

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-12-007

Meeting / Decision: Avon Pension Fund Committee

Date: 22 June 2012

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Report Title: Responsible Investment Policy

Exempt Appendix Title:

Appendix 1 – Summary

Appendix 2 – Responsible Investing Stage 2 Report

Appendix 3 – Report on Investment Duties

Appendix 4 – Proposed Responsible Investment Policy

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

*3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

*5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

## PUBLIC INTEREST TEST

If the Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. Paragraph 3 of the revised Schedule 12A of the 1972 Act exempts information which relates to the financial or business affairs of the investment managers which is commercially sensitive to the investment managers. Paragraph 5 of the revised Schedule 12A of the 1972 Act exempts information which a claim to legal professional privilege could be maintained in legal proceedings. The officer responsible for this item believes that the information in appendix 1, 2 and 4 falls within the exemption under paragraph 3 and appendix 3 falls within the exemption under paragraph 5. This has been confirmed by the Council's Information Compliance Manager.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. The main factor in favour of disclosure is that all possible Council information should be public and that increased openness about Council business allows the public and others affected by any decision the opportunity to participate in debates on important issues in their local area. Another factor in favour of disclosure is that the public and those affected by decisions should be entitled to see the basis on which decisions are reached.

Weighed against this is the fact that the exempt appendix (1, 2 & 4) contains the opinions of Council officers and Panel members. It also contains details of the investment processes/strategies of the investment managers. It would not be in the public interest if advisors and officers could not express in confidence opinions which are held in good faith and on the basis of the best information available. The information to be discussed is also commercially sensitive and if disclosed could prejudice the commercial interests of the investment managers.

Exempt appendix 3 contains legal advice regarding the Fund's legal obligations in relation to ethical investments. It is important that public authorities are allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion. Without such confidence there are risks of lack of openness between client and lawyer and threats to the administration of justice. This thereby enables a public body to have confidence in that legal issues are being discussed fully. There is an important public interest in such confidence.

It is important for public authorities to be able to obtain unfettered legal advice in respect of their obligations and to be able to ask questions of Officers to enable the Elected Members, tasked with representing the local community, to reach a decision after having taken such advice into account.

It is also important that the Committee should be able to retain some degree of private thinking space while decisions are being made, in order to discuss openly and frankly the issues under discussion relating to the investment managers in order to make a decision which is in the best interests of the Fund's stakeholders.

The Council considers that the public interest has been served by the fact that information has been made available on the issue – by way of the main report.