

## Comments on the report to Finance Scrutiny on council investments (part 2)

1) Our overriding concern is that these substantial investments are used to create social value for Manchester in ways that are consistent with the legal responsibilities and powers of those responsible for their management and stewardship.

2) The view of the legal responsibilities of Trustees taken by the GMPF Management Advisory Panel, in 2007, was very traditional, ruling out ethical concerns from investment decisions:

*"....applying ethical, environmental or any other non-commercial policy either to investments generally or to selecting fund managers, would be inconsistent with out legal duties and responsibilities."*<sup>1</sup>

In our view this is at odds with recent thinking<sup>2</sup> that identifies three main ways in which ethical considerations can determine investment strategy and decisions:

a) "If all other things were equal", for example when choosing between two investments, then it would be possible to use ethical criteria as a tie-breaker.

b) Non-financial considerations, i.e environmental, social and governance (ESG) issues, may have a bearing on the performance of an investment. In an influential report, commissioned by the UN Environment Programme, international lawyers Freshfields Bruckhaus Derringer (reviewing the question across several legal jurisdictions, including the UK) concluded that considering these factors is well within the scope of investors' fiduciary duties: , "it may be a breach of fiduciary duties to fail to take account of ESG considerations that are relevant and to give them appropriate weight"<sup>3</sup>.

c) There is also the question of the fund's wider responsibility to its beneficiaries. So local authority pensioners in Greater Manchester could be affected by things like climate change, risky hyper-leverage of financial institutions, or the health effects of smoking. So failure to take due consideration of these risks could leave trustees open to the charge of negligence.

As an example of positive ethical approach the Environment Agency's Pension Fund applies what it calls an 'environmental

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1 <http://www.gmpf.org.uk/investments/ethical.htm>

2 e.g. [http://fairpensions.org.uk/sites/default/files/uploaded\\_files/press/ASHfinalbriefing.pdf](http://fairpensions.org.uk/sites/default/files/uploaded_files/press/ASHfinalbriefing.pdf) and <http://www.unpri.org/fiduciary-duty/>

3 [http://d2m27378y09r06.cloudfront.net/viewer/?file=wp-content/uploads/freshfields\\_legal\\_resp\\_200511231.pdf](http://d2m27378y09r06.cloudfront.net/viewer/?file=wp-content/uploads/freshfields_legal_resp_200511231.pdf) and <http://d2m27378y09r06.cloudfront.net/viewer/?file=wp-content/uploads/fiduciaryII.pdf>

overlay' to its investment decisions<sup>4</sup>.

3) Yet there is evidence that GMPF is both advocating for and making investment decisions that go beyond its 2007 statement. Last year the Chair of the Fund, councillor Kieran Quinn, was one of a group of four leaders in the field who, at a meeting convened by the UNEP Finance Initiative, discussed the relationship between fiduciary duty and environmental and social themed investing:

“The local authority pension fund representatives discussed different ways of thinking about fiduciary responsibilities towards their beneficiaries. Recognising that the majority of their beneficiaries live in the local area, the pension funds questioned whether it was enough to provide good pensions if the area itself had not benefited from their investments. The pension funds also discussed the purpose of their investment strategies. The pensions are ultimately backed by the sponsoring employers, the local authorities. Therefore, over the medium to long term, the purpose could also be seen to be about mitigating costs and risks to the local authorities.”<sup>5</sup>

More practically, the GMPF is investing £25M, in a programme to build 244 affordable homes, in partnership with Manchester City Council, project that has been widely reported<sup>6</sup>. It seems surprising that the report does not mention this. This is the kind of investment for social value we had in mind when we wrote, as is the Lancashire Pension Fund's decision to invest £14M in a community solar energy plant, from which it expects a 10% return<sup>7</sup>.

4) Finally, it is disappointing that while Steady State Manchester suggested committee members “will be interested to know whether council assets are involved in any unethical practices (e.g. companies with poor labour practices, poor wage equality, or involvement in areas such as the arms trade, tobacco or the major oil companies)”, the report has no information on this despite the existence of some questionable items (apparently including Canadian Tar Sands, Tobacco, Armaments) in the list of investments published by the fund<sup>8</sup>.

## ***Steady State Manchester***

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4 [http://www.environment-agency.gov.uk/static/documents/Responsible\\_Investment\\_Policy.pdf](http://www.environment-agency.gov.uk/static/documents/Responsible_Investment_Policy.pdf)

5 [http://intranet.unpri.org/resources/files/Fiduciary\\_duty\\_and\\_environmental\\_and\\_social\\_themed\\_investing\\_-\\_UK\\_summary\\_-\\_final.pdf](http://intranet.unpri.org/resources/files/Fiduciary_duty_and_environmental_and_social_themed_investing_-_UK_summary_-_final.pdf)

6 [http://www.manchester.gov.uk/news/article/6762/innovative\\_housing\\_investment\\_fund\\_to\\_bring\\_new\\_homes\\_to\\_manchester](http://www.manchester.gov.uk/news/article/6762/innovative_housing_investment_fund_to_bring_new_homes_to_manchester)

7 [http://www3.lancashire.gov.uk/corporate/news/press\\_releases/y/m/release.asp?id=201302&r=PR13/0065](http://www3.lancashire.gov.uk/corporate/news/press_releases/y/m/release.asp?id=201302&r=PR13/0065)

8 [http://www.gmpf.org.uk/publications/annual\\_report\\_and\\_accounts/annual\\_report\\_and\\_accounts.htm](http://www.gmpf.org.uk/publications/annual_report_and_accounts/annual_report_and_accounts.htm) and [http://www.gmpf.org.uk/pdf/investments\\_year\\_end\\_holdings\\_2013.pdf](http://www.gmpf.org.uk/pdf/investments_year_end_holdings_2013.pdf)

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