

Bath & North East Somerset Council	
MEETING:	<b>AVON PENSION FUND COMMITTEE</b>
MEETING DATE:	12 December 2025
TITLE:	<b>Investments in Aerospace &amp; Defence</b>
WARD:	<b>ALL</b>
<b>AN OPEN PUBLIC ITEM</b>	
List of attachments to this report: a) Legal Advice b) Survey Summary	

## 1 THE ISSUE

- 1.1 During its meetings since December 2024, the Pension Committee has received multiple petitions requesting that Avon Pension Fund (the Fund) divest from companies supplying Israel, triggered by concern about the conflict in Gaza and wider occupied territories.
- 1.2 At its meeting in March 2025, the Committee decided that, rather than focus specifically on Israel, it could compliantly address the issue by deciding whether the Fund should continue investing in the Aerospace & Defence (A&D) sector.
- 1.3 The Pension Committee also decided in principle to remain invested in A&D companies, pending an assessment of members' views.
- 1.4 Since then, there have been three developments which can now inform the Pension Committee's final decision on A&D investments:
  - The Fund has undertaken a representative survey of its members' views, led by an independent research provider.
  - The Fund has received expert legal opinion.
  - The UK government has published its Fit for the Future proposals, which shift key investment accountabilities from LGPS funds to their pools.

## 2 RECOMMENDATIONS

The Committee is asked to;

- 2.1 **Note the expert legal opinion, projected financial costs, survey results, and upcoming regulatory changes.**
- 2.2 **Having regard to the above factors and other relevant information, confirm or reconsider its previous decision in principle to remain invested in A&D companies and to continue to apply the Fund's policies on responsible investment and exclusions.**

### 3 LEGAL CONSIDERATIONS, MEMBER VIEWS

- 3.1 The Fund's fiduciary duty typically requires that investment decisions are taken in the best financial interests of the Fund's members.
- 3.2 In the context of the public petitions received, and because it would involve additional costs to the Fund, a decision to exclude A&D companies should be considered as a social and ethical matter rather than a financial one.
- 3.3 While financial considerations such as managing risk and driving financial returns are the core of the Fund's fiduciary duty, Local Government Pension Scheme (LGPS) legislation and related guidance from the Law Commission support the fact that non-financial criteria can also be considered.
- 3.4 Legal advice has been taken from external solicitors and counsel (Nigel Giffin KC) to ensure that decisions taken by the Pension Committee align with its legal obligations and duties towards the Fund, its employers, and members. The full legal advice is privileged and confidential in the normal way, and is not intended to be published. However in the interest of the fullest possible public understanding of what the Pension Committee now has to decide, the attached Appendix 1 summarising key legal points has been prepared with the Fund's solicitor. Publication of Appendix 1 is not intended to waive privilege in any other legal advice or communications relating to this issue.
- 3.5 To summarise this legal advice, any decision around non-financial factors would need to meet two conditions: 1) doing so would not involve significant risk of financial detriment to the Fund (**the financial condition**) and 2) there is good reason to think that scheme members would support the decision (**the member support condition**).
- 3.6 In relation to the financial condition (1 above) this requires consideration "*both of the likelihood of financial detriment arising, and the anticipated or potential scale of such detriment if it did arise.*"
- 3.7 In relation to the member support condition (2 above) this requires "*a high proportion of those members with a view*" to support the proposal, in this case the non-financial proposal to divest from A&D companies.
- 3.8 The attached Appendix 2 summarises the outcome of the member survey, which shows that 42% of members support A&D divestment, while 47% prefer continued A&D investment, with 11% unsure, findings which are statistically significant and representative of the Fund's membership.
- 3.9 The Fund's responsible investment policy, aligned with Brunel's policy adopted by its 10 LGPS funds in 2024, excludes companies in breach of UN Global Compact (principle-2) on human rights and seeks to exclude manufacturers of controversial weapons, e.g. anti-personnel mines, biological weapons.
- 3.10 Furthermore, the KC's opinion obtained by the Scheme Advisory Board in 2024 confirmed that investing in A&D companies which supply Israel does not contravene UK or international law.

### 4 REGULATORY CONTEXT – FIT FOR THE FUTURE

- 4.1 The Pension Committee should note the UK government's Fit for the Future proposals for the LGPS. Under the proposals, individual LGPS funds will retain

the right to set their investment strategy, with asset allocation limited to choices across 9 asset classes which the investment pool<sup>1</sup> decides how to implement.

- 4.2 Beyond the 9 asset classes, Fit for the Future proposals allow Avon Pension Fund to define 'investment preferences' – e.g. responsible investment aims, exclusions including A&D. However the decision on whether and how to implement such preferences will rest with the pool.
- 4.3 Specifically, the proposals<sup>2</sup> state that “to enable the pool to invest at scale, it is important that pools are not expected to create bespoke arrangements for each Administering Authority (AA) .... The government does not intend to prescribe a single solution, but does not expect to see bespoke arrangements for each AA.”
- 4.4 Therefore, the Pension Committee should be aware that any decision to exclude A&D companies may not be implemented in practice, e.g. if LPPI decides that such exclusions are incompatible with wider UK government policy or lack sufficient demand across its whole body of 9 LGPS funds.

## 5 PROJECTED FINANCIAL COSTS

- 5.1 The Fund holds A&D companies through Brunel in the Paris-aligned equity portfolio, Multi-Asset Credit, and High Alpha Equity. The Fund also holds equity derivatives in the Risk Management Portfolio which includes A&D companies, for which it would be more complex to apply exclusions, so for the purpose of the cost guidance, we have assumed these are physical equity holdings.
- 5.2 If the material barriers of implementing a bespoke arrangement (outlined in Section 4 above) could be overcome, in the case of Paris-aligned equity (£1,200m in assets) divestment would require the asset manager to create a new fund excluding A&D companies, in which APF would initially be the sole investor, with indicative annual costs of 8 bps (0.08%) which is 5 bps (0.05%) higher than the current fund, an additional c.£600,000 per year. Discussions with other LGPS funds and trade bodies indicate that no other LGPS can commit to such a new fund. However, if other investors were to join over time and total assets reached c.£5 billion, additional annual costs would be nearer 0.03% or £360,000. Hence a reasonable cost range is £360,000 - £600,000.
- 5.3 Applying the same 0.03% - 0.05% incremental cost range to Multi Asset Credit (£390m in assets) and Global High Alpha equity (£810m in assets) would yield further costs of £360,000 - £600,000.
- 5.4 Therefore total additional costs would settle into a range of £0.72m - £1.20m per annum, with a mid-point of £960,000.
- 5.5 The Committee should also note that we assume one-off transition costs of moving to new funds would be 0.02% or c.£480,000, assuming we use in-specie transfer management to mitigate frictional costs such as stamp duty tax.
- 5.6 The above cost assumptions are based on guidance from Brunel and have been reviewed for reasonableness by the Fund's future pool partner, LPPI.
- 5.7 Such additional costs would need to be accounted for in the next triennial valuation and could lead to higher employer contributions.

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<sup>1</sup> In the Fund's case currently Brunel Pension Partnership, then the Local Pension Partnership Investments (LPPI) serving nine different LGPS funds, from 1 April 2026.

<sup>2</sup> Local Government Pension Scheme (England and Wales): Fit for the Future – government response ([www.gov.uk](http://www.gov.uk))

## **6 STATUTORY CONSIDERATIONS**

- 6.1 Bath and North East Somerset Council, in its role as administering authority, has executive responsibility for the Avon Pension Fund. The Council delegates its responsibility for administering the Fund to the Avon Pension Fund Committee which is the formal decision-making body for the Fund.

## **7 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 7.1 There are no material implications related to the Committee in connection with Finance, Property, People, other than the financial implications outlined in Section 5 above.

## **8 RISK MANAGEMENT**

- 8.1 An effective governance structure, defining clear responsibilities, and ensuring that the decision making body has an adequate level of knowledge and access to expert advice, is a key aspect of the risk management process.

## **9 EQUALITIES STATEMENT**

- 9.1 There are no material implications related to the Committee in respect of this report, connected to Equalities in the Fund, among its membership, employees, or employers.

## **10 CLIMATE CHANGE**

- 10.1 The Fund is implementing a digital strategy across all its operations and communications with stakeholders to reduce its internal carbon footprint in line with the Council's Climate Strategy. The Fund acknowledges the financial risk to its assets from climate change and addresses this through its strategic asset allocation to Paris Aligned Global Equities, Sustainable Equities and renewable energy opportunities. The strategy is monitored and reviewed by the Committee.

## **11 OTHER OPTIONS CONSIDERED**

- 11.1 In March 2025 the Pension Committee did also consider two other options: i) divest from A&D companies which supply Israel, ii) apply more robust investment criteria covering conflicts in general.
- 11.2 These options were discounted owing to legal constraints and complexity of the Fund being able to implement in practice.

## **12 CONSULTATION**

- 12.1 The Council's Director of Financial Services, Assurance & Pensions has had the opportunity to input to this report and has cleared it for publication.

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<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format.</b>	