Deloitte.

# North Yorkshire Pension Fund

# Report to the Audit Commmittee on the 2010/11 Local Government Pension Scheme Audit

## Final Report

September 2011

# Contents

# Key findings

We have pleasure in setting out in this document our report to the Audit Committee of North Yorkshire Pension Fund for the year ended 31 March 2011 for discussion at the meeting scheduled for 29 September 2011. This report summarises the principal matters that have arisen from our audit for the year ended 31 March 2011.

The Audit Commission announced proposals that the audits currently undertaken by their in-house practice should be outsourced to the private sector for the year ended 31 March 2013 onwards. Contracts will be awarded in the spring of 2012.

Consultation on the proposals for the new audit framework (where "audit quality is regulated within a statutory framework, overseen by the National Audit Office and the accountancy profession and where local public bodies will be free to appoint their own external auditors with stringent safeguards for independence") closed on 30 June 2011. Proposals arising from the consultation will be published in a draft bill to allow full Parliamentary scrutiny.

This summary is not intended to be exhaustive but highlights the most significant matters to which we would like to bring to your attention. It should, therefore, be read in conjunction with the report and the appendices thereto.

| | Description |
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| **Key findings on audit risks** | We discuss within Section 1 the results of our work in relation to key audit risks which have been identified as being significant to the 2010/11 accounts, and which were presented to the Audit Committee on 30 June 2011 as follows:<br>1. **Contributions**: from the testing performed we are satisfied that contribution income from the Administering, Scheduled and Admitted bodies has been received in accordance with the Local Government Pension Fund regulations. From our testing we noted several instances where the receipt of contributions from participating employer were after the 19th of the following month. A recommendation to improve internal controls has been included in Section 2;<br>2. **Benefits**: from the testing performed we are satisfied that benefits have been paid in accordance with the Pension Increases Act and the wishes of pension scheme members;<br>3. **Redundancies**: from the testing performed we are satisfied that early retirement income is complete;<br>4. **Investments**: from the testing performed we are satisfied that investments are appropriately valued within the annual report. We have noted two adjustments in relation to the classification of sales and purchases which are reported in Appendix 1;<br>5. **Management Override of Controls**: from the testing performed there have been no instances of management override noted;<br>6. **Accounting for International Financial Reporting Standards ('IFRS'):** the financial statements comply with new requirements for pension funds included in the Code of Practice on Local Authority Accounting 2010/11 based on International Financial Reporting Standards; and<br>7. **Revenue recognition:** work performed in the current year has indicated that the rebuttal of revenue recognition risk is appropriate. |

# Key findings (continued)

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| **Audit status** | We are satisfied that the status of the audit is as expected at this stage of the timetable agreed in our Audit Plan.<br>We have substantially completed our audit in accordance with our Audit Plan which was presented to you on 30 June 2011 subject to the satisfactory completion of the matters set out below:<br>• completion of internal quality control procedures;<br>• receipt of signed management representation letter; and<br>• review of final draft of financial statements.<br>We will report to you verbally in respect of any modifications to the findings or opinions contained in this report that arise on completion of these matters.<br>At the date of this report and subject to the satisfactory completion of the outstanding matters referred to above, there are no matters in relation to the Fund that would result in the issuance of a modified audit opinion. |

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| **Identified misstatements** | Audit materiality was set at £14.0m (2009/10 £13.1m) which is consistent with the preliminary materiality included in our planning report presented on the Audit Committee on 30 June 2011.<br>As set out in our planning report we report all unadjusted misstatements greater than 2% of materiality £280,000 (2009/10 £261,000) to the Audit Committee.<br>There are two uncorrected misstatement above the 2% reporting level, these have been set out below in Appendix 1. There are no qualitatively material misstatements that we wish to bring to your attention. |

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| **Accounting and internal control systems** | We have identified a number of accounting or internal control system recommendations in the current year. Further details are provided in Section 2. |

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| **Current accounting and regulatory issues** | We have included within this report current accounting and regulatory issues that affect the pension fund industry, particularly focus areas of the Pensions Regulator (TPR). Although the North Yorkshire Pension Fund is not regulated by TPR these are guidelines for improving processes and for best practice in the industry. |

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| **Complying with Bribery Act 2010** | On 30 March 2011, the Ministry of Justice published the UK Bribery Act 2010 finalised Schedule 9 Adequate Procedures guidance. This means that from 1 July 2011, new and more stringent UK legislation will be in force to regulate bribery and corruption offences committed both in the UK and abroad. We include further details in Section 3 of the report. |

# 1. Key audit risks

The results of our audit work on key audit risks are set out below:

| Contributions | |
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| **Audit risk** | Unlike the position in the private sector, we are not required to issue a separate statement on contributions for the Fund. Nevertheless, this remains a material income stream and in view of the complexity arising from the participation of different employers within the Fund, together with changes to the Fund introduced from April 2008 which mean that members may pay different rates depending on their pensionable pay, we have included the identification, calculation and payment of contributions as an area of significant risk. |
| **Deloitte response** | We have performed the following testing to address the significant risks around contributions:<br>• reviewed the design and implementation of controls present at the Fund for ensuring contributions from the Administering Authority and all Scheduled and Admitted bodies are identified and calculated correctly;<br>• obtained an analysis of contributions received from each employer by week and confirmed rates applicable in the year;<br>• we performed tests of details to test whether each material income stream was calculated in accordance with the Local Government Pension Scheme regulations;<br>• we selected a sample of members from the Administering, Scheduled and Admitted bodies and reviewed breakdowns by individual of pensionable pay, employee and employer contributions. On a sample basis we agreed this information to individual payslips and reviewed whether the contributions tested were calculated correctly in all material respects;<br>• we developed an expectation based on changes in membership numbers and changes in contribution rates to analytically review the contributions received in the year; and<br>• we considered whether contributions were received within 19 days in accordance with best practice.<br>From our testing we noted several instances of employers paying later than 19th day of the following month. We note that Officers have appropriate procedures in place to identify late payment of contributions and pro-actively following up with those bodies whose payment of contributions is not in accordance with best practice. During the year a fine for late payment was applied during the first six months. This policy was discontinued in the second six months as it considered by Officers at the Fund that the employers would not have had the opportunity to update their internal systems to ensure payment reaches North Yorkshire Pension Fund by 19th day of the following month. A recommendation to improve internal controls has been included in Section 2<br>We note that North Yorkshire County Council as the Administering Authority is not responsible for the calculation of contributions. We have therefore performed our testing, where necessary, with the assistance of the Scheduled and Admitted bodies.<br>All testing was completed with satisfactory results. |

# 1. Key audit risks (continued)

| Benefits | |
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| **Audit risk** | Changes were made to the Fund from April 2008 which introduced complexities into the calculation of both benefits in retirement and ill health and death benefits which are in addition to the annual increases required by the 1997 Regulation and Pension (Increases) Act 1971.<br>On 8 July 2010 the Government announced its intention to move to the Consumer Price Index (CPI) as the measure of inflation for pension increase purposes. This change will come into effect for the 2011/12 increases. |
| **Deloitte response** | The following tests were performed to address the significant risk around benefits:<br>• we reviewed the design and implementation of controls present at the Fund for ensuring the accuracy, completeness and validity of benefits through discussion with the pensions team and observation that controls have been implemented as designed;<br>• we obtained, from Officers, a schedule of benefits paid and supporting calculations and tested whether benefits paid were in accordance with the appropriate rules;<br>• we performed tests of detail, on a sample of benefits paid, by agreement to supporting documentation, to test whether benefits were in all material respects correctly calculated, by reference to their qualifying service, scheme rules and benefit choices made;<br>• we developed an expectation based on changes in membership numbers and pension increases to analytically review the benefits paid in the year; and<br>• we considered on a sample basis whether any changes in benefit rates were applied on a timely basis and correctly calculated.<br>All testing was completed with satisfactory results. |

# 1. Key audit risks (continued)

| Redundancies | |
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| **Audit risk** | We understand that there have been redundancies within the scheduled and admitted bodies participating in the North Yorkshire Pension Fund which could result in early retirement costs being levied on these bodies. As such we have identified income from the Capital Costs of Early Retirement in the fund account as an area of significant risk.<br>Admitted bodies are required to settle capital cost of early retirement at the point when the redundancies occur. Given the nature of the admitted bodies affected (District Councils) we do not believe there is an increased risk in the recoverability of early retirement cost which could impact the funding position of the Fund. |
| **Deloitte response** | The following tests were performed to address the significant risks around the Capital Costs of Early Retirement:<br>• we have reviewed the design and implementation of controls present at the Fund for ensuring the capital cost of early retirement are identified and recoverable through discussion with the pensions team and testing to controls were in force during the year under review;<br>• we reviewed the responses and considered whether North Yorkshire Pension Fund have applied appropriate procedures to evaluate whether there any additional liabilities falling on the fund as a result of the redundancies made that should be charged to scheduled and admitted bodies; and<br>• we have reviewed the accounting treatment of any such fund liabilities against the requirements of the Code of Practice on Local Authority Accounting 2010/11.<br>All testing was completed with satisfactory results. |

# 1. Key audit risks (continued)

| Investments | |
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| **Audit risk** | The Pension Fund invests in derivative financial instruments. These investments are more complex to measure, account for and disclose. Accordingly we have treated the appropriateness of the accounting and disclosure of these investments as a specific risk. |
| **Deloitte response** | The following tests were performed to address the significant risk around investments:<br>• we have reviewed the design and implementation of controls present at the Fund for ensuring investments are valued correctly;<br>• we have assessed the competence and independence of the valuers used by the Fund;<br>• we have understood the rationale for the use of derivative financial instruments. The Fund's use of derivatives is limited to simple forward foreign exchange contracts to match against the risk of holding overseas investments;<br>• upon receipt of the draft financial statement we noted that there were no material derivative financial instruments;<br>• we have reconciled the total value of the investments held by the Fund as reported in the investment report from Bank of New York Mellon to the value of investments reported in the Net Assets Statement. The net assets of the Fund reported in the financial statements is based on the custodian valuation of the investments. In the current year the difference between the valuations per the custodian and the valuation from the investment managers is circa £900,000. A control recommendation has been included in Section 2;<br>• we have performed testing on a sample basis of quoted investment and compared the value reported by the Bank of New York Mellon to the quoted price obtained from Bloomberg, DataStream or other third party sources;<br>With the exception of two adjustments that were noted and subsequently corrected in relation to classification of sales and purchases and the control recommendation noted in Section 2 all testing was completed with satisfactory results. |

# 1. Key audit risks (continued)

| Management override of controls | |
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| **Audit risk** | We are required by ISA 240 'The auditor's responsibility to consider fraud in an audit of the financial statements' to presume there is a significant risk of management override of the system of internal control. |
| **Deloitte response** | We have addressed the deemed risk of management override as follows:<br>• we have reviewed analysis and supporting documentation for journal entries, key estimates and judgements;<br>• we have performed substantive testing on journal entries to confirm that they have a genuine, supportable rationale;<br>• we have reviewed ledgers for unusual items and on a test basis investigated the rationale of any such postings;<br>• we have reviewed significant management estimates and judgements such as year end accruals for investment managers fees and other professional services and considered whether they are reasonable; and<br>• we have made enquiries of those charged with governance as part of our planning and detailed audit processes.<br>All testing was completed with satisfactory results. |

| Accounting for International Financial Reporting Standards (IFRS) | |
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| **Audit risk** | The Code of Practice on Local Authority Accounting sets out how Local Government Pension Schemes should apply IFRS. The main implications for the North Yorkshire Pension Fund are as follows:<br>• requirement for the actuarial present value of promised retirement benefits to be disclosed – with three options for disclosure:<br>o Option A – in the Net Asset Statement disclosing the resulting surplus or deficit;<br>o Option B – in the notes to the Financial Statements; or<br>o Option C – by referring to the actuarial information in an accompanying actuarial report.<br>• additional note disclosures required around the actuarial position of the fund and the significant actuarial assumptions made.<br>From discussion with Officers we note that the North Yorkshire Pension Fund have adopted Option C. |
| **Deloitte response** | We have reviewed the additional disclosures in the pension fund accounts. The disclosure made complies with the requirements for Option C as detailed in the Code of Practice on Local Authority Accounting 2010/11. We would note that Option C is the most commonly adopted approach.<br>All testing was completed with satisfactory results. |

# 1. Key audit risks (continued)

| Revenue recognition | |
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| **Audit risk** | We are required by ISA 240 'The auditors responsibility to consider fraud in an audit of the financial statements' to presume there is a significant risk of fraud in revenue recognition and conduct our audit testing accordingly, unless the presumption is rebutted. |
| **Deloitte response** | We have considered the risk of fraud in revenue recognition in respect of the Fund and no significant risks have been identified. Revenue in respect of a pension scheme relates to contributions income and we have concluded that there is no incentive to mis-state contributions on this Fund.<br><br>We are satisfied that the work performed in the current year has not indicated that the rebuttal of the revenue recognition risk is inappropriate. |

# 2. Accounting and internal control systems

## Control observation

During the course of our audit we identified a number of potential improvements in the internal control system which are detailed below. None of these observations is indicative of a significant control weakness and generally the control environment is strong.

| Late receipt of contributions | |
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| **Observation** | Although the Fund has a system in place to fine late payments, it does not appear to have been enforced. The Management Action Plan discussed was to ensure that all late contributions will be charged with a £50 fine to cover the administration fees, plus compound interest on the overdue amount for the number of days overdue at the Bank of England base rate. From an audit recommendation raised in the prior year the Fund started invoicing for late payers (as per the agreement with the Members). The fines were charged to participating employers which paid late in the first 6 months but were discontinued towards the end of the financial year. Officers determined that it was not appropriate to invoice for the latter 6 months of the financial year so soon after the first invoice since the employers would not have had any time to adjust their internal systems to ensure payment reaches NYPF by 19th of the month. The situation will be reviewed at the end of the first quarter of FY12 to determine whether this has improved. In the past discretion has been used in invoicing fines. |
| **Recommendation** | As the Fund maintains a net cash inflow, Officers should monitor the late payments to ensure that sale of investments will not be required. Officers should consider reinstating penalties for persistent late payment. Whilst this policy should be applied to all participating employers, Officers may what to focus on applying the fines on participating employers where the level of contributions received is significant to the Fund. |
| **Management response** | A number of employers were fined for late payment in the first half of 2010/11. Restricted staff resources and a focus on the 2010 Triennial Valuation meant that this task was assigned a low priority. As part of the process to ensure employers have the arrangements for employer contributions which came out of the 2010 Valuation bedded in, this task will be recommenced in 2011/12. |
| **Owner:** | Tom Morrison |

| Invoicing for cost of the strain on the fund | |
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| **Observation** | Our testing identified one instance where a scheduled body was overcharged a strain on the fund contribution. It is noted that the underlying calculation was correct however on raising the invoice an error was made in entering the invoice information in Oracle. |
| **Recommendation** | A comparison should be made between the invoice value and the calculation prior to the invoice being sent to the employers who participate in the fund. |
| **Management response** | The procedure is that invoices to employers are checked to the associated calculations before being issued, however on one occasion this did not happen. The pensions team will endeavour to make sure this does not reoccur. |
| **Owner:** | Tom Morrison |

# 2. Accounting and internal control systems (continued)

| Investment confirmations | |
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| **Observation** | As noted in the prior year report to those charged with governance differences exist between the valuation of investment from Bank of New York Mellon and the confirmations received from the investment manager.<br>The net assets of the Fund reported in the financial statements is based on the custodian valuation of the investments. In the current year the difference between the two valuations is circa £900,000.<br>Controls have been developed during 2010/11 to compare investment values per flash reports and investment values per final investment manager confirmations on a quarterly basis. If a significant difference is noted between the custodian's valuation and the valuation from the investment manager, Officers liaise with both parties to understand the reason for the difference. For significant variance differences the Officers require whichever party's valuation is incorrect to be amended. |
| **Recommendation** | Where a significant differences is noted between the custodian's report and the investment manager reports these differences should be reported to Members so they can understand the reason for the difference and how it has been resolved. The impact on performance information reported to members should be quantified to enable members to fulfil their role as those charged with governance of the Fund. |
| **Management response** | Discrepancies between the Custodian and Investment Manager valuations do occur from time to time and are investigated, reconciled and explained to the PFC where significant. The difference at the year end was only 0.06% of the total value of the Fund and therefore not significant. |
| **Owner:** | Tom Morrison |

| Preparation of the financial statements | |
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| **Observation** | During the year there has been a change within the pension team following the retirement of one of the Officers. Minor differences were noted in the allocation of costs and significant addition analysis was needed during the audit to reconcile investments. |
| **Recommendation** | Due to the specialist nature of Fund operations compared to the rest of the Council it is recommended that Officers should ensure as far as possible that the same staff are available to perform the reconciliation of Fund each year. Detailed guidance notes and investment report mapping should be prepared to ensure that going forward there is consistency in reporting of results of the Fund. |
| **Management response** | The change in staff in the pensions team working on investments inevitably resulted in a review of analyses and year end procedures. Additional detailed work was undertaken to ensure this review was as comprehensive as possible including that staff were fully aware of new accounting requirements and to lay the foundations for future years. |
| **Owner:** | Tom Morrison |

# 2. Accounting and internal control systems (continued)

| Investment managers fees | |
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| **Observation** | Performance related fees are paid by the Fund based upon the performance of the investment in the past. The period these fees relate to spans the year end and accruals have not historically been made for these costs.<br>These costs are payable to Standard Life and Ballie Gifford based upon the increase in the portfolio since their inception and are paid each in respect of the year ended 30 September which is the anniversary of the contract award. Approximately £1,600,000 was paid during 2010/11 in respect of the year ended 30 September 2010. This had not been accrued at the prior year. (See Appendix 1)<br>In the current year we estimate that accruals were understated by £498,000 based upon performance to 31 March 2011. (See Appendix 1) |
| **Recommendation** | An estimate of the performance fees due should be undertaken at each year end and, if significant, provided for. |
| **Management response** | Accounting practice has been not to accrue for performance fees, however from 2011/12 this will change. |
| **Owner:** | Tom Morrison |

| Membership data | |
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| **Observation** | Membership figures recorded in the accounts are not the most up to date figures available as at 31 March year end when the fund accounts are made available to audit at 30 June each year.<br>We note that for the year ended 31 March 2011 there were no significant adjustments that would be required to the membership data. |
| **Recommendation** | An explicit statement should be made in the accounts as to the date the membership data extract relates to. If membership data has moved significantly the accounts should be updated for the most recent data available. |
| **Management response** | From 2011/12 membership numbers reported in the accounts will be updated where possible. The date of the data extract will be explicitly mentioned. |
| **Owner:** | Tom Morrison |

# 2. Accounting and internal control systems (continued)

| Employee contributions | |
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| **Observation** | Our testing indentified one individual where employee contributions had been overpaid at the year end. The overpayment identified is not material on either an individual or extrapolated basis. |
| **Recommendation** | The Fund should seek either an annual assurance or assurance on a monthly basis on the contribution return from the participating employers that deductions are being made at the appropriate rate for each member as the Fund is unable to perform this testing centrally. |
| **Management response** | Employers will be asked to include an assurance that they have applied the correct employee contribution bands when they confirm the breakdown of contributions paid to the Fund. |
| **Owner:** | Tom Morrison |

| Compliance with the Statement of Investment Principles | |
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| **Observation** | At 31 March 2011 a deviation was noted from the investment holdings specified in the Statement of Investment Principles in force during 2010/11.<br>We understand from discussion with Officers that post year end the Fund has changed the Statement of Investment Principles from a fixed benchmark allocation for each asset class to an allowable range for each asset class. At the date of this report the Fund is currently in the process of appointing a new fixed income investment manager and expects to appoint a new property investment manager before the end of the calendar year.<br>The new Statement of Investment Principles was approved by members on 23 June 2011 however the ranges had been agreed in principal at a Pension Fund meeting in February 2011. As the Fund was in the process of transitioning to the new arrangement, a rebalancing of the fund to comply with the Schedule of Investments Principles in force at 31 March 2011 was not undertaken at as varying from the rates in the existing Statement of Investment Principles was considered to be in best interest of members. |
| **Recommendation** | Officers should ensure assets allocations are in line with the Statement of Investment Principles which has been approved by members. As the Fund is currently changing two of its investment managers the Fund should ensure that this process is concluded as quickly as possible to avoid undue risk to the Fund which may arise due to the current concentration of investment. |
| **Management response** | The asset allocations described in the SIP assume that the new arrangements, including an allocation to property, are in place. Once the ongoing procurement for property managers has been concluded officers will rebalance if necessary to ensure actual asset allocations fall within the agreed ranges. |
| **Owner:** | Tom Morrison |

# 3. Current Accounting and Regulatory Issues

## Upcoming financial reporting developments

For reference, the following developments in the pension industry may impact the governance arrangements and financial statements of the North Yorkshire Pension Fund. Whilst we appreciate that Local Government Pension Scheme are not regulated by the Pensions Regulator we consider their guidance to be indicative of what is currently considered to be best practice in the pensions sector.

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| **The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009** | The key change to The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 that apply from 1 April 2011 is a new requirement for each pension fund to have a bank account which is separate from any which the Administering Authority has in its capacity as a local authority. This change is being adopted because it will enable pension fund monies to be clearly ring-fenced from other monies of the local authority, and thus reflects a longstanding Audit Commission view on best practice. Some pension funds already have a separate bank account, but this change will ensure consistency across all 89 administering authorities in England and Wales. |

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| **The Local Government Pension Scheme (Benefit, Membership and Contributions) (Amendment) Regulations 2011** | There are no key changes to regulation contained in this statutory instrument. The purpose of the statutory instruments is to clarify the regulation contained in the Local Government Pension Scheme (Benefit, membership and Contributions) Regulations 2007 where the member retires on the grounds of ill health. This change applies from 1 April 2011. |

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| **The Pensions Regulator – recovery plans** | In December 2010, the Pensions Regulator published guidance on Recovery Plans, focusing on technical assumptions, underlying funding targets and statistics relating to the Regulator's triggers.<br><br>The Regulator has published the guidance as a result of an observed increase in the existence of enhanced security in the form of contingent assets. As a result, the funding element of recovery plans will be examined in greater detail than before. |

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| **The Pensions Regulator – financial incentive guidance** | In December 2010, the Pensions Regulator issued guidance for trustees and employers on conducting incentive exercises including enhanced transfer value exercises.<br><br>The guidance sets out principles which will enable employers and trustees to fully consider the risks associated with transferring benefits out of defined benefit schemes, or modifying benefits.<br><br>The guidance sets out that trustee's should start from the presumption that such exercises and transfers are not in most members' interests and should therefore approach any exercise cautiously. The regulator believes this reflects the majority of outcomes and is a sensible approach to ensure that scheme members are properly protected.<br><br>For Local Government Pension Scheme's amendment to regulations arising from machinery of government changes will continue to be made by the Secretary of State issuing a statutory instrument. |

# 3. Current Accounting and Regulatory Issues (continued)

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| **The Pension Regulator – final employer support guidance** | In November 2010, the Pensions Regulator published guidance, following consultation with the industry on employer support, focusing on encouraging trustees to take proactive steps to ensure there is adequate security for their pension scheme.<br>The guidance sets out that the employer covenant – the employer's legal obligations to a defined benefit scheme, and its ability to meet them – is a crucial element in protecting members' benefits. The guidance provides information on what trustees should do to measure and monitor employer covenant and any subsequent action that might be required to strengthen scheme security.<br>The guidance also provides information on how arrangements such as contingent assets can work alongside employer covenants to provide further safeguards. The recently published Purple Book showed a 16% increase in the use of contingent assets recognised by the PPF.<br>Given the partnership working that is being undertaken by Local Authorities with private sector Local Government Pension Scheme are in general seeing an increased number of applications for employers to be admitted to the Scheme. Given the last man standing nature of the Local Government Pension Scheme we consider that this guidance may be relevant to you when determining whether to admit new employers to the fund and if they are to be admitted what security should be requested of employers. |

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| **The Pensions Regulator – campaign on record keeping** | The Pensions Regulator issued a statement on 9 February 2011 on "The importance of good scheme administration" which was aimed at scheme trustees and administrators.<br>We understand from meetings with the Regulator, both as a firm and throughout representing the ICAEW that this is the first part of a campaign over the coming months by the Regulator to make clear its expectations on record keeping and the maintenance of member data in particular and the role trustees need to play in ensuring improvements are made as necessary.<br>It advises that the trustees should be ready for a challenge as to why they are satisfied with the current record keeping of member records. |

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| **FRC guidance on audit committees** | FRC published revised guidance on audit committees in December 2010. The guidance suggested that audit committees should set and apply a formal policy regarding the provision of non-audit services by the auditor where:<br>• The external auditor is pre-approved;<br>• Specific approval is required from the audit committee; and<br>• The external auditor is excluded.<br>The FRC guidance suggested that pre approval is only appropriate for routine work where the fee is not significant or for an audit related service. |

# 3. Current Accounting and Regulatory Issues (continued)

| Complying with Bribery Act 2010 | |
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| | On 25 March 2009, the UK Ministry of Justice ('MOJ') published the Bribery Bill, which is designed to provide a new, modern and comprehensive scheme of bribery offences. In particular, the proposed legislation seeks to create an offence of bribery of a foreign public official and also to create an offence of negligent failure by commercial organizations to prevent bribery.<br><br>The corporate offence clause is likely to have a major impact on the way organizations manage international businesses. The offence gives rise to a due diligence or adequate systems defense which, in the instance of a bribe, would allow a company to avoid conviction if it can show it has adequate systems in place to prevent bribery.<br><br>On 14 September the UK Ministry of Justice published draft guidance on what constitutes adequate procedures and launched an eight week consultation process. The guidance, as expected was principles based rather than prescriptive. The consultation period, which ended on 8 November 2010, gave organisations an opportunity to comment on and potentially influence the content of this important set of guidelines.<br><br>After this consultation period, the Ministry of Justice were due to publish further 'adequate procedures' guidance in January 2011 with the Bribery Act then coming into force three months later, in April 2011. This was however delayed and on 30 March 2011, the Ministry of Justice published the UK Bribery Act 2010 finalised Schedule 9 adequate procedures guidance. This means that from 1 July 2011, new and more stringent UK legislation will be in force to regulate bribery and corruption offences committed both in the UK and abroad.<br><br>The revised guidance has been expanded in two key ways:<br>• It's a fuller and more comprehensive document which seeks to address many of the previous key areas of concern voiced by the business community including issues concerning corporate hospitality and entertainment; the obligations of businesses to manage bribery risks within their supply chains; the impact of share listings in the UK; and the treatment of joint ventures and subsidiaries in the context of the actions of "associated persons"; and<br>• The finalised guidance has introduced the concept of proportionality. The guidance is explicit that entities are expected to adopt a proportionate approach to their management of bribery and corruption risk.<br><br>However, whilst the finalised guidance has gone a long way to address many of the concerns aired over the past few weeks, the MOJ has by no means gone so far as to produce the checklist or safe harbour style guidance that many businesses might have hoped for. Businesses will still clearly need to conduct their own assessments of the bribery and corruption risks faced by their operations and draw their own conclusions as to what policy and procedural enhancements might be required to address those risks. |

# 3. Current Accounting and Regulatory Issues (continued)

| Complying with Bribery Act 2010 (continued) | **The six general principles that are set out in the finalised guidance comprise:**<br><br>• **Proportionate procedures** - an organisation should have anti-bribery and corruption procedures that are proportionate to the specific risks faced by the business and to the nature, scale and complexity of its operations.<br><br>• **Top level commitment** - senior management should demonstrate their commitment to preventing bribery, establish a culture that supports this commitment and communicate the company's anti-bribery policy throughout the organisation.<br><br>• **Risk assessment -** the entity should perform a regular and comprehensive assessment of the nature and extent of its corruption risks.<br><br>• **Due diligence** - the entity should understand the background and reputation of the parties with whom it does business.<br><br>• **Communication (including training)** - the entity's anti-bribery policies should be effectively embedded in day to day business processes.<br><br>• **Monitoring and review -** the entity should implement appropriate monitoring and review mechanisms to ensure compliance with relevant policies and procedures.<br><br>Doubtless questions will still remain for many about how the new legislation will be enforced and, in particular, how prosecutorial discretion will be exercised by the authorities when bringing prosecutions. However, it is now even more important for entities to ensure that they have a robust risk assessment process and that any policy or procedural enhancements have been properly identified and were implemented by 1 July 2011.<br><br>Failure to do so will mean that there will be no possibility of an available “adequate procedures” defense should the authorities bring an action against an organisation for a bribe that has been paid on their behalf. |
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# 4. Other matters for communication

As part of our obligations under International Standards on Auditing (UK & Ireland), we are required to report to you on the matters listed below.

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|---|---|
| **Independence** | We consider that we comply with APB Revised Ethical Standards for Auditors and that, in our professional judgement, we are independent and the objectivity of the audit engagement partner and audit staff is not compromised.<br>If the Audit Committee wishes to discuss matters relating to our independence, we would be happy to arrange this.<br>There are no relationships (including the provision of non-audit services) we have with the North Yorkshire Pension Fund, its members and senior management and its affiliates, and other services provided to other known connected parties that we consider may reasonably be thought to bear on our objectivity and independence, together with the related safeguards that are in place. |
| **Non-audit services** | We are not aware of any inconsistencies between APB Revised Ethical Standards for Auditors and the Administering Authority's policy for the supply of non-audit services or of any apparent breach of that policy.<br>Fees payable to the auditors for the audit of the annual accounts of the North Yorkshire Pension Fund (excluding VAT) were £37,858 (2009/10 £37,858).<br>Our fee is consistent with the scale fee determined by the Audit Commission. |
| **International Standards on Auditing (UK and Ireland)** | We consider that there are no additional matters in respect of those items highlighted in our publication "Briefing on audit matters" to bring to your attention that have not been raised elsewhere in this report or our audit plan. |
| **Liaison with internal audit** | The Audit team, following an assessment of the independence and competence of the internal auditor, reviewed the findings of internal audits to inform the risk assessment and considered the impact on our audit approach.<br>No adjustments were made to the audit approach as a result of our review of the work of internal audit. |
| **Written representations** | A copy of the representation letter to be signed on behalf of the Authority is attached at Appendix 2. The new representation for the year ended 31 March 2011 has been underlined within Appendix 2. |

# 5. Responsibility statement

The Audit Commission published a ‘Statement of responsibilities of auditors and of audited bodies’ alongside the Code of Audit Practice. The purpose of this statement is to assist auditors and audited bodies by summarising where, in the context of the usual conduct of the audit, the different responsibilities of auditors and of the audited body begin and end, and what is expected of the audited body in certain areas. The statement also highlights the limits on what the auditor can reasonably be expected to do.

Our audit plan has been prepared on the basis of, and our audit work carried out in accordance with the Code and the Statement of Responsibilities, copies of which have been provided to the Council by the Audit Commission.

The audit may include the performance of national studies developed by the Audit Commission, where the auditors are required to follow the methodologies and use the comparative data provided by the Audit Commission. Responsibilities for the adequacy and appropriateness of these methodologies and the data rests with the Audit Commission. The audit may also include reviews such as this report which address locally determined risks and issues the scope of which is agreed with management in advance of the work. In this case it is for management to determine whether the scope is adequate and appropriate to their needs.

While our reports may include suggestions for improving accounting procedures, internal controls and other aspects of your business arising out of our audit, we emphasise that our consideration of the Pension Fund’s system of internal control was conducted solely for the purpose of our audit having regard to our responsibilities under Auditing Standards and the Code of Audit Practice. We make these suggestions in the context of our audit but they do not in any way modify our audit opinion which relates to the financial statements as a whole. Equally, we would need to perform a more extensive study if you wanted us to make a comprehensive review for weaknesses in existing systems and present detailed recommendations to improve them.

Any conclusion, opinion or comments expressed herein are provided within the context of our opinion on the financial statements and our conclusion on value for money as a whole, which was expressed in our auditor’s report.

We view this report as part of our service to you for Corporate Governance purposes and it is to you alone that we owe a responsibility for its contents. We accept no duty, responsibility or liability to any other person as the report has not been prepared, and is not intended, for any other purpose. It should not be made available to any other parties without our prior written consent.

Deloitte LLP

**Deloitte LLP**

Chartered Accountants
Leeds
19 September 2011

# Appendix 1: Audit adjustments

## Uncorrected misstatements

The following uncorrected misstatements were identified during the course of our

| | (Credit)/ charge to current year fund account £ | Increase/ (decrease) in net assets £ | (Increase)/ decrease in prior year net assets £ |
|---|---|---|---|
| **Investment managers fees that were not accrued at the year end** | | | |
| Dr investment managers fees | 498,000 | | |
| Cr accruals | | (498,000) | |
| **Investment managers fees that were not accrued the end of the prior year** | | | |
| Dr opening net assets | | | 800,000 |
| Cr investment managers fees | (800,000) | | |
| **Total** | (302,000) | (498,000) | 800,000 |

We will obtain written representations from the Audit Committee confirming that after considering all these uncorrected items, both individually and in aggregate, in the context of the financial statements taken as a whole, no adjustments are required.

# Appendix 2: Draft representation letter

Deloitte LLP
1 City Square
Leeds
West Yorkshire
LS1 2AL

***Our Ref:*** ***CDP/AJL/NYPF2011*** ***Date:***

Dear Sirs

**North Yorkshire Pension Fund (the "Fund")**

This representation letter is provided in connection with your audit of the Fund's financial statements for the year ended 31 March 2011 for the purpose of expressing an opinion as to whether the financial statements show a true and fair view of the financial transactions of the Fund during the period from 1 April 2010 to 31 March 2011 and of amount and disposition at the end of the Fund's period of its assets and liabilities, other than the liabilities to pay pensions and benefits after the end of the period, in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom 2010.

We acknowledge as members of North Yorkshire County Council our responsibilities for ensuring that the financial statements are prepared which give a true and fair view, for keeping records in respect of active members of the Fund and for making accurate representations to you.

We confirm, to the best of our knowledge and belief, the following representations.

1. All the accounting records have been made available to you for the purpose of your audit and all the transactions undertaken by the Fund have been properly reflected and recorded in the accounting records. All other records and related information, including minutes of Officer and Committee member meetings, have been made available to you.

2. We acknowledge our responsibilities for the design, implementation and operation of internal control to prevent and detect fraud and error.

3. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

4. We are not aware of any significant facts relating to any frauds or suspected frauds affecting the Fund involving:
   (i). management;
   (ii). employees who have significant roles in internal control; or
   (iii). others where the fraud could have a material effect on the financial statements.

5. We have disclosed to you our knowledge of any allegations of fraud, or suspected fraud, affecting the Fund's financial statements communicated by members, former members, employers, regulators or others.

# Appendix 2: Draft representation letter (continued)

6. We are not aware of any actual or possible instances of non-compliance with laws and regulations, the effects of which should be considered when preparing financial statements.

7. Where required, the value at which assets and liabilities are recorded in the net asset statement is, in the opinion of the Authority, the fair value. We are responsible for the reasonableness of any significant assumptions underlying the valuation, including consideration of whether they appropriately reflect our intent and ability to carry out specific courses of action on behalf of the Fund. Any significant changes in those values since the balance sheet date have been disclosed to you.

8. We confirm the completeness of the information provided regarding the identification of related parties, and the adequacy of related party disclosures in the financial statements.

   We have made enquiries of any key managers or other individuals who are in a position to influence, or who are accountable for the stewardship of the Fund and confirm that we have disclosed in the financial statements all transactions relevant to the Fund and we are not aware of any other such matters required to be disclosed in the financial statements, whether under Statement of Recommended Practice – Financial Reports of Pension Schemes (revised May 2007) ("Pensions SORP 2007"), Code of Audit Practice on Local Authority Accounting in the United Kingdom in 2010: based on International Financial Reporting Standards or other regulations.

9. We confirm that the financial statements have been prepared on the going concern basis. We do not intend to wind up the Fund. We are not aware of any material uncertainties related to events or conditions that may cast significant doubt upon the Fund's ability to continue as a going concern. We confirm the completeness of the information provided regarding events and conditions relating to going concern at the date of approval of the financial statements, including our plans for future actions.

10. We confirm the Fund is a Registered Pension Scheme. We are not aware of any reason why the tax status of the Fund should change.

11. You have been informed of all changes to the Fund rules during the year and up to the current date.

12. We have not commissioned advisory reports which may affect the conduct of your work in relation to the Fund's financial statements.

13. No claims in connection with litigation have been or are expected to be received.

14. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities reflected in the financial statements.

15. Other than those described in the financial statements there have been no events subsequent to 31 March 2011 which require adjustment of or disclosure in the financial statements or notes thereto.

16. There have been no irregularities involving management or employees who have a significant role in the accounting and internal control systems or that could have a material effect on the financial statements.

17. The Pension Fund accounts and related notes are free from material misstatements, including omissions.

# Appendix 2: Draft representation letter (continued)

18. The Fund has complied with all aspects of contractual agreements that could have a material effect on the financial statements in the event of non-compliance. There has been no non-compliance with requirements of regulatory authorities that could have a material effect on the financial statements in the event of non-compliance.

19. The Fund has satisfactory title to all assets.

20. We have recorded or disclosed, as appropriate, all liabilities, both actual and contingent.

21. No transactions have been made which are not in the interests of the members of the Fund during the Fund year or subsequently.

22. All trades in complex financial instruments are in accordance with our risk management policies, have been conducted on an arm's length basis and have been appropriately recorded in the accounting records, including consideration of whether the complex financial instruments are held for hedging, asset/liability management or investment purposes. None of the terms of the trades have been amended by any side agreement and no documentation relating to complex financial instruments (including any embedded derivatives and written options) and other financial instruments has been withheld.

23. We confirm that the Pension Fund Annual Report is compliant with the requirements of Regulations 34(1)(e) of the Local Government Pension Scheme (Administration) Regulations 2008 and related guidance.

24. We confirm that the information that is contained within the Pension Fund Annual Report and Accounts for the year to 31 March 2011 is complete, accurate and consistent with the information that is contained within the Accounts.

25. <u>We confirm that:</u>

    - <u>all retirement benefits and schemes, including UK, foreign, funded or unfunded, approved or unapproved, contractual or implicit have been identified and properly accounted for;</u>
    - <u>all settlements and curtailments have been identified and properly accounted for;</u>
    - <u>all events which relate to the determination of pension liabilities have been brought to the actuary's attention;</u>
    - <u>the actuarial assumptions underlying the valuation of the scheme liabilities (including the discount rate used) accord with the directors' best estimates of the future events that will affect the cost of retirement benefits and are consistent with our knowledge of the business;</u>
    - <u>the actuary's calculations have been based on complete and up to date member data as far as appropriate regarding the adopted methodology; and</u>
    - <u>the amounts included in the financial statements derived from the work of the actuary are appropriate.</u>

We confirm that the above representations are made on the basis of adequate enquiries of management and staff (and where appropriate, inspection of evidence) sufficient to satisfy ourselves that we can properly make each of the above representations to you.

Yours faithfully

Signed on behalf of North Yorkshire County Council