Appendix F – Statement from Executive Director of Resources

It is important that Members of the Pensions Committee fully understand their responsibilities and the remit of their decision making in relation to Pension Fund business.

The Pensions Committee is a committee of Shropshire Council, in that it is administered by the Council and agendas and minutes are reported through its website. The Pensions Committee is not, however, overseen by Full Council, but rather it is an independent decision-making body in that sense. The Members that sit on the Pensions Committee, whether they are Shropshire Council Members, Telford and Wrekin Members or other Members without voting rights, do not sit there to represent their authorities, they must comply with general legal principles governing the administration of scheme investments, and must consider the needs of over 50,000 Pension Fund members and 160 Pension Fund employers only.

Pensions Committee Members have previously agreed the Strategic Asset Allocation of the Pension Fund in March 2021 and the updated Investment Strategy Statement in Sept 2021 and decisions must be made in the context of those decisions.

When preparing and maintaining investment strategy statements, the relevant Secretary of State Guidance must be taken into account further to Regulation 7 of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. The Guidance identifies the need to make investment decisions within the prudential framework and acknowledges: "the duty of elected members under general public law principles to make investment decisions in the best long-term interest of scheme beneficiaries and taxpayers" Regulation 7 states that the investment strategy needs to include: "the authority's policy on how social, environmental and corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments". The guidance expands on what it should cover and considerations to be taken into account, and this is included at the end of the written statement appended to the report.

It is also important to remember that the decisions taken by the Pensions Committee have huge reputational and financial risks associated with them. To this end, the Council employs AON as our investment advisor and Roger Bartley as our independent advisor to provide advice to the Pensions Committee in decisions they take. To provide protection to Pensions Committee Members, strong and robust governance arrangements are placed around the decision-making process. As an example, Manager selection processes require significant due diligence to be undertaken within an approved framework in line with the agreed Investment Strategy before any consideration is made by the Pensions Committee. Any final selection, left to the Committee, is then based on preference or strategic fit, from a choice of Managers that have all been thoroughly assessed as, effectively, equally competent.

This concept is essential, as the decision making in relation to performance then lies with the selected manager. Should Pensions Committee Members seek to guide the decision-making of the managers themselves, this could transfer risk from the agreed governance process directly to the Pensions Committee Members. By extension, should the Pension Fund then perform poorly and this resulted in significant financial detriment and the potential for increased employer contributions, this could be directly attributable to Pension Committee Members taking unreasonable responsibility for investment decisions outside of the agreed governance process.

There are two distinct, but not mutually exclusive, priorities to focus on:

What more can the Pension Fund do to help the planet meet its climate change targets?

How can Pension Fund investments help ensure it is fully funded with stable contribution rates for employers?

Questions for Pensions Committee Members to consider are:

- Is there strong evidence to suggest the Council motion actively delivers either of these priorities?
- Could the Council motion actively work against both these priorities?
- Does a decision to divest unreasonably transfer investment risk decision-making directly to Pension Committee Members?
- Are there other options the Pensions Committee have explored, in training over the last eighteen months, that could potentially fulfil both priorities?

Expanded Secretary of States Guidance on Preparing and Maintaining Investment Strategy Statements:

"When making investment decisions, administering authorities must take proper advice and act prudently. In the context of the local government pension scheme, a prudent approach to investment can be described as a duty to discharge statutory responsibilities with care, skill, prudence and diligence. This approach is the standard that those responsible for making investment decisions must operate.

Although administering authorities are not subject to trust law, those responsible for making investment decisions must comply with general legal principles governing the administration of scheme investments. They must also act in accordance with ordinary public law principles, in particular, the ordinary public law of reasonableness. They risk challenge if a decision they make is so unreasonable that no person acting reasonably could have made it.

The law is generally clear that schemes should consider any factors that are financially material to the performance of their investments, including social, environmental and corporate governance factors, and over the long term, dependent on the time horizon over which their liabilities arise. Although schemes should make the pursuit of a financial return their predominant concern, they may also take purely non-financial considerations into account provided that doing so would not involve significant risk of financial detriment to the scheme and where they have good reason to think that scheme members would support their decision.

Investments that deliver social impact as well as a financial return are often described as "social investments". In some cases, the social impact is simply in addition to the financial return; for these investments the positive social impact will always be compatible with the prudent approach. In other cases, some part of the financial return may be forgone in order to generate the social impact.

These investments will also be compatible with the prudent approach providing administering authorities have good reason to think scheme members share the concern for social impact, and there is no risk of significant financial detriment to the fund.

Summary of requirements

In formulating and maintaining their policy on social, environmental and corporate governance factors, an administering authority:

1. Must take proper advice
2. Should explain the extent to which the views of their local pension board and other interested parties who they consider may have an interest will be taken into account when making an investment decision based on non-financial factors
3. Must explain the extent to which non-financial factors will be taken into account in the selection, retention and realisation of investments
4. Should explain their approach to social investments