# report

| | | |
|---|---|---|
| meeting | **PENSIONS INVESTMENT SUB-COMMITTEE** | |
| date | **30 MARCH 2007** | agenda item number |

**REPORT OF THE STRATEGIC DIRECTOR OF RESOURCES**

**MYNERS PRINCIPLES AND NAPF REVIEW 2007**

## Purpose of the Report

1. To seek Members' views, and if appropriate Members' endorsement, of the proposed response to the National Association of Pension Funds (NAPF) Discussion Paper on its Review of the Myners Principles.

## Information and Advice

2. In March 2000, H M Treasury commissioned Paul Myners to conduct a review of institutional investment in the UK. His report was published in 2001. It recommended that in the interests of good governance that pension fund trustees should voluntarily adopt a series of ten Principles. In December 2004, the Government reviewed the progress made by Pension Funds in implementing the Myners Principles and proposed that some of the Principles should be revised to strengthen and amplify them in certain areas. A consultation was held on these proposals and as a result NAPF agreed to undertake a further progress review in 2007. NAPF has now produced a Discussion Paper, entitled "Institutional Investment in the UK Six Years On" and is seeking views, by 13 April 2007, on a number of issues, as part of its review. It proposes to complete its review by October 2007.

3. The County Council's Pension Fund last assessed its compliance with the Myners Principles in March 2006, and the assessment has recently been updated, as detailed in Appendix 1. From this, it is considered that the Pension Fund is now compliant on 8 of the 10 Principles, which represents an improvement on the last assessment in March 2006. However, there are some areas where further action is required mainly concerning transparency and regular reporting and actions to address these areas are included in the business plan, also on this Sub Committee's agenda.

4. The NAPF Discussion Paper has made its own assessment of national progress made by Pension Funds in complying with the Myners Principles and this is summarised in Appendix 2.

5. NAPF's Discussion Paper is detailed and poses a list of questions, in total 27 with a number of sub questions, and these are attached in Appendix 3. NAPF are asking for views on the issues and questions raised but rather than responding to each of the detailed questions, the attached draft proposed response (in Appendix 4) addresses the key issues relating to:-

   a) overall governance, compliance and progress (questions 1 to 8)

   b) the Principles themselves (questions 9 to 24)

   c) the Independent Compliance Review (question 25)

6. The Discussion paper is fairly lengthy and has not been attached to this report but copies can be made available to Members if required.

**Statutory and Policy Implications**

7. This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder, human rights and those using the relevant service. Where such implications are material, they have been described in the text of the report.

**Recommendations**

8. That Members:-

   a) comment on the proposed response to the NAPF Discussion Paper and, if happy to do so, endorse the response

   b) agree that the revised assessment of the Fund's compliance with the Myners Principles should replace the assessment carried out in March 2006.

**ARTHUR DEAKIN**
**STRATEGIC DIRECTOR OF RESOURCES**

**Background Papers Available for Inspection**

Nil

## Myners Principles for Defined Benefit Pensions Schemes

## Compliance Statement – March 2007

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 1. Effective Decision-Making | ▪ Decisions should be taken only by persons or organisations with the skills, information and resources necessary to take them effectively. Where trustees elect to take investment decisions, they must have sufficient expertise and appropriate training to be able to evaluate critically any advice they take. | **COMPLIANT**<br><br>Trustees are advised by investment specialists. Training is given a high priority with a Training Policy in place and a defined budget set aside for training. |
| | ▪ Trustees should ensure that they have sufficient in-house staff to support them in their investment responsibilities. Trustees should also be paid, unless there are specific reasons to the contrary. | An appropriate in house team is in place. Councillors, acting as 'trustees' do not receive any separate payments for their responsibilities on Pension Fund matters. |
| | ▪ It is good practice for trustee boards to have an investment sub-committee to provide the appropriate focus. | An Investment Sub Committee is in place. |
| | ▪ Trustees should assess whether they have the right set of skills, both individually and collectively, and the right structures and processes to carry out their role effectively. They should draw up a forward-looking business plan. | A Training Policy and a Governance Policy Statement are in place.<br>A business plan has been produced. |

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 2. Clear Objectives | ▪ Trustees should set out an overall investment objective for the fund that:<br><br>⇒ represents their best judgement of what is necessary to meet the fund's liabilities, given their understanding of the contributions likely to be received from employer(s) and employees, and<br><br>⇒ takes account of their attitude to risk, specifically their willingness to accept under-performance due to market conditions.<br><br>▪ Objectives for the overall fund should not be expressed in terms which have no relationship to the fund's liabilities, such as performance relative to other pension funds, or to a market index. | **COMPLIANT**<br><br>The Fund's Funding Strategy Statement outlines the funding strategy and target funding levels.<br><br>Key risks are identified in the Funding Strategy Statement and risk attitude is considered on a regular basis by the Sub Committee and Pensions Working Party.<br><br>This is also covered in the Funding Strategy Statement.<br>All Fund Managers have targets for performance against benchmarks and risk minimisation by setting limits for under performance against benchmarks. |
| 3. Focus on Asset Allocation | ▪ Strategic asset allocation decisions should receive a level of attention (and, where relevant, advisory or management fees) that fully reflect the contribution they can make towards achieving the fund's investment objective. Decision-makers should consider a full range of investment opportunities, not excluding from consideration any major asset class, including private equity. Asset allocation should reflect the fund's own characteristics, not the average allocation of other funds. | **COMPLIANT**<br><br>Asset allocation is a key part of 'trustees' responsibilities and is considered on an annual basis and at more frequent intervals if necessary. |

| Principle | Compliance Required | Assessment |
|---|---|---|
| 4. Expert Advice | ▪ Contracts for actuarial services and investment advice should be opened to separate competition. The fund should be prepared to pay sufficient fees for each service to attract a broad range of kinds of potential providers. | **COMPLIANT**<br><br>These services are provided separately with independent investment advice provided as well as advice from the Actuary. The contract for actuarial services and investment advice was awarded for two triennial valuations in July 2000. Separate competitions are held for Fund Manager selection. |
| 5. Explicit Mandates | ▪ Trustees should agree with both internal and external investment managers an explicit written mandate covering agreement between trustees and managers on:<br><br>⇒ an objective, benchmark(s) and risk parameters that together with all the other mandates are coherent with the fund's aggregate objective and risk tolerances<br><br>⇒ the manager's approach in attempting to achieve the objective, and<br><br>⇒ clear timescale(s) of measurement and evaluation, such that the mandate will not be terminated before the expiry of the evaluation timescale for underperformance alone. | **COMPLIANT**<br><br>A written statement for the management of the in house portfolio is in place.<br><br>Fund Managers are given clear mandates and performance is measured against these. |

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 5. cont'd | ▪ The mandate and trust deed and rules should not exclude the use of any set of financial instruments, without clear justification in the light of the specific circumstances of the fund.<br>▪ Trustees, or those to whom they have delegated the task, should have a full understanding of the transaction-related costs they incur, including commissions. They should understand all the options open to them in respect of these costs, and should have an active strategy – whether through direct financial incentives or otherwise – for ensuring that these costs are properly controlled without jeopardising the fund's other objectives.<br>▪ Trustees should not without good reason permit soft commissions to be paid in respect of their fund's transactions. | The SIP requires a diversified spread of assets and sets out guidance on this.<br>Fund Managers provide regular information on transaction costs which are not included in the management fees.<br>This is the case and where soft commissions are suspected, this is challenged. |
| 6. Activism | ▪ The mandate and trust deed should incorporate the principle of the US Department of Labour Interpretative Bulletin on Activism. Trustees should also ensure that managers have an explicit strategy, elucidating the circumstances in which they will intervene in a company; the approach they will use in doing so; and how much they measure the effectiveness of this strategy. | **COMPLIANT**<br>The Fund has a policy of voting its shares, using guidance provided by PIRC.<br>The SIP contains a Statement of Principles on socially responsible investment.<br>The Fund actively supports LAPFF. |

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 7. Appropriate Benchmarks | ▪ Trustees should: | **COMPLIANT** |
| | ⇒ explicitly consider, in consultation with their investment manager(s), whether the index benchmarks they have selected are appropriate; in particular, whether the construction of the index creates incentives to follow sub-optimal investment strategies | Index benchmarks are in place for each of the Fund Managers, which are appropriately constructed in consultation with independent advice. |
| | ⇒ if setting limits on divergence from an index, ensure that they reflect the approximations involved in index construction and selection | Targets are set to take account of this. |
| | ⇒ consider explicitly for each asset class invested, whether active or passive management would be more appropriate given the efficiency, liquidity and level of transaction costs in the market concerned, and | This issue is kept under review by the Investment Sub Committee. |
| | ⇒ where they believe active management has the potential to achieve higher returns, set both targets and risk controls that reflect this, giving managers the freedom to pursue genuinely active strategies. | Targets and risk controls are specified for active Fund Managers. |

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 8. Performance Measurement | ▪ Trustees should arrange for measurement of the performance of the fund and make formal assessment of their own procedures and decisions as trustees. They should also arrange for a formal assessment of performance and decision-making delegated to advisers and managers. | **COMPLIANT**<br><br>Fund Managers' performance is measured through Mellon reviews and reported to the Sub Committee.<br>Procedures are covered in the Fund's Governance Policy Statement. |
| 9. Transparency | ▪ A strengthened Statement of Investment Principles should be set out: | **LARGELY COMPLIANT** |
| | ⇒ who is taking which decisions and why this structure has been selected | Trustee responsibilities are clearly set out. |
| | ⇒ the fund's investment objectives | These are included in the SIP and Funding Strategy. |
| | ⇒ the fund's planned asset allocation strategy, including projected investment returns on each asset class and how the strategy has been arrived at | The asset allocation strategy is contained in the Statement together with a breakdown of the value of each asset class but projections are not made. |
| | ⇒ the mandates given to all advisers and managers, and | The amounts involved are detailed but the mandates need to be included in the SIP. |
| | the nature of the fee structures in place for all advisers and managers, and why this set of structures has been selected. | The information is not contained in the SIP but is provided to Members of the Sub Committee. |

| Principle | Compliance Requirement | Assessment |
|---|---|---|
| 10. Regular Reporting | ▪ Trustees should publish their Statement of Investment Principles and the results of their monitoring of advisers and managers. They should send key information from these annually to members of these funds, including an explanation of why the fund has chosen to depart from any of these principles. | **LARGELY COMPLIANT**<br><br>This is contained in Pensions Investment Sub Committee and Pensions Committee reports available on the intranet and will be contained on the Pension Scheme website once produced in 2007/8.<br><br>Key information is contained in the Annual Report and in Nest Egg which is produced three times a year. |

**Appendix 2**

## Extract from NAPF Discussion paper

## Assessment of Progress on Myners Principles

| Principle | NAPF Assessment |
|---|---|
| 1. Effective Decision Making | Effective decision making does not permit objective measurement. But the available evidence suggests that opportunities for trustees to gain expertise have grown substantially (though more so in DB than DC schemes). The Myners Report may have been too pessimistic in its assessment of trustee qualifications and experience. |
| 2. Clear Objectives | On the basis of the evidence available, progress would appear to be significant. However there may be a gap between trustees' perception and reality. More evidence is needed. |
| 3. Asset Allocation | Based on the available evidence, compliance would appear to be high. Pension funds are taking an increasingly diversified approach to asset allocation. |
| 4. Expert Advice | Based on available evidence, it would appear that there is significant progress on this Principle. An appreciable number of funds appear to seek tenders for separate actuarial and investment consulting advice, though there is a lack of very recent data. |
| 5. Explicit Mandates | Based on available evidence, it would appear that progress has been significant. The respective roles of trustees and advisers is generally clear. Differing perceptions about time horizons as between trustees and managers may stem from fund performance. The new |

| | |
|---|---|
| cont'd | regulatory regime for soft commissions limits spending of soft commissions to execution and research. |
| 6. Shareholder Activism | On the evidence available, it would appear that progress has been significant. There has been great progress on shareholder engagement, with many corporate governance initiatives undertaken in the past six years. There has been increasing clustering around the Statement of Principles of the Institutional Shareholders' Committee. |
| 7. Appropriate Benchmarks | Based on the available evidence, progress would appear to be significant. Industry average benchmarks have been almost completely abandoned. |
| 8. Performance Measurement | Evidence would suggest that progress has been slow. Although the NAPF has published guides to help trustees, there is as yet no generally accepted methodology for measuring the work done by consultants at manager selection/deselection level or on strategy, in the same way as exists for measuring investment managers. |
| 9 & 10 Transparency and Regular Reporting | On the basis of the available evidence, it would appear that transparency and regular reporting have improved. |

**Appendix 4**

AT
Mr Jeff Nash
(0115) 977 2200
(0115) 977 5280
jeff.nash@nottscc.gov.uk
21 March 2007

Jonathan Hoffman
Policy Adviser – Investments
NAPF
NIOC House
4 Victoria Street
LONDON SW1 0NX

Dear Mr Hoffman

**<u>NAPF Discussion paper – Institutional Investment in the UK Six Years On</u>**

Thank you for the opportunity to comment on the NAPF Discussion Paper on the Myners Principles and Pension Funds' progress against the Principles. The Paper raises a number of issues, and the Nottinghamshire Pension Fund response is summarised below:-

a) <u>Governance, Compliance and Progress (Questions 1 to 8)</u>

i. In common with other Local Authority Pension Funds, the Nottinghamshire Pension Fund is administered in accordance with Statutory Instruments, in particular, the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 and subsequent amendments. These set out the requirements for the investment of funds and the Myners Principles have been very helpful in developing best practice. The key issues in pension scheme governance remain providing for members' pensions requirements, achieving relative stability in contributions by employers and conducting the business of the Fund in a socially responsible way. The Myners Principles do require updating to reflect changes in the pensions environment but overall they still provide a good basis for assessing Pension Fund's practice.

ii. An important area often highlighted by the Fund's Investment Sub Committee is assumptions made by Actuaries. This has such a significant impact on valuations that it has become a key issue for most Pension Funds. Any support or recognition from NAPF of the need for Actuarial assumptions to be as realistic as possible may well be helpful.

iii. In terms of the extent of compliance since 2001, there would seem to be an improving picture. Certainly, the inclusion of the Principles as part of an amendment to the LGPS Regulations in 1999 has ensured a high profile for the Myners Principles and compliance against them. Particular improvements have occurred in governance with the production of a number of policy/strategy documents e.g. Statement of Investment Principles, Funding Strategy Statements and Governance Policy Statement, providing a firm basis for compliance with a number of the Myners Principles.

b) Principles (1 to 10)

i. NAPF's assessment of progress on each of the 10 Principles seems balanced and reflects reasonably well the overall perception of the improved level of compliance with the Myners Principles. Many of the Principles represented practice that the Nottinghamshire Pension Fund had been following for some time. The Investment Sub Committee is structured in such a way as to facilitate compliance with the Principles especially in relation to effective decision making. A separate Pensions Working Group considers more detailed issues e.g. asset allocation and makes recommendations to the Sub Committee which in turn seeks the Pensions Committee's approval. The "trustees" have a separate training budget and a regular programme of training to ensure appropriate levels of knowledge and skills. The Principles have become an integral benchmark in managing the Pension Fund. Accordingly, they have retained their relevance, and progress against them is assessed on a regular basis. Therefore, while they do require some amendment to reflect the changing pension scene they continue to be a useful means of ensuring best practice is applied.

c) Independent Compliance Review

i. The Independent Compliance Review proposes a template which details each of the Myners Principles and then assesses compliance against these. This is a process already followed by many Pension Funds in assessing compliance and therefore seems appropriate. The intention is that the framework should not prove onerous and not be a verification audit and thus is supported. An annual review carried out by an independent reviewer seems excessive especially as arrangements would tend to apply continually once full compliance has been achieved. Self assessment should be considered as a pragmatic means of achieving this objective. Also, use of appropriate Internal Audit sections to carry out these reviews would provide a good level of independence and expertise.

ii. Applying the framework to Funds above £250million seems reasonable and requiring Pension Funds to include a summary of the review's main findings and an Action Plan, if necessary, aids transparency. Overall, the framework seems reasonable but the need for an annual independent review is questioned, especially if past compliance has been good.

Yours sincerely

**J K Nash**
**Head of Service**