

# Public Document Pack

## **NOTICE OF AUTHORITY MEETING**

You are hereby summoned to the Annual meeting of South Yorkshire Pensions Authority to be held at the offices of the South Yorkshire Joint Secretariat on Thursday 14 June 2012 at 10.00 am for the purpose of transacting the business set out in the agenda.

**M V Oades**  
Deputy Clerk and Monitoring Officer

**Member Services Officer: Len Cooksey**  
Tel: 01226 772848 Email: [lcCooksey@syjs.gov.uk](mailto:lcCooksey@syjs.gov.uk)

## **WEBCASTING NOTICE**

This meeting may be filmed for live or subsequent broadcast via the Authority's web site. At the start of the meeting the Chair will confirm if all or part of the meeting is being filmed.

You should be aware that the Authority is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Authority's published policy.

Therefore by entering the meeting room, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

## **Distribution**

Councillors M Lawton (Chair), R Wraith (Vice-Chair), D Baker, E Butler, R Ford, K Goultly, B Lodge, C McGuinness, B Perrin, L Rooney, A Sangar and P Wootton

## **Contact Details**

For further information please contact:

<p>Gill Garrety South Yorkshire Joint Secretariat 18 Regent Street, Barnsley, South Yorkshire S70 2HG</p> <p>Tel: 01226 772806 <a href="mailto:ggarrety@syjs.gov.uk">ggarrety@syjs.gov.uk</a></p>	<p>Len Cooksey South Yorkshire Joint Secretariat 18 Regent Street, Barnsley, South Yorkshire S70 2HG</p> <p>Tel: 01226 772848 <a href="mailto:LCooksey@syjs.gov.uk">LCooksey@syjs.gov.uk</a></p>
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**SOUTH YORKSHIRE PENSIONS AUTHORITY**

**14 JUNE 2012 AT 10.00 AM AT THE OFFICES OF THE SOUTH YORKSHIRE JOINT SECRETARIAT, 18 REGENT STREET, BARNSELY**

**Agenda: Reports attached unless stated otherwise**

	<b>Item</b>	<b>Page</b>
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## SOUTH YORKSHIRE PENSIONS AUTHORITY

14 June 2012: Annual Meeting

Report of the Clerk and Treasurer

### MEMBERSHIP OF THE AUTHORITY

1. Purpose of the Report

To report on membership of the Authority.

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2. Recommendations

**Members are recommended to note this report.**

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3. Information

There have been changes in the membership of the Authority this year. The current membership is set out below.

<b>Barnsley</b> Councillors	<b>Doncaster</b> Councillors	<b>Rotherham</b> Councillors	<b>Sheffield</b> Councillors
B Perrin R Wraith	E Butler B Ford C McGuinness	K Gouly P Wootton	D Baker M Lawton B Lodge L Rooney A Sangar

4. Implications

There are no legal, financial or diversity implications.

**W J Wilkinson**  
Clerk and Treasurer

**Officer Responsible:** Gill Garrety, Member Services Officer  
South Yorkshire Joint Secretariat  
01226 772806; [ggarrety@syjs.gov.uk](mailto:ggarrety@syjs.gov.uk)

**Background papers: None.**

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## SOUTH YORKSHIRE PENSIONS AUTHORITY

14 June 2012

### Report of Clerk and Treasurer

## AUTHORITY GOVERNANCE ARRANGEMENTS

### 1. Purpose of the Report

To provide Members with options to consider when discussing the rearrangement of Authority meeting structures and decision-making procedures.

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### 2. Recommendations

**Members are asked to select one of the options contained in the report.**

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### 3. Background Information

- 3.1 Over the years the Authority has operated using different governance structures but none has proved to be wholly satisfactory. The aim of the current arrangement was to create continuity through the two Boards to deal with the technical and detailed issues allowing the Authority to deal solely with strategic policy issues. In practice, however, the Authority has ended up having a rather limited role because most of the work has fallen on the two Boards.
- 3.2 The Corporate Planning & Governance Board has effectively taken on everything other than investment issues so they currently deal with both pensions administration matters and corporate planning. In addition, it has taken on the role of the Audit Committee.
- 3.3 The Investment Board has, on the whole, struggled to cope with its business and Members have expressed the view that the agendas are too long for such a complicated subject. Indeed, the length of agendas is a problem with the CP&GB as well, whereas Authority meetings have tended to have too light an agenda.
- 3.4 Therefore, it is easy to reach the conclusion that the present governance structure does not fit the purpose. However, it has proven very difficult to come up with alternative schemes which address all the identified difficulties and remain workable. It has to be borne in mind when altering the structure of any organisation that the new arrangements have to be serviceable given the limited resources available.

- 3.5 Various discussions have taken place between officers and the Chair and Vice Chair as to alternative proposals for a new structure and this paper sets out three options for Members to consider.
- 3.6 The first represents an evolutionary change; the second is a more radical change and the third is a no change policy bearing in mind the implications that might arise from the implementation of the 2014 LGPS.

#### **4. Way forward**

##### **Option 1**

- 4.1 This option keeps the present Authority and two board structure but will amend the frequency of meetings and the business discussed at each meeting. The Authority will continue to meet quarterly and to concentrate upon strategy, but will also take on board responsibility for Member training and approval of the Fund's actuarial valuation.
- 4.2 It is intended that a training session, be it internally or externally presented, will be held on the same day as an Authority meeting. It is also suggested that there will be a formal presentation on the Authority's annual report each year and that at each Authority meeting the Chair and Vice Chair of each Board will submit a report on the issues discussed by their respective Boards.
- 4.3 The current CP&GB will continue to be responsible for audit and pension administration matters but will operate on a split agenda. In other words, the first half of each meeting will concentrate on pension administration matters and the second half will operate as an audit committee. This should make business easier to manage and clearer to follow. It might mean that on occasion the Board will only consider audit matters or only pension administration matters. The Board will meet as and when timetabling arrangements require it to, such as approval of accounts or Annual Governance Statement, rather than strictly quarterly.
- 4.4 It is suggested that the Investment Board continues to hold four quarterly meetings to discuss every day management issues but might also meet on another two occasions to discuss bigger issues or themes, such as asset & liability policies or responsible investment strategies. In other words, the Board would probably meet six times a year and again, meetings would be timed to satisfy the underlying operational needs of the Fund rather than on a strictly quarterly basis. It has also been suggested that the present Board cycle results in meetings being held too long after quarter ends. Unfortunately, there is an inevitable delay on some occasions due to the need to obtain externally produced data or audited verification of returns etc e.g. WM presentation, year end valuations.
- 4.5 It should be noted that the current investment advisory panel meet with Members on Board days without any officers of the Authority present, prior to each Board meeting. In my opinion this is a weakness in governance and I feel that at least one of the Authority's statutory officers ought to be in attendance so that the decision making process is transparent.
- 4.6 It is also suggested that the present position whereby the Chair of the Authority chairs the Investment Board and the Vice Chair of the Authority chairs the CP&GB be formalised and at the same time each should be made



the formal deputy on the other board. In other words, the Vice Chair of the Authority becomes the Vice Chair of the Investment Board and will be expected to attend Investment Board meetings. It should be noted that to follow Audit Commission and CIPFA advice the Chair of the Audit Committee should not normally be the Chair or Vice-Chair of the full Authority. However, the District Auditor has been content for the Audit Committee role to remain within CPGB and be chaired by the Vice Chair.

- 4.7 Over time the existing Terms of Reference of both Boards have become blurred and certain arrangements, which on strict interpretation should be handled at Board level, have instead been elevated to Authority level. This might be the correct course of action but the process needs to be fully documented because it suggests that the initial Terms of Reference are flawed.
- 4.8 Appendix 1 shows in bullet point terms the matters which will be discussed by the Authority and the two boards under this proposal.

### **Option 2**

- 4.9 This structure provides for Authority meetings every month to be followed by either an Investment Board or CP&GB meeting. The attraction of this approach is that it re-establishes the Authority's primacy even though some of the individual agendas will remain thin. However, there are two significant problems with a monthly twin track approach. Firstly, it will be tempting for all Members to attend the subsequent Board meeting since they will already be on the premises for the Authority meeting and this will dilute the specialist nature of the Board and, secondly but not least, the more onerous servicing requirements imposed on officers by the increased number of meetings and timetabling constraints. It should also be noted that there will also be timing issues on individual days, especially those when the Authority is followed by an Investment Board meeting.
- 4.10 It is suggested that the previous recommendation regarding the chairing of the Authority and Boards would apply to this structure as well.
- 4.11 Appendix 2 shows a very draft outline of how this structure might operate.

### **Option 3**

- 4.12 Neither of the above suggestions is ideal and as has already been noted, the present structure has its weaknesses. However, it might be prudent to continue with the present structure given the implications of the proposals regarding the re-structuring of the 2014 LGPS. Although the details have yet to be worked through, the potential for a statutory requirement of having stakeholder nominees in a decision making position on the administering Authority could mean that up to 20 people could attend Authority meetings and that attendance at boards might also increase. Furthermore, the new proposals might impose more regulatory requirements upon the administering Authority and increase its formal business and/or require it to make greater consultation with stakeholders etc. Bearing this in mind it might be appropriate not to amend the structure at this stage.

- 4.13 If Members consider that no change should be made to the meeting structure then they are asked to consider report at Agenda item 5 which deals with appointments to the Boards, Committee and Chairs.

**Other**

- 4.14 So far this paper has only mentioned the main structure of the Authority; however, the review should include the other governance arrangements that are in place. This would include, for instance, the existing Management Committee which meets occasionally to appoint external managers; the Appeals Committee which meets to discuss staff matters, for example, and the Pensions Advisory Panel which acts as a stakeholder consultation forum.
- 4.15 When reviewing these structures Members might consider it worthwhile to establish a separate committee that could operate as a Section 41 meeting. Clearly, there are other possibilities to be considered as well.

5) Implications

5.1 Financial

There are financial implications associated with options 1 and 2 not the least of which is increased officer input. Additional meetings will involve costs.

5.2 Legal

There are no legal implications other than those referred to in the report.

5.3 Diversity

There are no diversity implications.

W J Wilkinson  
Clerk and Treasurer

Officer responsible:

John Hattersley, Fund Director  
Tel : 01226 772873\_

**Background papers** used in the preparation of this report are available for inspection at the offices of the Authority in Barnsley.

**Other sources and references:** None

## APPENDIX ONE

### **Authority**

Maintenance of Authority's constitution  
Approval of Financial Regulations and Standing Orders  
Corporate Strategy and Mission Statement  
Performance of Boards : reports from Chairs  
S41 feedback  
Member issues  
Member training  
Personnel  
Budget monitoring  
Treasury management strategy  
Actuarial Valuation  
FSA compliance  
Pensions Advisory Panel

### **Corporate Planning and Governance Board**

Audit and Risk function

Internal audit plans and reports  
External audit plans and reports  
Risk register management and evaluation  
Anti fraud and corruption matters  
Annual Governance Statement  
Authority and Fund Accounts  
Corporate strategy monitoring

Pensions administration function

Funding Strategy Statement  
Fund Governance compliance  
LGPS consultation  
Stakeholder communications  
Stakeholder relationships  
District council SLAs  
Administration benchmarking and performance  
Actuarial matters  
Ill health monitoring  
AVCs  
Approval of contracts

### **Investment Board**

Statement of Investment Principles  
Asset and liability structure  
Investment benchmarks  
Asset allocation  
Internal and external investment performance monitoring  
Appointment of external managers and advisors  
Socially responsible investment

Voting policies and reporting  
Local Authority Pension Fund Forum  
Shareholder engagement  
Approval of contracts

**Management Committee**

**Appeals Committee**

**Section 41 Committee**

EXAMPLE ONLY

## APPENDIX TWO

	AUTHORITY	INVESTMENTS BOARD	PENSIONS & CORPORATE AFFAIRS
June	<ul style="list-style-type: none"> <li>• AGM</li> <li>• Draft Accounts overview</li> <li>• Whistleblowing</li> <li>• Plans for Fund AGM</li> <li>• Member Training &amp; Development annual report</li> <li>• Myners self-assessment</li> </ul>		<ul style="list-style-type: none"> <li>• Draft Accounts overview (details)</li> <li>• Annual Governance statement</li> <li>• Risk Register</li> <li>• Audit Committee Reports/Plans</li> <li>• Corporate performance previous year</li> <li>• Budget Monitoring</li> <li>• Treasury Management</li> <li>• Employers SLA Performance</li> </ul>
July (last week)	<ul style="list-style-type: none"> <li>• Final Accounts/Governance reports</li> <li>• Letters of representation</li> <li>• Audit Commission AGR</li> </ul>	<ul style="list-style-type: none"> <li>• Q1 Performance</li> </ul>	
August	Annual Review of member training		<ul style="list-style-type: none"> <li>• LGPS Update</li> <li>• Valuation Strategy update</li> <li>• Audit Committee updates</li> <li>• Annual review of ill health</li> <li>• Consultation and Communication Strategy</li> </ul>
September	<ul style="list-style-type: none"> <li>• Annual Review of Corporate Strategy</li> </ul>		<ul style="list-style-type: none"> <li>• LGPS update</li> <li>• Corporate Strategy quarterley performance</li> <li>• Performance/Future</li> <li>• Budget Monitoring</li> </ul>
October	<ul style="list-style-type: none"> <li>• Mercers Update</li> <li>• Human Resources policy update</li> <li>• FOI annual update</li> </ul>	<ul style="list-style-type: none"> <li>• Q2 Performance</li> <li>• WM Presentation</li> </ul>	
November	<ul style="list-style-type: none"> <li>• Treasury Management Strategy</li> <li>• Draft Budget Strategy</li> <li>• Annual review of risk register</li> </ul>	<ul style="list-style-type: none"> <li>• Investment Strategy debate</li> </ul>	
December	<ul style="list-style-type: none"> <li>• Budget</li> <li>• Report back from Fund AGM</li> </ul>		<ul style="list-style-type: none"> <li>• LGPS update</li> <li>• Annual Audit Letter</li> <li>• Anti-Fraud and Corruption strategy</li> <li>• Employers SLA/Performance</li> <li>• Benchmarking results</li> </ul>

January	<ul style="list-style-type: none"> <li>•Annual Review of governance</li> </ul>	<ul style="list-style-type: none"> <li>•Q3 Performance</li> <li>•Bond Manager Presentation</li> </ul>	
February	<ul style="list-style-type: none"> <li>•Funding Strategy review</li> </ul>		<ul style="list-style-type: none"> <li>• LGPS update</li> <li>• Budget Monitoring</li> <li>• Performance report</li> <li>• Corporate strategy performance</li> <li>• Draft Audit Plan</li> <li>• Employers performance</li> <li>• AVC Review</li> </ul>
March	<ul style="list-style-type: none"> <li>•Pensions advisory panel review</li> </ul>	<ul style="list-style-type: none"> <li>•Investment Strategy debate</li> <li>•Manager presentations</li> <li>•Voting guidelines</li> <li>•Shareholder engagement</li> <li>•Investment Principles</li> </ul>	
April	<ul style="list-style-type: none"> <li>•Audit &amp; Compliance Review</li> </ul>		<ul style="list-style-type: none"> <li>• LGPS update</li> <li>• ? Audit Plans</li> </ul>
May	<ul style="list-style-type: none"> <li>•Member Training Plans</li> <li>•Review of Risk Strategy</li> </ul>	<ul style="list-style-type: none"> <li>•End year Fund Performance figures</li> <li>•Asset and Liability Review</li> <li>•Voting execution</li> <li>•Proxy voting</li> </ul>	

## SOUTH YORKSHIRE PENSIONS AUTHORITY

### 14 June 2012: Annual Meeting

#### Report of the Clerk and Treasurer

#### APPOINTMENT OF BOARDS, COMMITTEE AND CHAIRS

##### 1. Purpose of the Report

To consider the appointment of Boards, Committee and Chairs for 2012/13.

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##### 2. Recommendations

**Members are recommended to consider the Terms of Reference and memberships of the Boards, Management Committee and their Chairs for 2012/13.**

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##### 3. Information

- 3.1 The terms of reference of the Authority's Boards and Committee appear in the Appendix.
- 3.2 The current membership and Chairs of the two Boards and Management Committee are shown below:

<b>Corporate Planning &amp; Governance Board</b>	<b>Investment Board</b>	<b>Management Committee</b>
<b>6 members</b>	<b>6 members</b>	<b>Section 41 members</b>
Councillor R Wraith (Chair)	Councillor M Lawton (Chair)	Councillor M Lawton (Chair)
Councillor D Baker	Councillor K Goulty	Councillor K Goulty
Vacancy	Vacancy	Vacancy
Councillor E Butler	Vacancy	Councillor R Wraith
Councillor R Ford	Councillor B Perrin	
Councillor P Wootton	Councillor A Sangar	
And three trades unions representatives	And three trades unions representatives	

**4. Implications**

None

**W J Wilkinson**  
**Clerk and Treasurer**

**Officer responsible:** Gill Garrety  
Member Services Officer  
South Yorkshire Joint Secretariat  
01226 772806.  
Email: [ggarrety@syjs.gov.uk](mailto:ggarrety@syjs.gov.uk)

**Background papers:** None

**Other sources and references:** None



## TERMS OF REFERENCE

### **Corporate Planning and Governance Board**

To secure the Authority's responsibilities in relation to the delivery of the most efficient, effective and economic service

In connection with this:

- 1) Determine strategies to implement the priorities set out with the Authority's Corporate Plan
- 2) Determine a work programme for the Board
- 3) Management and review of stakeholder relationships, including District Council relationships
- 4) Review of results from stakeholder consultation and using those results to inform priorities and quality of service delivery
- 5) Agreeing and monitoring delivery against Service Level Agreements, reporting any issues of major concern to the full Authority
- 6) Carrying out the following core audit committee functions:
  - a. Consider the effectiveness of the Authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements
  - b. Seek assurances that action is being taken on risk-related issues identified by auditors and inspectors
  - c. Be satisfied that the Authority's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it
  - d. Approve (but not direct) Internal Audit's strategy and plan
  - e. Monitor performance against internal audit's strategy and plan
  - f. Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
  - g. Receive the annual report of the Head of Internal Audit
  - h. Consider the reports of external audit and inspection agencies
  - i. Ensure that there are effective relationships between Internal Audit and external audit, inspection agencies and other relevant bodies, and that the value of the process is actively promoted
  - j. Review financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit

- k. To oversee the production of, and approve, the Authority's Statement on Internal Control.
  - l. To review and approve the annual Statement of Accounts, focusing on:
    - the suitability of, and any changes in, accounting policies;
    - major judgemental issues e.g. provisions
  - m. To receive and agree the response to the external auditor's report to those charged with governance on issues arising from the audit of the accounts, focusing on significant adjustments and material weaknesses in internal control reported by the external auditor.
- 7) Monitor the Authority's risk register and Statement of Internal Control, reporting issues of concern to the full Authority
  - 8) Monitor delivery provision of high quality pensions services
  - 9) Triennial and interim valuations and agreeing the assumptions leading to the setting of employer contribution rates
  - 10) Be responsible for liaison with the Actuary
  - 11) Monitor compliance with:
    - a. FSA
    - b. Standing Orders and Financial Regulations

and raising any matters of concern with the full Authority
  - 12) Respond, on behalf of the Authority, to Department of Communities and Local Government (DCLG) and other government or industry consultation exercises, notifying the Authority of any major issues
  - 13) Set and monitor the admissions policy
  - 14) Formulate, review and publish Strategies and Policies on Administering Authority discretions
  - 15) Determine, publish and review a:
    - a. Funding Strategy
    - b. Governance Policy
    - c. Communications Strategy
  - 16) Determine and maintain, as appropriate, employment practices for the Authority's own workforce
  - 17) Determine and maintain an appeals procedure under the scheme's IDRPs

### **Investment Board**

To obtain the best financial return in order that the Fund can meet both its immediate and long-term liabilities.

In connection with this:

1. Development of a work programme for the Board
2. Develop the Investment Strategy – medium and long term in accordance with guidelines applied by the Authority, including the commission of asset and liability modelling studies or similar as necessary
3. Hold the Fund Managers to account for delivery of the Authority's Investment Strategy
4. Review the overall Fund Performance
5. Be aware of industry developments
6. Develop investment strategies beyond the 5 year horizon
7. Develop, publish and review a Statement of Investment Principles
8. Develop, publish and review corporate governance/socially responsible investment policies
9. Develop, publish and review voting guidelines
10. Membership of pressure groups etc. e.g. LAPFF
11. Monitor performance and membership mix of Panel
12. Respond, on behalf of the Authority, to Department of Communities and Local Government (DCLG) and other government or industry consultation exercises, notifying the Authority of any major issues
13. Appointments of External Managers. Professional Advisors and Members of the Authority's Investment Advisory Panel

### **Management Committee**

1. Receive urgent reports and make decisions on behalf of the Authority, or its Boards, where, due to tight timescales, it is not possible to refer to the Authority or Boards
2. To exercise all the Authority's functions in respect of:
  - a. Appeals by staff (where a right of appeal exists)
  - b. Complaints against senior officers.

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## SOUTH YORKSHIRE PENSIONS AUTHORITY

14 June 2012

### Report of the Clerk and Treasurer

## AMENDMENTS TO CONTRACT STANDING ORDERS

### 1. Purpose of the Report

To seek approval to proposed amendments to the Authority's Contract Standing Orders.

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### 2. Recommendations

**Members are recommended to consider and approve the amendments outlined in the report and set out in detail in the Appendix annexed hereto.**

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### 3. Background Information

- 3.1 In April 2012 the Authority discussed minor changes to Contract Standing Orders arising from the management arrangements approved by the Authority last year and other changes to improve the tender handling process and to take account of legislative changes.
- 3.2 At that meeting Members were advised that officers intended to carry out a comprehensive review of the Authority's Contract Standing Orders in due course and that this would be undertaken as part of the Annual Governance Review together with a review of the Scheme of Delegation to Officers.
- 3.3 However, in the interim it has become clear that some clarification of the wording affecting professional contracts associated with investment property construction and refurbishment projects is necessary. This is to reflect changes in industry practice whereby developments are increasingly presented to potential investors as pre-ordained packages consisting of teams of professional advisors already committed to projects. Such packages are more cost-effective, more time competitive and easier to manage from an end investor's perspective than trying to organise a project completely from scratch.

#### **4. Proposed revisions**

<b>Document</b>	<b>Revisions</b>
Contract Standing Orders	<ul style="list-style-type: none"><li>• Re-wording of exemptions (CSO 5.3)</li><li>• Re-wording of reporting requirements stemming from exemption changes (CSOs 5.3 and 11.2)</li></ul>

#### **5. Implications and risks**

5.1 There are no financial, legal or diversity risks arising from this report.

**W J Wilkinson**  
**Clerk and Treasurer**

**Officer responsible:** Maureen Oades, Deputy Clerk and Solicitor

01226 772856mvoades@[syis.gov.uk](mailto:mvoades@syis.gov.uk)

**Background papers** used in the preparation of this report are available for inspection at the offices of the Authority in Barnsley.

**Other sources and references:** None.

## **PART 4d - CONTRACT STANDING ORDERS**

Date Approved:	July 2000
Date Revised:	October 2006; December 2006; June 2008; June 2009; June 2010; April 2012; June 2012
Date of Next Review:	April 2013
Owner :	M V Oades

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12. Nominated Sub-Contracts and Nominated Suppliers
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14. Form of Contract
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- 1.1 These Standing Orders shall apply to the seeking of offers and the award of contracts for works, supplies or services.
- 1.2 Every contract made by the Authority for works, supplies or services and the procedures relating to them shall comply with:
- (a) these Standing Orders
  - (b) Financial Regulations made by the Authority
  - (c) any legal requirements applying to such contracts.
- 1.3 Wherever legal requirements conflict with or provide additional requirements to these Standing Orders those requirements shall prevail.
- 1.4 These Standing Orders may only be varied with the approval of the Authority.
- 1.5 The Authority has power to waive requirements in these Standing Orders. The Clerk and Treasurer is authorised to exercise this power on behalf of the Authority. No exemption can be used if EU Procurement Procedures apply. All exemptions, and the reasons for them, must be recorded in an appropriate log.

## **2. Definitions**

- 2.1 In these Contract Standing Orders, except where the context otherwise requires, the following expressions shall have the meanings hereby described to them:

“Appropriate Manager”	shall mean the Clerk and Treasurer, the Fund Director or the Head of Pensions Administration (or an authorised officer to act in their absence) and shall be interpreted according to their respective management responsibilities
“A Contract”	means any contract in writing or otherwise for works, supplies or services but shall exclude contracts of employment or for the acquisition of land, including buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land or for financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments (this exclusion includes securities broking services).
“Monitoring Officer”	shall mean the Deputy Clerk and Monitoring Officer performing the functions of the “Monitoring Officer” as described under section 5 of the Local Government and Housing Act 1989
“Quotation”	means a written estimate to execute works, or supplies or services.
“Services”	is to be construed in accordance with the Public Contracts Regulations 2006.

“Supplies”	is to be construed in accordance with the Public Contracts Regulations 2006.
“A tender”	means a written offer to execute works or provide supplies or services.
“Works”	is to be construed in accordance with the Public Contracts Regulations 2006.

2.2 A reference to any enactment shall be deemed to include a reference to any amendment or re-enactment of the same.

### **3. Discharge of Functions by Officers**

3.1 The Clerk and Treasurer, the Fund Director and the Head of Pensions Administration shall be empowered to seek offers for and award contracts for works, supplies or services on behalf of the Authority in accordance with these Standing Orders.

3.2 Whenever the office of Clerk and Treasurer, Fund Director or the Head of Pensions Administration is vacant, or he/she is for any reason unable to act, the person(s) specified below shall be authorised to act on his/her behalf for the purposes of these Standing Orders.

#### Clerk and Treasurer

#### Fund Director

#### Head of Pensions Administration

Deputy Clerk and Monitoring Officer  
Deputy Treasurer  
Deputy Clerk /Policy  
Deputy Monitoring Officer

Head of Investments

Principal Pensions Manager

3.3 Officers undertaking contract functions on behalf of the Authority shall always:

- (a) Seek value for money;
- (b) show no undue favour to any contractor, nor discriminate against contractors from other EU States;
- (c) conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
- (d) do nothing that contravenes the Authority’s Standing Orders, Financial Regulations, EU or domestic law; and
- (e) ensure that adequate Contract Files are kept for all contracts upon which they are engaged.

### **4. Declaration of Interests**

- 4.1 Any officer undertaking any contract function(s) (e.g. supplier selection, tender award or day to day order placing) shall declare in writing to the Clerk and Treasurer any relationship of a business or private nature with an external contractor or potential contractor. The Clerk and Treasurer shall decide whether or not the officer concerned should continue to discharge the particular contract function(s).
- 4.2 In accordance with the provisions of Section 117 of the Local Government Act 1972 where it comes to the knowledge of an officer that a contract in which the officer has a pecuniary interest whether direct or indirect (not being a contract to which the officer is a party) is before the Authority, the officer must give notice in writing of his/her interest to the Clerk and Treasurer.
- 4.3 The Clerk and Treasurer shall keep completed declarations given under this SO 4 on the individual's personal file and a register of officers' declarations indicating the names of the officers concerned and the nature of their declaration.

## **5. Procedures for Letting Contracts**

- 5.1.1 Where the estimated value of a proposed contract for works, supplies or services is equivalent to or above the thresholds specified in the table below offers shall be invited by the appropriate Manager in accordance with the Public Contracts Regulations 2006 SI 2006/5.

<b>Contract</b>	<b>Threshold</b>
Works	£4,348,350
Supplies	£173,934
Services	£173,934

(Thresholds are based upon EU Procurement thresholds as specified from January 2012. Thresholds will change thereafter in line with appropriate statutory procurement thresholds operative at the time).

- 5.1.2 Where public notice of a proposed contract is required in the Official Journal of the European Communities public notice shall also be given in one or more journals or newspapers circulating in the United Kingdom.
- 5.2.1 Where the estimated value of a proposed contract is below the appropriate threshold specified in SO 5.1 then unless an exception applies the appropriate Manager shall comply with the following:

### Contracts up to £20,000

The appropriate Manager shall ensure that the best value in terms of economy, efficiency and effectiveness is obtained:

### Contracts above £20,000 to £50,000

The appropriate Manager shall obtain three or more written quotations in accordance with SO 5.4.

### Contracts above £50,000

Full tender procedure required.

5.2.2 A contract shall not be artificially divided into two or more separate contracts with the intention of avoiding the requirements to invite quotations or tenders. Contracts shall be packaged to best ensure service delivery, competition and value for money.

### 5.3 Exceptions from quotation or tender

5.3.1 Only one tender or quotation need be obtained in the following circumstances:

- (a) where only one contractor is able to carry out the work or service or to supply the goods for technical reasons or because of exclusive rights;
- (b) where additional works supplies or services are required which, through unforeseen circumstances, were not included in the original contract and which are either strictly necessary for the completion of the contract or, for technical or economic reasons cannot be carried out separately without great inconvenience;
- (c) for works, supplies or services obtained from or under contracts which have been negotiated by a central or local government purchasing organisation or by or on behalf of any consortium, association or similar body of which the Authority is a member;
- (d) for works, supplies or services obtained under a framework arrangement approved by the Authority;
- (e) for items up to value of £20,000 where, in the opinion of the appropriate Manager competitive quotations are not necessary or reasonably practicable.

5.3.2 No tender is required for individual contracts :-

- (a) for brokerage services associated with the purchase and sale of securities and financial instruments traded upon a public stock exchange;
- (b) for the engagement of legal and auditing services;
- (c) for professional services associated with the development or refurbishment of investment properties (such as architectural, building design and feasibility consultancy, quantity surveying);
- (d) for agency services associated with the purchase and sale of investment properties;

but more than one quotation ought to be obtained wherever possible and best practice for procurement in that industry should be followed.

5.3.3 Where an exception specified in SO 5.3.1 or 5.3.2 applies the appropriate Manager may proceed with the contract provided that the expenditure is within the framework of the Authority's policy and for contracts other than those specified in 5.3.2 included in the approved budget.

5.3.4 The Clerk and Treasurer shall submit an annual report to the Corporate Governance and Planning Board listing all contracts above £20,000 which are awarded under SO 5.3.1 and 5.3.2.

5.3.5 If SO 5.1.1 applies then the exemptions outlined under 5.3 above do not.

### 5.4 Written Quotations - Contracts above £20,000 to £50,000

- 5.4.1 Where the total estimated value of the proposed contract is above £20,000 but does not exceed £50,000 the appropriate Manager shall request a written quotation from not fewer than 3 persons believed to be suitably experienced in the supply of the required works, supplies or services.
- 5.4.2 A quotation shall be required to be addressed to the appropriate Manager in a plain envelope marked only to identify the subject of the quotation.
- 5.4.3 Any quotation received shall only be considered if given in response to a request in writing given by the appropriate Manager, stating the nature and purpose of the contract, and the last date for receipt of the quotation. The timescales used shall be such that persons invited have an equal opportunity to respond.
- 5.4.4 A record shall be maintained of the contractors approached and their responses.
- 5.4.5 The appropriate Manager may accept a quotation other than the lowest provided he/she is satisfied that it is in the best interests of the Authority to do so, in which case a record shall be made setting out the reasons for rejecting the lower quotations.

## **5.5 Tenders - Contracts above £50,000**

- 5.5.1 Where the total estimated value of a proposed contract is above £50,000, tenders shall be invited in accordance with the provisions of SO's 5.6, 5.7 or 5.8 as appropriate.

## **5.6 Approved Lists**

- 5.6.1 This SO 5.6 shall have effect where the Authority has determined that a list shall be kept of persons to be invited to tender for contracts for works, supplies or services of specified categories, values or amounts.
- 5.6.2 The Authority shall ensure that an up to date list is compiled and maintained. The list will contain:
- (a) the names of persons who wish to be included in it and are approved by the Authority, who shall have power to exclude persons from the list either temporarily or permanently;
  - (b) an indication of whether a person whose name is included in it is approved for contracts for all or only some of the specified values, or amounts or categories.
- 5.6.3 At least 4 weeks before the list is first compiled, notices inviting applications for inclusion in it shall be published in one or more newspapers or journals circulating among persons as undertake such contracts of the specified categories, amounts or values within the United Kingdom.
- 5.6.4 The list shall be amended as required from time to time and shall be reviewed at intervals not exceeding 3 years. At least 4 weeks before each review each person whose name appears on the list shall be asked whether he/she wishes his/her name to remain and notices inviting applications for inclusion on the list shall be published as set out in CSO 5.6.3.
- 5.6.5 Where the invitation to tender for a contract is to be limited to persons whose name appears on the list maintained under this CSO 5.6, an invitation to tender for that contract shall be sent to at least 4 of those persons who are approved for a contract of that category, value or amount, or if there are fewer than 4 such persons, to all of them.

5.6.6 If under SO 5.6.5 above there are more than 4 approved persons on the list, the persons to whom invitations are sent shall be selected by the appropriate Manager.

#### 5.7 Restricted Tender Procedure

5.7.1 This SO 5.7 shall have effect where invitation to tender for a contract is to be limited to persons who reply to a public notice.

5.7.2 Public notice shall be given in one or more newspapers or journals circulating in the United Kingdom among persons as undertake such contracts.

5.7.3 The public notice shall set out particulars of the proposed contract and invite persons interested to apply for inclusion on the select list.

5.7.4 After the expiration of the period specified in the public notice (which shall be not less than 10 days) invitations to tender shall be sent to those persons who applied to tender and who have been selected.

5.7.5 A record shall be kept of the selection criteria used for the shortlisting exercise and which suppliers failed (if any) and why.

#### 5.8 Open Tender Procedure

5.8.1 This SO 5.8 shall have effect where a proposed contract is to be let by open tender.

5.8.2 Public notice shall be given in one or more newspapers or journals circulating in the United Kingdom among persons as undertake such contracts or on the Authority's website.

5.8.3 The public notice shall set out the nature and purpose of the proposed contract, invite tenders and state the last date and time when tenders will be received. The period specified for the return of tender shall be not less than 10 days.

#### 5.9 Selection of Procedure

5.9.1 Unless either the law requires a particular procedure to be used, or the Authority requires a particular procedure to be used the following shall apply:-

- (a) where there is an approved list an invitation to tender for the contract shall be sent to at least 4 of those persons who are approved for a contract of that category, value or amount, or if there are fewer than 4 such persons, to all of them. Where there are more than 4 persons approved on the list, the persons to whom invitations are sent shall be selected by the appropriate Manager.
- (b) where there is no approved list and it is considered that reasonable competition will be provided by selective tender, the procedure under SO 5.7 shall be used;
- (c) where there is no approved list and it is considered inappropriate to use the selective tender procedure, the procedure under SO 5.8 shall apply.

#### 5.10 Specifications

Before undertaking a procurement activity the Appropriate Manager shall ensure that a written specification which will form the basis of the contract/arrangement has been prepared. The Specification shall include, where appropriate, defined performance criteria and the associated reporting mechanisms.

## **6. Submission and Receipt of Tenders**

6.1 No tender will be considered unless:

- i) it is received within the time stated and;
- ii) it is received in a plain sealed envelope which shall bear the word "Tender" followed by the subject to which it relates, but no name or mark indicating the identity of the sender;

6.2 Every notice of invitation to tender shall inform prospective tenders of the provisions of SO 6.1.

6.3 The instructions to tender issued to tenderers shall state that tenders are to be delivered to the Clerk and Treasurer.

6.4 If the tender envelope states the name, mark, slogan or logo of the firm, it must immediately on receipt be placed in a plain envelope recording the tender it concerns.

6.5 Tenders shall remain in the custody of the Clerk and Treasurer until the time appointed for their opening. The Clerk and Treasurer shall make arrangements to ensure that the date and time of receipt is marked on each tender envelope. Details of the tender instructions issued shall be provided to the officer responsible for arranging the tender opening ceremony.

6.6 Each person submitting a tender shall be required to certify that he/she has not, before submission;

- (a) communicated to any person other than his/her legal or other professional advisors the amount of any proposed tender;
- (b) adjusted the amount of any proposed tender for the work in accordance with any agreement or arrangement with any other person.

## **7. Opening and Registration of Tenders**

7.1 Tenders delivered to the Clerk and Treasurer in accordance with the provisions of SO 7.3 shall be opened and recorded at one time and in the presence of 2 officers designated for that purpose by the Clerk and Treasurer.

7.2 Where there is only one tender for consideration the Clerk and Treasurer will decide whether or not to open the tender or undertake a re-tendering exercise and his/her decision will be recorded in the tender register.

7.3 The Clerk and Treasurer shall maintain a register of tenders.

7.4 At each tender opening ceremony the following details shall be recorded in the tender register:

- (a) the last date and time for receipt of tenders;
- (b) the tender reference number;
- (c) the estimated value of the contract;
- (d) a brief description of the works, supplies or services;
- (e) the date and time each tender was received as recorded on the tender envelope;
- (f) the name of each tenderer;

- (g) the amount of each tender specified on the Form of Tender (where tenderers are requested to submit Schedules of Prices it shall be sufficient to indicate this fact in the tender register);

which record shall be signed by all persons present at the tender opening immediately after the last tenderer's name so as to prevent any addition to the record.

7.5 A register shall also be maintained of the name and address of any tenderer whose tender was not considered due to non-compliance with the requirements of SO 6.1. The reasons for the disqualification shall be notified in writing to the tenderer. The tender envelope may be opened to ascertain the name and address of the tenderer, but no details of the tender shall be disclosed.

7.6 Arrangements shall be made for all tender envelopes to be kept for two years.

## **8. Evaluation of Tenders**

8.1 The appropriate Manager shall ensure a full evaluation of tenders is undertaken. Differences between tenders should be documented including reference to any technical, operational and financial consequences that may arise.

8.2 A report must be written and must recommend the acceptance of one or none of the tenderers and give appropriate reasons.

## **9. Negotiations**

9.1 Negotiations may take place with the tenderer whose tender is under consideration for a reduction to the price where:

- (a) modifications are to be made to the specification, quantity or conditions, or
- (b) the tender under consideration exceeds the estimated amount or value by 10% or more.

9.2 All such negotiations must be undertaken by 2 or more officers authorised for these purposes by the appropriate Manager.

9.3 A full written record of the negotiations and any agreement made, shall be maintained and made available on request to the Clerk and Treasurer.

9.4 Only where any such negotiations are unsuccessful shall negotiations proceed with the next lowest or most economically advantageous tenderer.

## **10. Errors and Discrepancies**

10.1 Without prejudice to the right of the Authority to refuse any tender, where the examination of a tender reveals any arithmetical omission, error or discrepancy in the figures the appropriate Manager may give to the tenderer whose tender is under consideration the opportunity to confirm his/her offer or to amend it to correct genuine errors.

10.2 Where the tenderer elects to amend his/her offer and the revised offer is no longer the lowest or most economically advantageous, the next tender should be considered.

## **11. Acceptance of Tenders**



- 11.1 Where the Clerk and Treasurer, Fund Director or Head of Pensions Administration (“Appropriate Manager”) has invited tenders he/she is authorised to accept the Most Economically Advantageous Tender received.
- 11.2 The Clerk and Treasurer shall submit an annual report to the Corporate Governance and Planning Board listing all contracts awarded in the given year that exceed £50,000 in value.
- 11.3 Where payment is to be received by the Authority the Appropriate Manager shall have power to accept the Most Economically Advantageous Tender received.
- 11.4 The Authority reserves the right not to accept any tender.

## **12. Nominated Sub-Contractors and Nominated Suppliers**

- 12.1 Where within a contract already approved a sub-contractor or supplier is to be nominated to a main contractor the following provisions shall apply.
- 12.2 Where the estimated cost of a nomination does not exceed £20,000 quotations shall be obtained in accordance with SO 5.4.
- 12.3 Where the estimated cost of a nomination exceeds £20,000 then unless the Authority determines that it is not reasonably practicable for competitive tenders to be obtained tenders for the work shall be invited in accordance with SO 5.6, 5.7 or 5.8 as appropriate.
- 12.4 The terms of the invitation shall require an undertaking by the tenderer that if he/she is selected he/she will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his/her own obligations under the main contract in relation to the works, supplies or services included in the sub-contract.
- 12.5 SO's 6, 7, 8, 9, 10 and 11 inclusive shall apply to the submission, receipt, custody, opening, acceptance of tenders invited under this contract standing order as if the tender was a contract with the Authority.

## **13. Supervision of Contract**

- 13.1 It shall be a condition of the engagement of the services of any person (not being an officer of the Authority) to supervise a contract or matters relating to a contract, that in relation to that contract he/she shall:
- (a) comply with these Contract Standing Orders as though he/she were an officer of the Authority;
  - (b) at any time during the carrying out of the Contract provide, on request to the Clerk and Treasurer, all the records maintained by him/her in relation to the Contract; and
  - (c) on completion of the Contract transmit all such records as the Clerk and Treasurer requires.

## **14. Form of Contract**

- 14.1 All contracts shall be evidenced in writing and every Contract which exceeds £20,000 in value shall be in writing, in a form approved by the Clerk and Treasurer, except:
- (a) where the Clerk and Treasurer is satisfied that works must be executed, or supplies or services obtained as a matter of urgency a written Contract must, (if otherwise required) be executed as soon as practicable thereafter; or

(b) in the case of the purchase or sale of goods by auction.

(Note:- Certified contracts must be approved by the Clerk and Treasurer and the Monitoring Officer - SO 16).

14.2 Every Contract which exceeds £50,000 in value, and in any other case where the Clerk and Treasurer so decides, shall be under seal, unless the Clerk and Treasurer approves other arrangements.

14.3 Every Contract in writing or under seal shall specify:

(a) the work, supplies or services to be done or supplied;

(b) the parties to the contract, including any guarantor;

(c) the price to be paid with a statement of discounts or other deductions;

(d) the time or times within which the Contract is to be performed and, where appropriate, the amount of liquidated damages which may otherwise become due;

(e) any other terms and conditions as specified by the Deputy Clerk to meet the requirements of these Contract Standing Orders and to protect the Authority's interests.

14.4 Every Contract in writing not made under seal shall be signed by the Clerk and Treasurer or a duly authorised officer.

14.5 For the purposes of SO 14.4 the following officers are authorised to sign contracts:

(a) All Contracts

the Deputy Clerk and Monitoring Officer;  
the Deputy Treasurer;  
the Deputy Clerk/Policy  
the Deputy Monitoring Officer

(b) Contracts not Exceeding £20,000

the Fund Director  
the Head of Pensions Administration

14.6 The authorisation provisions applying to the signature of contracts specified in 14.4 and 14.5 shall apply to the signature of official orders for works, supplies or services.

14.7 Every contract made under seal shall be dealt with as set out in Procedural Standing Order Number 31.

14.8 Every Contract which is estimated to exceed £50,000 and is for the execution of works, the provision of services, or supplies by a particular date or series of dates, shall provide for liquidated damages, unless the Clerk and Treasurer, decides that such provision is not required. Where provision is made for liquidated damages, the amount shall be determined by the Clerk and Treasurer.

14.9 Every written Contract shall include a clause to prevent the Contractor from transferring or assigning directly or indirectly, the contract without the written consent of the Authority and

to prevent the sub-letting of the Contract except to the extent permitted in writing by the Supervising Officer or, if none, the Clerk and Treasurer.

- 14.10 Every written Contract shall include a clause to secure that the Authority shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if, in connection with the Contract, the contractor commits an offence under Bribery Act 2010 or gives any fee or reward the receipt of which is an offence under s.117(2) of the Local Government Act 1972, or has directly or indirectly canvassed any member or officer, or has obtained or attempted to obtain information concerning any other tender or otherwise acts in a similar unlawful manner.
- 14.11 The Clerk and Treasurer shall have general powers to set standard and particular contract conditions.
- 14.12 The Clerk and Treasurer is empowered to approve the assignment and novation of contracts entered into by the Authority for supplies, works or services where the estimated value of the contract does not exceed £50,000. The Clerk and Treasurer may also give consent on behalf of the Authority to the sub-letting of such a contract.

## **15. Contract Specification**

- 15.1 Technical specifications shall be defined by reference to relevant European Specifications, or where they do not exist, in the following order: To British technical specifications, British standards implementing international standards, other British standards and technical approvals or any other standards. Where an appropriate standard is current at the date of tender, all works, services and supplies shall be at least of equal quality.
- 15.2 Specifications shall not refer to supplies of a particular make or source unless:
- (a) it is justified by the contract requirement, or
  - (b) the contract requirement cannot otherwise be described precisely and intelligibly, provided references are accompanied by the words "or equivalent".

## **16. Certified Contracts**

- 16.1 Whenever in relation to a contract it is proposed to issue a certificate as to the Authority's power to enter into the contract under Section 3 of the Local Government (Contracts) Act 1997, then the following shall apply:-
- (a) the terms of the contract, any agreed discharge terms and the contents of the Section 3 certificate shall be approved both by the Clerk and Treasurer and the Monitoring Officer;
  - (b) the Clerk and Treasurer shall ensure that the written consent to the issue of the Section 3 Certificate is obtained from each of the persons with whom the Authority has entered into or is to enter into contract;
  - (c) the Section 3 Certificate shall be signed by the Clerk and Treasurer or the Deputy Treasurer in his/her absence (this responsibility cannot be further delegated);
  - (d) the Clerk and Treasurer shall ensure that copies of the Section 3 Certificate are provided to all parties to the contract, the Monitoring Officer and, upon request, to the Authority's Auditor;

- (e) the Clerk and Treasurer shall ensure that throughout the period which the contract operates:
  - (i) a copy of the Section 3 Certificate is open to inspection by members of the public at all reasonable times without payment; and
  - (ii) that members of the public are afforded facilities for obtaining copies of the Section 3 Certificate on payment of an appropriate fee.

## **17. Contract Records**

17.1 The appropriate Manager shall ensure that a contract record is maintained for each contract which is let with an estimated value of above £50,000. The contract record shall record:

- (a) the estimated value of the contract (to be ascertained before offers are invited);
- (b) the contract award procedure adopted, (e.g. open, restricted, or negotiated) together with supporting reasons for the method chosen;
- (c) the basis upon which the contract was awarded e.g. lowest tender or most economically advantageous (where the latter applies the criteria used shall be specified);
- (d) where the contract is let without inviting tenders any exceptions relied upon must be specified (which shall include details of any consortium, or framework arrangements);
- (e) the names of persons invited to tender;
- (f) the name of the successful contractor;
- (g) details of adverts placed, and the dates thereof together with the date of any contract award notice published in the Official Journal of the European Communities

17.2 The appropriate Manager shall provide the Monitoring Officer with a list of all the contracts let in each calendar year which are equal to or above the EU Contract thresholds for works, supplies and services. (This information is required for the purposes of E U Statistical Returns).

## SOUTH YORKSHIRE PENSIONS AUTHORITY

14 June 2012: Annual Meeting

Report of the Clerk and Treasurer

### QUESTIONS IN MEETINGS OF THE DISTRICT COUNCILS

#### 1. Purpose of the Report

To consider the appointment of representatives of the Authority to answer questions raised in meetings of the District Councils and to feedback District Council pensions issues at each meeting of the Pensions Authority.

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#### 2. Recommendations

**Members are recommended to consider the Section 41 appointments.**

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#### 3. Information

- 3.1 Section 41 of the Local Government Act 1985, requires arrangements be made for questions to be raised at District Council meetings and for the Authority to nominate Members to answer them.
- 3.2 In addition the Authority has agreed that the Section 41 Members should be responsible for reporting back District Council pensions issues into each Pensions Authority.
- 3.3 The current appointments and substitutes are as shown below:

<b>Council</b>	<b>Spokesperson</b>	<b>Substitute</b>
Barnsley MBC	Councillor R Wraith	Councillor B Perrin
Doncaster MBC	Vacancy	Councillor R Ford
Rotherham MBC	Councillor K Goulty	Councillor P Wootton
Sheffield CC	Councillor M Lawton	Vacancy

#### 4. Implications

There are no legal, financial or diversity implications.

**W J Wilkinson**  
**Clerk and Treasurer**

**Officer Responsible:** Gill Garrety, Member Services Officer  
South Yorkshire Joint Secretariat  
01226 772806; [ggarrety@syjs.gov.uk](mailto:ggarrety@syjs.gov.uk)

**Background papers: None.**

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