

The background of the slide features the coat of arms of the Government of Nunavut. It is a shield divided into four quadrants. The top-left quadrant shows a yellow cross on a blue background. The top-right quadrant shows a white caribou head on a blue background. The bottom-left quadrant shows a white sailing ship on a blue background. The bottom-right quadrant shows a white eagle on a blue background. Above the shield is a crown with four white flowers. Below the shield is a banner with the text "ANE FOR A'".

## **Agenda Item 7**

### **General Governance Matters**

**Falkirk Council**

**Subject: General Governance Matters**

**Meeting: Joint Meeting of Pensions Committee and Pension Board**

**Date: 21 March 2019**

**Submitted by: Director of Corporate and Housing Services**

**1. Purpose of Report**

- 1.1 This report updates the Board and Committee on miscellaneous matters associated with the business of Falkirk Council Pension Fund.

**2. Recommendations**

**(1) The Pensions Committee and Board are invited to note the contents of this report.**

**(2) The Pensions Committee is asked to confirm whether it wishes to join the Climate Action 100+ initiative.**

**3. Proposed Scheme Changes**

- 3.1 The Scottish Public Pensions Agency (SPPA) has issued draft scheme regulations for consultation. The main proposals:
- extend the option of accessing benefits from age 55 to all past members – currently only members leaving from 1<sup>st</sup> June 2018 have this option;
  - offer protection to members who reduce their working hours/grade because of ill health but who ultimately have to retire because of their incapacity; and
  - permit payment of a partners pension where a couple have been together for at least two years (as opposed to also having had to be free to marry for at least two years).
- 3.2 The draft regulations also correct omissions made from the 2018 Regulations – in particular they re-instate certain provisions to ensure that longer standing members continue to enjoy protections earned under former versions of the Scheme.
- 3.3 Technical comments on the draft regulations have been fed back to SPPA by LGPS Fund officers nationally. It is expected the final regulations will be made in early summer.

## **4. McCloud Judgement**

- 4.1 On 20 December, 2018, the UK Government lost a Court of Appeal ruling which found that certain transitional protections introduced as part of the Public Sector Pension Reforms of 2015 were age discriminatory. The specific rule deemed to be at fault provides that, instead of all members being protected, only those within 10 years of Normal Retirement Age on 1 April 2012 should be no worse off under the new scheme provisions.
- 4.2 The Government has applied to the UK Supreme Court to challenge the Court of Appeal ruling.
- 4.3 Simultaneously, the Government had been in the process of implementing the results of the Cost Cap review – the process set up in 2015 to try and ensure a fair sharing of costs between members and employers. As reported to the Committee and Board last September, a reduction in scheme costs (measured using the Cost Cap methodology) had indicated that employee contributions would have to be reduced or the accrual rate (currently 1/49) improved.
- 4.4 As a result of the McCloud judgement and the pending appeal, the cost cap changes have been paused. The current situation is far from ideal as it means there is uncertainty around the true level of Fund liabilities. Should the appeal be lost, LGPS Funds could face additional liabilities from having to grant higher benefits to members with pre 2015 rights. Perversely, this could mean that the improvements to be made as a result of the cost cap might no longer apply. There could also be significant administrative challenges from having to deal with a backlog of retrospective member recalculations.

## **5. Longevity**

- 5.1 Recent publicity drawing on NHS research data reported that Scottish life expectancy improvements were grinding to a halt.
- 5.2 The Actuary has advised that from a Fund perspective this research has little direct impact or relevance. Hymans own research partner - Club Vita – indicates that the longevity of LGPS members continues to improve albeit at a slow rate for the least affluent pensioners and a steadier rate for more affluent pensioners.
- 5.3 Longevity is one of the themes being discussed in the forthcoming Annual Conference.

## **6. Scheme National Fraud Initiative**

- 6.1 The National Fraud Initiative is a data matching exercise conducted every two years by the Audit Commission to detect fraud and irregularities in various areas of public finance.
- 6.2 The Pensions Section submitted pensioner and deferred pensioner data to the Commission in October, the aim being to identify pensioners who have died but for whom payments are still being claimed. The exercise also

helps identify deferred pensioners who may have died without the Council being notified.

- 6.3 The results show that one elderly pensioner, a widower, had died in August 2018 and that his pension has continued to be paid until his death was identified through the NFI exercise. The overpayment is £472 and investigations are ongoing to recover the monies. No other irregularities were reported.
- 6.4 The results also highlighted 4 deferred pensioners who had died without the Pensions team having been notified.

## **7. Small Admitted Bodies Initiative**

- 7.1 Committee and Board will recall that arrangements have been put in place to facilitate the departure of smaller Fund employers from the Scheme. These are employers for whom scheme costs were becoming prohibitive.
- 7.2 The following bodies have taken up the offer and now left the Fund.
- Central Carers
  - Ceteris
  - Stirling Enterprise Park Ltd
  - Seamab School

All employers exited with a surplus funding position and with their liabilities being jointly underwritten by Clackmannanshire, Falkirk and Stirling Councils.

- 7.3 Discussions are ongoing with the actuary in relation to three further employers.

## **8. Corporate Governance Issues**

- 8.1 The Fund discharges its obligations as a responsible investor:
- by voting its shares;
  - by monitoring the engagement efforts of its Managers; and
  - by being a member of the Local Authority Pension Funds Forum (LAPFF).
- 8.2 LAPFF is supported by PIRC Ltd, who are the Forum's research and engagement partner. PIRC are also the Fund's voting agents and advisers on ESG matters.
- 8.3 During the quarter to December 2018. LAPFF engaged with 95 companies including:
- Barratt Developments and Taylor Wimpey on Help to Buy sustainability, climate change and flood risk
  - BP and National Grid on climate change
  - Glencore on bribery and corruption controls
  - Persimmon on planning regulations, climate change and remuneration policy

- Rio Tinto on Union representation and health and safety
  - Shell on linking short-term climate change targets to executive pay
  - Sports Direct on worker representation and the rationale behind its high street acquisition strategy
  - Nestle and Pepsico on “marine litter”. Both companies are seeking to make their plastics output biodegradable and recyclable by 2025.
- 8.4 LAPFF also met with Competition and Markets Authority (CMA) to discuss the UK audit market. CMA have issued a report suggesting that FTSE 350 companies should have joint auditors and that the second auditor should not be one of the “big four” major auditing firms.
- 8.5 Following an invitation to member funds from LAPFF, the Falkirk Fund has submitted documentation to support the tabling of a resolution at the BP AGM to require the company to set out a strategy consistent with the goals of the Paris Climate Change Agreement. The resolution is supported by both the BP Board and the Climate Action 100+ initiative (see Section 9 below).
- 8.6 PIRC’s engagement activities during the quarter were focused on
- Unilever seeking to move its corporate headquarters to the Netherlands
  - Patisserie Valerie and its accounting issues
  - Wetherspoons and the independence of its Board members
- 8.7 Copies of recent manager engagement reports have been uploaded to the Sharefile portal.

## **9. Climate Action 100+**

- 9.1 The Shell climate change targets referred to in 8.3 above have been developed with the support of the Climate Action 100+ initiative.
- 9.2 Climate Action 100+ is an investor initiative to encourage the world’s largest corporate greenhouse gas emitters to take action on climate change. More than 320 global investors are supporting engagement with companies to improve governance, curb emissions and strengthen climate-related disclosures. The companies targeted are 100 ‘systemically important emitters’, who account for two-thirds of annual global industrial emissions, and more than 60 others who have the capacity to drive the clean energy transition. Investors signed up to the initiative include Calpers, the Church Commissioners for England, the Environment Agency Pension Fund, Strathclyde and Lothian Pension Funds and many well known asset managers.
- 9.2 Should the Fund wish to apply to join the Climate Action 100+ initiative, it would need to adopt the statement set out at Appendix 1. This involves acknowledging the risks posed by climate change and the need to hold companies accountable. The Statement of Investment Principles tabled earlier on today’s meeting agenda provides that the Fund may join with other institutional investors to promote good practice in environmental, social and governance matters.

- 9.3 The initiative recently announced that as a result of its efforts, Glencore has agreed to align its business with the goals of the Paris climate change agreement.

## **10. Class Action**

- 10.1 An opportunity has arisen for the Fund to participate in a legal action (i.e. known as a “Class Action”) against BHP Billiton. This relates to the collapse of a dam near the Samarco mine in Brazil on 5 November 2015 killing 19 people and causing an environmental catastrophe. The mine was a joint venture between BHP and Vale. (Vale has also been in the news recently in relation to the Feijao dam where at least 160 persons have died and many more missing).
- 10.2 The contention is that, from 21 October 2013, BHP knew that there was a material risk the dam would collapse. As a result, it is alleged that they breached disclosure obligations and misled the market.
- 10.3 The action, which will be brought in Australia, will be funded by a major US litigation firm who will meet all professional fees associated with the case and indemnify clients against any adverse costs should the action be lost.
- 10.4 The Fund is eligible to participate in the Action through having acquired an interest in BHP Billiton between 21 October 2013 and 9 November 2015. During this period, one of the Fund’s external manager purchased shares to the value of £2.5m.
- 10.5 In the event of the action being successful, the litigation firm and legal associates will be reimbursed their expenses plus up to 18% of the Gross Recovery. No costs fall on the client.
- 10.6 The process will involve a lead investor being appointed to act as plaintiff. This would most likely be one of the larger investors who would then need to appear in person and provide relevant documentation.
- 10.7 Subject to a satisfactory review of legal documentation, it is intended to participate in the class action on the basis of the Fund’s fiduciary duty to act in the best financial interests of its stakeholders; its commitments as a responsible investor as set out in the Statement of Investment Principles; and in view of the important environmental issues that the case raises.

## **11. Voting**

- 11.1 Details of how Fund votes have been cast across various categories during the last complete quarter (Quarter 4) are attached at Appendix 2.

## **12. Annual Conference**

- 12.1 The Fund’s Annual Conference is being held on 11<sup>th</sup> April in The Studio, Falkirk Town Hall from 9:30 am until approximately 1:00 pm.

12.2 This will be an opportunity to hear from a range of speakers including the Actuary, one of the Investment Advisers on the Joint investment Strategy Panel and a Fund Manager.

12.3 A copy of the agenda is attached at Appendix 3.

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Date: 10 March 2019

**Appendices**

Appendix 1 – Climate Action 100+ initiative – Sign on statement

Appendix 2 – Falkirk Council Pension Fund – Quarter 4 – Voting Record (extract)

Appendix 3 – Annual Conference 2019 Agenda

**List of Background Papers:**

Draft Local Government Pension Scheme (Scotland) Amendment Regulations 2019  
Quarter 4 – Voting report PIRC Ltd

## Climate Action 100+ Sign-on Statement

### *Background*

We, the institutional investors that are signatories to this statement, are aware of the risks climate change presents to our portfolios and asset values in the short, medium and long term. We therefore support the Paris Agreement and the need for the world to transition to a lower carbon economy consistent with a goal of keeping the increase in global average temperature to well below 2°Celsius above pre-industrial levels.

Through this initiative, we aim to fulfill the commitment made in the 2014/15 Global Investor Statement on Climate Change” which stated that “...as institutional investors and consistent with our fiduciary duty to our beneficiaries, we will work with the companies in which we invest to ensure that they are minimising and disclosing the risks and maximising the opportunities presented by climate change.”

### *Commitment*

We believe that engaging and working with the companies in which we invest – to communicate the need for greater disclosure around climate change risk and company strategies aligned with the Paris Agreement – is consistent with our fiduciary duty and will contribute to achieving the goals of the Paris Agreement.

The initiative aims to secure commitments from the *boards and senior management* to:

***Implement a strong governance framework*** which clearly articulates the board’s accountability and oversight of climate change risk and opportunities.

***Take action to reduce greenhouse gas emissions across their value chain*** consistent with the Paris Agreement’s goal of limiting global average temperature increase to well below 2-degrees Celsius above pre-industrial levels.

***Provide enhanced corporate disclosure*** in line with the final recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) and, when applicable, sector-specific Global Investor Coalition on Climate Change Investor Expectations on Climate Change [1] to enable investors to assess the robustness of companies’ business plans against a range of climate scenarios, including well below 2-degrees Celsius, and improve investment decision-making. [1] The Global Investor Coalition on Climate Change Investor Expectations on Climate Change sector guides cover oil and gas, mining, utilities and auto manufacturers and provide additional sector specific disclosure recommendations, particularly regarding the oversight of public policy positions.

Working through partner organisations, Asia Investor Group on Climate Change (AIGCC); Ceres; Investor Group on Climate Change (IGCC); Institutional Investors Group on Climate Change (IIGCC); and Principles for Responsible Investment (PRI), we will together monitor the progress that companies make towards these goals. We are committed to working collaboratively through this initiative, using a range of engagement approaches to ensure fulfillment of the above-mentioned goals.



# 1 Resolution Analysis

- Number of resolutions voted: 138 (note that it MAY include non-voting items).
- Number of resolutions supported by client: 78
- Number of resolutions opposed by client: 40
- Number of resolutions abstained by client: 6
- Number of resolutions Non-voting: 6
- Number of resolutions Withheld by client: 8
- Number of resolutions Not Supported by client: 0

## 1.1 Number of meetings voted by geographical location

Location	Number of Meetings Voted
UK & BRITISH OVERSEAS	4
EUROPE & GLOBAL EU	2
USA & CANADA	6
AUSTRALIA & NEW ZEALAND	2
TOTAL	14

## 1.2 Number of Resolutions by Vote Categories

Vote Categories	Number of Resolutions
For	78
Abstain	6
Oppose	40
Non-Voting	6
Not Supported	0
Withhold	8
US Frequency Vote on Pay	0
Withdrawn	0
<b>TOTAL</b>	<b>138</b>

### 1.3 List of meetings not voted and reasons why

Company	Meeting Date	Type	Comment
ESTEE LAUDER COMPANIES INC.	13-11-2018	AGM	no ballot received
UNILEVER NV	30-11-2018	CLASS	information only meeting

## 1.4 Number of Votes by Region

	For	Abstain	Oppose	Non-Voting	Not Supported	Withhold	Withdrawn	US Frequency Vote on Pay	Total
UK & BRITISH OVERSEAS	39	4	15	0	0	0	0	0	58
EUROPE & GLOBAL EU	2	0	0	6	0	0	0	0	8
USA & CANADA	32	2	22	0	0	8	0	0	64
AUSTRALIA & NEW ZEALAND	5	0	3	0	0	0	0	0	8
<b>TOTAL</b>	<b>78</b>	<b>6</b>	<b>40</b>	<b>6</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>138</b>

## 1.5 Votes Made in the Portfolio Per Resolution Category

	Portfolio						
	For	Abstain	Oppose	Non-Voting	Not Supported	Withheld	Withdrawn
All Employee Schemes	1	0	0	0	0	0	0
Annual Reports	2	1	6	0	0	0	0
Articles of Association	1	0	0	0	0	0	0
Auditors	5	1	4	0	0	0	0
Corporate Actions	2	0	0	0	0	0	0
Corporate Donations	2	0	0	0	0	0	0
Debt & Loans	0	0	0	0	0	0	0
Directors	44	4	19	0	0	8	0
Dividend	2	0	0	0	0	0	0
Executive Pay Schemes	0	0	3	0	0	0	0
Miscellaneous	4	0	0	0	0	0	0
NED Fees	0	0	1	0	0	0	0
Non-Voting	0	0	0	6	0	0	0
Say on Pay	0	0	4	0	0	0	0
Share Capital Restructuring	2	0	0	0	0	0	0
Share Issue/Re-purchase	7	0	3	0	0	0	0
Shareholder Resolution	6	0	0	0	0	0	0

## 1.12 List of all meetings voted

Company	Meeting Date	Type	Resolutions	For	Abstain	Oppose
BHP GROUP PLC (GBR)	17-10-2018	AGM	19	12	2	5
THE TJX COMPANIES INC.	22-10-2018	EGM	1	1	0	0
SOUTH32 LTD	25-10-2018	AGM	5	2	0	3
UNILEVER NV	25-10-2018	EGM	1	1	0	0
UNILEVER NV	25-10-2018	EGM	7	1	0	0
CME GROUP INC.	05-11-2018	EGM	1	1	0	0
ORACLE CORPORATION	14-11-2018	AGM	20	10	0	10
NEDBANK GROUP LTD	22-11-2018	AGM	3	3	0	0
MICROSOFT CORPORATION	28-11-2018	AGM	16	12	2	2
FERGUSON PLC	29-11-2018	AGM	21	13	2	6
MEDTRONIC PLC	07-12-2018	AGM	12	2	0	10
ASSOCIATED BRITISH FOODS PLC	07-12-2018	AGM	17	13	0	4
CISCO SYSTEMS INC.	12-12-2018	AGM	14	6	0	8
DRAX GROUP PLC	21-12-2018	EGM	1	1	0	0

## Appendix 3

### FALKIRK COUNCIL PENSION FUND – CONFERENCE 2019

#### “FACING THE FUTURE”

11<sup>TH</sup> APRIL, 2019

#### AGENDA

Time	Subject	Speaker
9.30 – 9.35	Scene Setting	Bryan Smail, Chief Finance Officer, Falkirk Council
9.35 – 10.05	Actuarial Update	Julie West, Actuary, Hymans Robertson
10.05 – 10.35	Fund Investment Strategy Explained	Scott Jamieson, External Advisor to Falkirk Fund
10.35 – 11.00	Governance and Administration Round Up	Alastair McGirr, Pensions Manager, Falkirk Fund
11.00 – 11.20	Coffee	
11.20 – 11.50	Fund Investment Review and Market Outlook	Bruce Miller, Chief Investment Officer, Lothian Pension Fund
12.00 – 12.30	Investment Management in Changing World	Chris Murphy and Tim Gooding, Client Service Directors, Baillie Gifford
12.30 – 13.00	Longevity Update	Steve Hood, Club Vita
13.00 – 13.05	Closing Remarks	Bryan Smail, Chief Finance Officer, Falkirk Council
13.00 – 14.00	Lunch and Networking	