of Pensions	Annually
Socially Responsible Investment Statement	Responsible Investment Officer	Annually
Statement of Investment Beliefs	Assistant Director Investments	Annually
Statement of Investment Principles	Assistant Director Investments	Annually
Pension Board Member Conduct Review Policy	Head of Governance	Annually

## WEST MIDLANDS PENSION FUND CONSTITUTION

Travel Policy	Head of Governance	Annually
Customer Feedback Policy	Head of Governance	Annually
Freedom of Information and Data Protection	Compliance and Risk Manager	Annually
Customer Engagement Strategy	Head of Governance	Annually
Risk and Assurance Framework	Compliance and Risk Manager	Annually

# **PART 8**

## **GLOSSARY OF TERMS**

## GLOSSARY OF COMMON TERMS USED IN THE CONSTITUTION

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The Constitution uses a number of words or phrases that have a certain meaning. Some of these are defined in legislation.

Below are plain English definitions for words or phrases referred to within the Constitution. Please refer to the body of the Constitution or the relevant legislation for more detailed descriptions.

<b>Access to Information</b>	By law the public must be given reasonable notice of matters to be discussed at a Council, Committee or Sub-Committee meeting.
<b>Administering Authority</b>	Wolverhampton City Council
<b>Agenda</b>	A document containing reports which sets out the business to be considered at a meeting. The Agenda is published at least five clear working days before the meeting.
<b>Annual Council</b>	The yearly ceremonial meeting of the Council at which the Leader and Chairman of the Council are elected.
<b>Articles</b>	The basic rules governing the Fund business.
<b>Background Papers</b>	Documents on which reports are primarily based. The law says that report authors must list any papers used in compiling a report for decision, and these papers must be available for four years to anyone wishing to inspect them.
<b>Budget</b>	All the financial resources allocated to different services.
<b>Budget and Policy Framework</b>	The plans and strategies adopted by the Fund within which the Fund must operate.
<b>Casting Vote</b>	The Chairman has a casting vote which decides the matter when votes are equally divided.

## WEST MIDLANDS PENSION FUND CONSTITUTION

<b>Chairman</b>	The person appointed to oversee meetings.
<b>Managing Director</b>	The most senior officer, with overall responsibility for the management and operation of the Administering Authority. Also known as the Head of Paid Service.
<b>Chief Finance Officer</b>	The officer responsible for the administration of the Fund's finances. Also known as the Section 151 Officer.
<b>Clear Working Days</b>	All agendas and papers for decision in public must be available five clear working days before the decision is to be taken. A 'working' day excludes Saturdays, Sundays and Bank Holidays. The five 'clear' days does not include the day the papers are sent out or the date of the meeting. So for example, if a meeting is taking place on a Tuesday, the agenda must be published on the Monday in the week before the meeting.
<b>Code of Conduct</b>	A set of rules to guide behaviour.
<b>Committees</b>	May be established by the Fund to assist with functions.
<b>Confidential Information</b>	Information either given to the Fund by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order. See also 'Exempt Information' below.
<b>Constitution</b>	A document setting out how the Fund operates, how decisions are made and all the procedures which have to be followed.
<b>Council</b>	The Full Council of Wolverhampton City Council
<b>Trustee</b>	A person nominated by the Administering Authority and the District Authorities to sit on the Pension Committee.
<b>Debate</b>	A discussion on an issue in which different views are put forward.



<b>Declarations of Interest</b>	Trustees have to abide by the Code of Conduct of their Authority, part of which requires them to declare any interests they have which could influence any decisions they make. See also Personal Interest and Prejudicial Interest below.
	Pension Board Members have to abide by the Fund's Code of Conduct and declare interests which may give rise to a conflict.
<b>Delegated Powers</b>	Formal authorisation for a committee or officer to take an action which is the ultimate responsibility of the Pension Committee from the Administering Authority
<b>Deputy Chair</b>	The person appointed to preside in the absence of the Chairman.
<b>Director of Governance</b>	An officer of the Administering Authority responsible for the legal services function
<b>Strategic Director</b>	The officer responsible for the management and administration of the Fund on behalf of the Administering Authority.
<b>Exclusion of the Public</b>	The public are excluded from meetings when exempt or confidential information is being considered.
<b>Exempt Information</b>	Information falling into one of seven categories which usually cannot be publicly disclosed – see the Access to Information Procedure Rules in Part 4 of the Constitution.
<b>Extraordinary Meeting</b>	A meeting convened for a specific purpose.
<b>Head of Paid Service</b>	The most senior officer, with overall responsibility for the management and operation of the Administering Authority; also known as the Managing Director.
<b>Senior Manager</b>	An officer with responsibility for a specific service area within the Fund who reports to the Strategic Director.

## WEST MIDLANDS PENSION FUND CONSTITUTION

<b>Joint Arrangements</b>	Services provided in partnership with other Pension Funds or by or on behalf of those Funds.
<b>Local Authority</b>	Wolverhampton City Council.
<b>Meeting</b>	A meeting of the Pension Committee, a Sub-Committee, or the Pension Board
<b>Pension Board Member</b>	Employer and Member representatives nominated to sit on the pension board by their respective group
<b>Minutes</b>	A public record of decisions taken at meetings of the Fund. Its Committees and Sub-Committees.
<b>Monitoring Officer</b>	The Council officer charged with ensuring that everything that the Council does is fair and lawful. The Monitoring Officer is currently the Director of Governance
<b>Motions</b>	A formal proposal made by a Trustee for the consideration of the meeting.
<b>Notice of Meeting</b>	The public notice stating the date, time and place of a meeting.
<b>Outside Body</b>	An external organisation which has invited the Fund to nominate representative(s) to serve on its management body.
<b>Personal Interest</b>	A Trustee has a personal interest where they are likely to be affected by a decision.
<b>Petition</b>	A formal written request, signed by more than fifteen people, appealing to the Pension Committee.
<b>Point of Order</b>	A question raised to clarify whether the procedural rules are being adhered to.
<b>Political Balance/ Proportionality</b>	Comes from legal rules which dictate that Committees must include elected politicians in proportion to the size of their political groups on the Council as a whole.

<b>Prejudicial Interest</b>	A Trustee has a prejudicial interest where a member of the public knowing the facts would reasonably regard the interest as so significant that it would prejudice their judgement.
<b>Procedure Rules</b>	Rules governing how the Fund operates and how decisions are taken.
<b>Proper Officer</b>	A senior officer of the Adminsitering Authority who is given a set of responsibilities by statute.
<b>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Register of Interests</b>	The record of all interests declared by Pension Board members maintained by the Fund. The record of interests declared by Trustees is maintained by the monitoring officer of the Administering Authority..
<b>Scheme of Delegation</b>	Sets out which committee, or officer is responsible for particular functions of the Fund.
<b>Secretary of State</b>	The head of a major government department.
<b>Stakeholder</b>	A person or group that may be affected by a matter.
<b>Statutory</b>	Required by law.
<b>Sub-Committee</b>	A formal decision-making body with functions referred or delegated to it by Pension Committee.
<b>Team Manager</b>	An officer with responsibility for a specific service area who reports to a Senior Manager.
<b>Tendering</b>	The making of an offer by a contractor to carry out work.
<b>Terms of Reference</b>	The description of what a committee, sub-committee or panel may concern itself with.

**Virement**

Moving budget funds from one area of expenditure to another within a financial year.