

THE LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE: Petition for Debate under the Council's Petition Scheme	
REPORT OF: Borough Solicitor	
FOR SUBMISSION TO: Council	DATE: 20 th January 2025
<p>SUMMARY OF REPORT:</p> <p>The Council has received, pursuant to its petition scheme, a petition which qualifies under the scheme for a debate. This report details the request in the petition, provides some general background and offers suggested courses of action for the Council.</p> <p>Local Government Act 1972 – Access to Information There were no documents used in the preparation of this report which require listing.</p> <p>Contact Officer: Andrew Maughan Borough Solicitor Town Hall Judd Street London WC1H 9JE Tel: 020 7974 5656 Email: andrew.maughan@camden.gov.uk</p>	
<p>RECOMMENDATIONS:</p> <p>Council is requested:-</p> <ol style="list-style-type: none"> 1. To note the request contained within the petition and detailed in paragraph 2 2. To decide what action if any to take in light of the petition and subsequent debate – options are: <ol style="list-style-type: none"> a. Referring the matter as stated in the petition to be further considered by the relevant decision maker, which is the Pension Committee. b. Referring the wider question as detailed in paragraph 4.7 to the Pension Committee for it to continue its ongoing work with regard to responsible investment. c. Deciding to take no action. d. Taking whatever further action the Council considers appropriate 	

Signed:

Andrew Maughan
Borough Solicitor

Date:

9th January 2025

1. Procedural Background

- 1.1 The Council has a longstanding commitment to working alongside its citizens and communities in an open and transparent manner and ensuring their voices are heard as part of the democratic debate. Alongside some of its participative and deliberative activities, such as citizens' assemblies, it has embedded these practices into existing governance arrangements.
- 1.2 The Council has a petitions scheme which is published on its website. This details both what sort of petitions the Council will accept and, should a petition be deemed valid, its destination. The petition as detailed below, which has in excess of 4000 signatures, is under the scheme to be referred to Council.
- 1.2 The scheme details the procedure to be followed at Council and it is as follows:
 - a. The petition organiser introduces the petition for up to 3 minutes
 - b. Councillors can then ask questions for up to 3 minutes
 - c. The Council will then debate the subject matter of the petition for up to 12 minutes
 - d. After the petition has been debated the appropriate Committee Chair may respond with a speech of no more than 3 minutes and will put to the meeting a suggested course of action.
- 1.3 The scheme then outlines certain appeal rights should those presenting it consider it has not been dealt with to their satisfaction.

2. The subject matter of the petition.

- 2.1 The Petition containing over 4000 signatures, which was handed into officers on 20th December 2024, states as follows:

“People are being killed in Gaza and the West Bank. Camden Council’s pension fund invests in some companies that contribute to or profit from those deaths.

We call on Camden Council to urgently undertake a thorough and transparent audit of its pension fund investments in companies involved in any way in the ongoing Israeli occupation of and military assault on the West Bank and Gaza with a view to divesting from them”

3. Background to the subject of the Petition

3.1 Camden Pension Fund

- 3.1.1 The London Borough of Camden Pension Fund is part of the Local Government Pension Scheme (LGPS). Camden, as the administering authority, runs the fund on behalf of participating employers, their employees and current and future pensioners.
- 3.1.2 As a statutory pension scheme the Local Government Pension Scheme (LGPS) does not have assigned trustees. Whilst Camden Council holds

executive responsibility for the fund, it has delegated the responsibility for decisions relating to the investment of the Fund's assets to the Pension Committee in accordance with Section 101 of the 1972 Local Government Act.

3.2 Pension Fund investments

3.2.1 As reported to the Pension Committee meeting held on 2 December 2024, the total value of the pension fund stood at £2.145 billion as at 30 September 2024. The fund exists to pay the pensions of 25,000 current and former employees (and their dependents) of the Council and other employers that participate in the Fund.

3.2.2 Whilst our primary responsibility is to ensure that the Fund can meet its financial obligations to pension fund beneficiaries, the Council takes its duty as a responsible investor very seriously and is acutely aware of the environmental, social and governance consequences of how it invests.

3.2.3 Since 2019, our investment beliefs have been aligned with the United Nations Sustainable Development Goals (SDGs), a policy that was reviewed and updated by the Pensions Committee and approved in July 2023.

3.2.4 The seventeen SDGs cover a wide range of specific goals of which our current investment strategy is aligned with thirteen covering areas such as climate action, fair working practices, sustainable development and consumption and good corporate governance.

3.2.5 We are an active member of the Local Authority Pension Fund Forum (LAPFF), with one of our Pension Committee members on the executive of the Forum. LAPFF is one of the UK's leading collaborative shareholder groups with 87 participating local government pension funds across the country. The LAPFF engages with companies across the world in pursuit of SDGs and, with particular reference to this petition, has experience of engagement with companies operating in global conflict zones.

3.2.6 In the Forum's past engagement in the region, it has been focussing on establishing an approach that highlights the human rights framework in which companies commit to best practice in this field.

3.2.7 The Camden Pension Fund works closely with LAPFF to uphold human rights, recently taking steps to;

- Evaluate the various risks companies operating in the occupied territories incur, and how far such risks undermine the business operations of those companies in the context of allegations of human rights abuses.
- Continue engagement with the UN authorities and other bodies to further objectives on Palestine. LAPFF continues to issue voting alerts for companies that refuse to engage meaningfully with LAPFF on this issue.
- Align its activities with the UN Guiding Principles on Business and Human Rights (UNGPs). Principle 7 discusses '... the risk of gross human rights abuses is heightened in conflict-affected areas...' such as the Occupied Palestinian Territories (OPT). This Principle also explains

that 'States should help ensure that business enterprises operating in those contexts are not involved with such abuses.'

- Request that companies carry out credible, robust, and independent human rights impact assessments in respect of their operations in the region and that these assessments be made public.
- LAPFF has met with Palestinian Solidarity Campaign and We Believe in Israel to ensure that both of their perspectives have been heard. LAPFF representatives have also met with UN officials to clarify the UN's position.

3.2.8 The Camden Pension Fund has been very active in this space for a long time and have established policies that underpin our investment. It is important to stress that our investment managers employ strict exclusions when it comes to companies that are engaged in activity related to arms, namely:

- The Ottawa Convention on anti-personnel landmines, which entered into force on 1 March 1999
- The Oslo convention on cluster munitions, which entered into force on 1 August 2010
- The convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological weapons that entered into force on 26 March 1975 and Biological and Toxin Weapons and on Their Destruction (BTWC), which entered into force in 1975.
- The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), which entered into force in 1997.
- The Treaty on the Non-Proliferation of nuclear weapons (NPT), rigorously controlled by the United Nations that entered into force on 5 March 1975.
- The Council Regulation (EU) 2018/1542 of 15 October 2018 concerning restrictive measures against the proliferation and use of chemical weapons.

3.2.9 The Camden Pension Fund makes extensive use of pooled funds through both the London CIV and Legal & General (this currently comprises 88% of the Fund). This enables the Fund to access a broad range of diversified investments in the most cost-effective way.

3.2.10 The selection of investments in these funds is fully delegated to the appointed managers, and in the case of the passive index-tracking funds, underlying investments will mirror that of the index being tracked. This means the fund will buy the same investments in the same quantities as that held by the index.

3.2.11 As a consequence, the Fund has underlying exposure to stocks and bonds of companies that operate in the global aerospace and defence industry.

3.2.12 Analysis conducted by officers last year determined that, as of 30 June 2024, the Fund's exposure to this sector stood at 0.15% of the fund (approx. £3m).

3.2.13 We continue to be committed to being open and transparent about our investment dealings and our engagement activity, which are reported to the Pensions Committee on a quarterly basis where they are scrutinised and

discussed. We also have regular meetings with our investment managers (both those that we employ directly and those that manage our funds in the London CIV) where their environmental, social and governance policies and performance are a key feature of those meetings.

3.2.14 The issues raised in the petition are very much a live discussion in the Local Government Pension Scheme sector and we will continue to monitor, respond to and comply with Government and best practice guidance as it emerges.

4. Legal Obligations on the Pension Committee

4.1 The fund and those who have responsibility to manage it have a fiduciary duty to act in the best interests of its beneficiaries being existing and prospective pension members. When decisions are made they should be made with the primary purpose to achieve the required investment returns in an appropriately risk managed way so that pensioners can be paid in full when due and to minimise the need for additional funding from the tax payer. The Supreme Court has been clear that the administration of LGPS pension funds is not best understood as a “local government function” or part of the machinery of the state”, instead Pension Committees operate in a quasi -trustee role.

4.2 It is now established law that pension bodies can take into consideration beneficiaries ethical and moral concerns when devising an investment strategy. However as advised by the LGPS Scheme Advisory Board it is not appropriate for investment decisions to be driven directly by political views. In addition, those considerations need to be balanced against the over arching fiduciary duty to act in the best financial interests of scheme members. Consideration of non-financial matters is permitted but the amount of weight (if any) attached to such factors is at the discretion of the administering body. Authorities are further only allowed to give weight to such factors where it would not lead to significant financial detriment and where it would have the support of scheme beneficiaries.

4.3 With regard to investments which may be related to either Israel, Gaza or the West Bank, bearing in mind the complexity outlined in 3 above advice has been received from Nigel Giffin KC on behalf of the sector as a whole and he has confirmed clearly that should a fund have such investments:

- a. Those placing those investments have not in any way committed any offence – criminal or civil liability
- b. That the investments themselves are lawful

This advice is irrespective of whether or not Israel have or have not breached international law by way of their activities in Gaza, a subject on which there are differing views. However, Mr Giffin is very clear that:

“It is therefore clear that international law does not impose any enforceable legal obligation upon administering authorities, or their members or personally, to divest from or refrain from making particular investments”

- 4.4 The petition asks for a review of the Pension Fund investments with a view to divesting of any investment in any companies involved in the Israel action in Gaza. While noting the practical issues raised in 3 above the LGPS Advisory Board have sought further general advice from Mr Giffin with regard to the power Pension Committees have to undertake the divestment of such investments given their underlying fiduciary duties. Members may wish to consider the risks of legal challenge and consider it prudent to await that advice before considering whether or not they wish to undertake such an exercise.
- 4.5 While Camden's Pension Committee should and does act independently from other funds it is worth noting that similar consideration has taken place in other London Councils. LB Islington continue to monitor the position although on the 3rd December 2024 they reported Counsels advice that currently divestment from companies listed on the UN list as involved in the Occupied Palestinian Territory deemed complicit in human rights abuses could be subject to legal challenge and should only be taken after a full consultation of the Pension Fund membership. LB Waltham Forest are committed to ongoing discussions with its advisers and that in future the Pensions Committee would be looking to update its investment policy for Environmental, Social and Governance (ESG) considerations. LB Lewisham have put what appears to be a nonbinding expectation on its asset managers to consider this issue and where appropriate exclude. We are not aware of any London Pension fund committing to divest or exclude investments on the grounds suggested in the petition.
- 4.6 The Camden Pension Committee has already undertaken significant work on matters around ESG considerations, and led by the Chair of the Pension Committee, has been recognised nationally for this work, and how these might be put into effect within the overarching duties upon the fund and those charged with its management. As can be seen both by the commission of a further advice from Nigel Giffin KC and the advice received by Islington there remains some doubt over the legal position around a disinvestment policy. Further given the numerous conflicts around the world and the reach of multinationals any consideration should be within this wider context and the wider ESG policy and undertaken after the legal position becomes clearer.
- 4.7 The Council could ask the Pension Committee, once the legal position is clearer, to consider within the context of its wider investment strategy and part of its already ongoing review of those policies to what extent it wishes to consider issues concerning investment in companies who are supporting conflicts that have been adjudged to illegal under recognised international law.

5. Legal Comments of the Borough Solicitor

- 5.1 This is the report of the Borough Solicitor and comments are incorporated within the body of the report

6. Finance Comments of the Executive Director Corporate Services

6.1 The Executive Director has no comments from a financial perspective but has fully contributed to this report with regard to the matters relating to the operation of the pension fund.

7. Environmental Implications

7.1 There are no environmental implications.

REPORT ENDS