

## **Pension Fund Committee**

Meeting to be held on 27 March 2014

Electoral Division affected: 'All'
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### **Shareholder Voting, Engagement, and Fiduciary Duty**

(Appendices 'A' and 'B' refer)

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#### **Executive Summary**

In accordance with its policies on promoting corporate social responsibility in the businesses in which it invest the Fund works through Pensions and Investment Research Consultants Ltd (PIRC) as its Governance Adviser and the Local Authority Pension Fund Forum (LAPFF) to both ensure that shares are voted in accordance with sound governance principles and to seek to influence companies' behaviour.

This report provides the latest quarterly update for the Committee on the work undertaken on the Fund's behalf by PIRC and the engagement activity undertaken by LAPFF.

The attached report from PIRC (Appendix A) covers the period 1 October to 31 December 2013. The Fund has voted on 274 occasions and has opposed or abstained in 34% of votes. PIRC recommends not supporting resolutions where it does not believe best governance practice is being applied. PIRC's focus has been on promoting independent representation on company boards, separating the roles of CEO and Chairman and ensuring remuneration proposals are aligned with shareholders' interests.

Details of the holdings of the Pension Fund in relation to the meetings held in this period are also given to provide more contextual information regarding the geographical and sector spread of the shareholder interests.

The attached engagement report from LAPFF (Appendix B) also covers the period 1 October to 31 December 2013.

Details of potential class actions in relation to companies in which Lancashire County Pension Fund owns, or has owned shares is also set out in the report.

#### **Recommendation**

The Committee is asked to note the report.

## **Background and Advice**

### **1. Shareholder Voting and Governance**

- 1.1 PIRC, acts as the Fund's proxy and casts the Fund's votes at shareholder meetings. PIRC are instructed to vote in accordance with their guidelines unless the Fund instructs an exception. PIRC analyses investee companies and produces publically available voting recommendations to encourage companies to adhere to high standards of governance and social responsibility. The analysis includes a review of the adequacy of environmental and employment policies and the disclosure of quantifiable environmental reporting. PIRC is also an active supporter of the Stewardship Code, a code of practice published by the Financial Reporting Council with the aim of enhancing the quality of engagement between institutional investors and companies.
- 1.2 There may be occasions when the Fund wishes to cast a vote at a shareholder meeting in a way which does not accord with PIRC's recommendations. For example, an investment manager might request the Fund to vote in a particular way to support or oppose a corporate action. Such requests would be considered by the Fund on a case by case basis and PIRC instructed to cast the Fund's vote accordingly.
- 1.3 PIRC also lobbies actively on behalf of its investing clients as well as providing them with detailed support. It works closely with NAPF (the National Association of Pension Funds) and LAPFF (the forum of Local Authority Pension Funds). The Lancashire County Pension Fund is a member of both these organisations.
- 1.4 PIRC's quarterly report to 31 December 2013 is presented at Appendix A. This report not only provides details of the votes cast on behalf of the Fund but also provides a commentary on events during the period relevant to environmental social and governance issues.
- 1.5 In addition PIRC produces a detailed document which is reviewed by the Fund's officers, which sets out the circumstances and reasoning for every resolution opposed, abstained or withheld. This document is available on request.
- 1.6 The Fund's voting record using PIRC as its proxy for the three months ended 31 December 2013 is summarised below:

## GEOGRAPHIC VOTING OVERVIEW

Geographic Region	Meeting	Resolutions	For	Oppose	Abstain	Withheld	Non-Voting
SOUTH AND CENTRAL AMERICA	0	0	0	0	0	0	0
REST OF THE WORLD	13	75	35	20	11	0	9
ASIA	3	22	11	11	0	0	0
NORTH AMERICA	6	68	38	22	1	7	0
UK	4	74	61	5	8	0	0
EU	2	30	15	9	3	0	3
JAPAN	0	0	0	0	0	0	0

## ANALYSIS OF UK ALLSHARE VOTING RECOMMENDATIONS

Resolution Type	For		Abstain		Oppose		Total
	No.	%	No.	%	No.	%	
Annual Reports	3	75.0	1	25.0	0	0.0	4
Remuneration Reports	0	0.0	2	50.0	2	50.0	4
Articles of Association	0		0		0		0
Auditors Appointment	1	25.0	3	75.0	0	0.0	4
Directors	31	91.18	1	2.94	2	5.88	34
Dividend	4	100.0	0	0.0	0	0.0	4
Executive Pay Scheme	0	0.0	0	0.0	1	100.0	1

- 1.7 The Fund was party to 274 resolutions during this period, of which 59% resulted in positive votes for shareholder resolutions and 34% were opposed or an abstention given. Voting abstention is regularly used by institutional investors as a way of signalling a negative view on a proposal without active opposition. In addition, within certain foreign jurisdictions, shareholders either vote for a resolution or not at all, opposition to these votes is described as vote withheld. These totalled 7 within the period, just under 3%. The remaining agenda items required no vote.
- 1.8 Details of the votes made on Lancashire's behalf during the period are set out in the following table, and gives the company name, the date of the meeting, the meeting type (typically Annual General Meeting (AGM) or Extraordinary General Meeting (EGM)), the country of incorporation, primary market sector, the value of Lancashire's holding in each company, and the voting details.

Lancashire County Pension Fund voting details Q4 2013

Company	Meeting Date	Type	Country	Sector	Lancashire holding as at							
					31 December 2013 (£)	Resolution Count	For	Oppose	Abstain	Withhold	Withdrawn	Non-Voting
PROSPECT CAPITAL CORP	06/12/2013	AGM	United States	Capital Markets	1,643,455	4	2	1	0	1	0	0
TATTS GROUP LTD	31/10/2013	AGM	Australia	Capital Markets	1,766,924	7	5	0	1	0	0	1
WESFARMERS LTD	07/11/2013	AGM	Australia	Food and Staples Retailing	2,325,556	10	6	3	0	0	0	1
CLOROX CO.	20/11/2013	AGM	United States	Household Products	2,458,665	13	8	5	0	0	0	0
SONIC HEALTHCARE LTD	21/11/2013	AGM	Australia	Healthcare Providers and Services	1,990,792	4	2	0	2	0	0	0
BRAMBLES LTD	03/12/2013	EGM	Australia	Commercial Services & Supplies	6,713,463	2	1	1	0	0	0	0
ASSOCIATED BRITISH FOODS PLC	06/12/2013	AGM	United Kingdom	Food Products	2,740,918	17	13	3	1	0	0	0
CARSALES.COM LTD	25/10/2013	AGM	Australia	Internet Software & Services	2,065,375	5	1	2	1	0	0	1
SYDNEY AIRPORT	22/11/2013	EGM	Australia	Transportation Infrastructure	1,746,803	6	0	0	6	0	0	0
FUGRO NV	27/11/2013	EGM	Netherlands	Energy Equipment & Services	6,627,163	5	1	1	0	0	0	3
SMITHS GROUP PLC	19/11/2013	AGM	United Kingdom	Industrial Conglomerates	3,857,472	19	17	0	2	0	0	0
PERNOD RICARD SA	06/11/2013	AGM	France	Beverages	3,338,741	25	14	8	3	0	0	0
WOLSELEY PLC	26/11/2013	AGM	United Kingdom	Trading Companies & Distributors	10,371,517	19	15	1	3	0	0	0
TELSTRA CORP LTD	15/10/2013	AGM	Australia	Diversified Telecommunication Services	2,616,633	6	1	2	1	0	0	2
MINDRAY MEDICAL INTL	17/12/2013	AGM	China	Health Care Equipment & Supplies	8,566,932	3	1	2	0	0	0	0
CSL LTD	16/10/2013	AGM	Australia	Biotechnology	2,867,307	6	2	3	0	0	0	1
SHANDONG WEIGAO GP MED POYL	15/11/2013	EGM	China	Health Care Equipment & Supplies	4,587,295	6	2	4	0	0	0	0
ANZ-AUSTRALIA & NEW ZEALD BK	18/12/2013	AGM	Australia	Commercial Banks	3,414,535	10	6	3	0	0	0	1
WOOLWORTHS LTD	26/11/2013	AGM	Australia	Food & Staples Retailing	2,395,815	7	2	3	1	0	0	1
COMMONWEALTH BANK AUSTRALIA	08/11/2013	AGM	Australia	Commercial Banks	3,906,216	8	5	2	0	0	0	1
BRAMBLES LTD	03/12/2013	COURT	Australia	Commercial Services & Supplies	6,713,463	1	1	0	0	0	0	0
BRAMBLES LTD	22/10/2013	AGM	Australia	Commercial Services & Supplies	6,713,463	5	3	1	0	0	0	1
SINGAPORE PRESS HOLDINGS LTD	29/11/2013	AGM	Singapore	Media	1,885,461	13	8	5	0	0	0	0
INCITEC PIVOT LTD	19/12/2013	AGM	Australia	Chemicals	7,381,430	3	1	2	0	0	0	0
PROCTER & GAMBLE CO	08/10/2013	AGM	United States	Household Products	9,570,031	15	9	6	0	0	0	0
MICROSOFT CORP.	19/11/2013	AGM	United States	Software	9,493,830	12	6	6	0	0	0	0
ORACLE CORP.	31/10/2013	AGM	United States	Software	25,738,833	19	10	2	1	6	0	0
HAYS PLC	13/11/2013	AGM	United Kingdom	Professional Services	4,653,805	19	16	1	2	0	0	0
MYRIAD GENETICS INC	05/12/2013	AGM	United States	Biotechnology	2,415,629	5	3	2	0	0	0	0
						<b>274</b>	<b>161</b>	<b>69</b>	<b>24</b>	<b>7</b>	<b>0</b>	<b>13</b>

## 2. Shareholder Engagement through LAPFF

- 2.1 Lancashire County Pension Fund is also a member of the Local Authority Pension Fund Forum (LAPFF), which exists to promote the investment interests of local authority pension funds, and to maximise their influence as shareholders whilst promoting social responsibility and corporate governance at the companies in which they invest.
- 2.2 Members of the Committee may be interested to note the attached engagement report from LAPFF (Appendix B) which covers the period 1 October to 31 December 2013.
- 2.3 It sets out details of their activities in influencing governance, employment standards, reputational risk, climate change, finance and accounting, and Board composition, and provides a slightly different and wider perspective than the PIRC report.

## 3. Class Actions

### United States

- 3.1 The Fund has appointed Barrack, Rodos and Bacine (BR&B) to provide a US class actions monitoring service with the aim of ensuring that the Lancashire County Pension Fund receives all monies due to the Fund by filing its proof of claim from these cases. This service is at no cost to the Fund.
- 3.2 BRB will identify class actions where the Fund has a potential loss arising from an alleged fraud or a securities law violation. This is achieved by the BR&B 'BEAMS' monitoring system which follows each securities case from the beginning to the end by ensuring its filing of the proof of claim so that the Fund may receive its payment.
- 3.3 Occasionally the Fund may be asked to participate in a class action, and/ or to apply to become the lead or co-lead plaintiff, but under US law any shareholder subject to such a loss will be automatically entered into and benefit from a class action without having to file an individual claim.
- 3.4 Details of current potential US cases as at 31 December 2013 are set out below:

<u>Company Name</u>	<u>Effective Class Period Begin</u>	<u>Effective Class Period End</u>	<u>Case Status</u>	<u>Potential loss incurred (\$'000)</u>
Medtronic, Inc.	08/12/10	03/08/11	ACTIVE	27.71
CenturyLink, Inc.	08/08/12	14/02/13	ACTIVE	521.63
Barrick Gold Corp.	07/05/09	23/05/13	ACTIVE	411.36
Intuitive Surgical, Inc.	19/10/11	18/04/13	ACTIVE	251.54
ITT Educational Services, Inc.	24/04/08	25/02/13	ACTIVE	760.06

## **United Kingdom**

- 3.5 Unlike class actions within the US jurisdiction, where all relevant recipients benefit from a class action when filed, class actions within the UK require investors to file their actions individually in order to potentially benefit from a successful class action. Such actions are therefore much less prevalent.
- 3.6 The Committee will recall a current class action relating to the alleged actions of Royal Bank of Scotland (RBS) where, it is argued, investors suffered losses in respect of a subsequent Rights Issue in 2008.
- 3.7 The deadline for filing a claim in relation to the RBS action remains April 2014. The Urgent Business Procedure on behalf of the Pension Fund Committee is being used to enable the County Council's participation in the class action. Details of this approval are included as a separate report to this meeting of the Pension Fund Committee.
- 3.8 Confirmation has now been received from the UK lawyers arranging the class action that Lancashire County Pension Fund will now be included in the next wave of claimants to be added to the claim against RBS.

## **4. Fiduciary duty update**

- 4.1 At the 29 November 2013 meeting of the Committee, and following a discussion around the issue of ethical investment and the Fund's fiduciary duty, the Committee welcomed the prospect of greater clarity over fiduciary duty and it was agreed that the Fund would review the position when the outcome of the Law Commission's review was published. The Law Commission have indicated that they expect to report in June 2014.
- 4.2 Since then, Full Council has passed a motion covering this area at its meeting on 12 December 2013. The progress made to date in responding to the requirements of the Council Motion are set out in a separate report to this meeting of the Pension Fund Committee.

## **Consultations**

N/A

## **Implications:**

It is a key component of good governance that the Fund is an engaged and responsible investor complying with the Stewardship Code.

Well run responsible companies are more likely to be successful and less likely to suffer from unexpected scandals.

## **Risk management**

The promotion of good responsible corporate governance in the companies the Fund is invested in reduces the risk of unexpected losses arising as a result of poor oversight and lack of independence.

Involvement in a non-US class action may result in losses incurred being recovered for the Fund, but should a case be lost then the Fund may incur related costs which may not be known with certainty at the time of filing. Applying for lead plaintiff status in the US may incur significant officer time and resources in bringing a potential case to fruition.

Should the claimants in the litigation against RBS fail, then it is possible that LCPF faces having to make a contribution towards RBS costs notwithstanding the insurance in place. The amount of any shortfall following an insurance settlement and the LCPF contribution thereto is impossible to quantify at this stage.

Furthermore, if successful the LCPF will be required to hand over a proportion of any sum recovered to the funder and claimant solicitors.

**Local Government (Access to Information) Act 1985  
List of Background Papers**

N/A