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**Report to Council**

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**Date of Meeting: 18 May 2023**

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**Subject: Divestment from Fossil Fuels and Delivering on Net Zero**

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**Report by: Strategic Director (Place)**

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**1.0 Purpose**

- 1.1. On 11 August 2022, Clackmannanshire Council unanimously passed a target to reach net zero greenhouse gas emissions by 2040 for the Council's own operations and a target for the Clackmannanshire area to reach net zero greenhouse gas emissions by 2045.
- 1.2. The Council's Interim Climate Change Strategy identified divestment from fossil fuels as an opportunity to deliver on the Council's net zero targets. Concerns over the Council's investment in fossil fuels have also been raised in the community-based Climate Change Forums.
- 1.3. On 25 October 2022, the Council's Climate Emergency Board endorsed that options to drive forward Council divestment from fossil fuels be taken to Council for consideration.

**2.0 Recommendations**

- 2.1. It is recommended that the Council agrees to:
  - 2.1.1. request a meeting with the Committee of LGPS Falkirk at the earliest opportunity, to discuss a review of the current policy on engaging with and investing in fossil fuel companies due to a lack of evidence of its effectiveness<sup>1</sup>, the growing financial and ecological risks from continued fossil fuel investment, and the pressing need for the pension fund to divest from fossil fuels;
  - 2.1.2. request that LGPS Falkirk divest from fossil fuels through the development and adoption of responsible investment policies which include:

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<sup>1</sup> See paragraphs 3.8 to 3.21

- (i) with immediate effect or at the very least a specified timeline, not to undertake any new investment in the top 200 publicly-traded fossil fuel companies;<sup>2</sup>
  - (ii) divest from direct ownership and any commingled funds that include fossil fuel public equities and corporate bonds as soon as practicable or within a specific time frame i.e. five years from the date of this Report;
  - (iii) agree to set out an approach to quantify and address climate change risks affecting all other investments within the pension fund; and
  - (iv) ask LGPS Falkirk to demonstrate to the Council that the pension fund is seeking to invest in companies and initiatives that will reduce greenhouse gas emissions and minimise climate risk.
- 2.2. Review the Council’s own approach to investment in fossil fuel companies through our treasury management policies.

### **3.0 Considerations**

- 3.1. LGPS Falkirk has an estimated £97 million invested in fossil fuels.<sup>3</sup>
- 3.2. The two largest employers in the Fund, Stirling Council and Falkirk Council, have both contacted LGPS Falkirk making a case for divestment.
- 3.3. UNISON voted at the 2017 National Delegate Conference for a campaign for LGPS funds to divest their shares or corporate bonds in fossil fuel companies where it is in the interest of scheme members.
- 3.4. The motion stated – *“Pensions are for our and our families’ future. But that future is threatened by fossil fuel extraction. Without bold action to keep 80% of fossil fuels in the ground, a changing climate will have devastating consequences for people, societies and ecosystems around the world.”*
- 3.5. When consulted on divestment, it was confirmed that the views of the Clackmannanshire UNISON branch executive align with that of UNISON’s National stance on the matter.
- 3.6. Stirling Council advocated a course of divestment as soon as practicable, whilst recognising the Fund’s fiduciary responsibilities and Falkirk Council asked LGPS Falkirk to give wider consideration to the question of divestment.<sup>4</sup>
- 3.7. In response to this, LGPS Falkirk reiterated its policy of engagement: *“... the Fund agrees completely with the need for rapid economic decarbonisation, it takes the view blanket divestment is too simplistic an approach for what is a complicated subject and that morally & effectively, it is better to remain*

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<sup>2</sup> As determined by the most recent Carbon Underground 200 list published by Fossil Free Indexes: <https://www.ffisolutions.com/research-analytics-index-solutions/research-screening/the-carbon-underground-200/>

<sup>3</sup> <https://www.divest.org.uk/councils/>

<sup>4</sup> <https://www.falkirk.gov.uk/coins/viewSelectedDocument.asp?c=e%97%9Dc%8Fp%7F%8B>

*invested in companies and use shareholder power to achieve **actual** change.*<sup>5</sup>

- 3.8. However, there is strong evidence that the engagement based approach is ineffective at achieving decarbonisation. For example, in a 2020 study of the sustainability practices of the largest pension funds in the world, representing ownership of over £70 billion in fossil fuel assets, researchers found only one example of direct engagement with a fossil fuel firm where the company was asked to keep their fossil fuel assets in the ground, and even this did not lead to a commitment to do so from the firm.<sup>6</sup>
- 3.9. Moreover, only 17% of 64 institutional investors surveyed, with almost \$11tn in assets, believe oil groups will transform their businesses to focus on green energy.<sup>7</sup> There are accordingly serious questions about the capacity of local government pension funds to achieve fundamental change to the core business model of fossil fuel companies.<sup>8</sup>
- 3.10. The United Nations' Paris Agreement, which was reaffirmed at the 2021 Glasgow Climate Summit, commits to keeping the global temperature increase to less than 2 degrees and aim for 1.5 degrees. This was signed into law by the UK Government.
- 3.11. In May 2021, the International Energy Agency (IEA), highlighted that **meeting these legally-binding Paris Agreement targets, would require all fossil fuel companies to stop new oil and gas exploration projects that year [2021]<sup>9</sup> yet not one of the ten fossil fuel companies most heavily invested in by LGPS members has made this commitment, despite many having 'net-zero plans'**.<sup>10</sup>
- 3.12. Carbon budgets produced by the Intergovernmental Panel on Climate Change, United Nations and the International Energy Agency demonstrate that preventing two degrees of warming relies on **not burning the vast majority of all proven fossil fuels**.
- 3.13. The UN International Energy Agency (IEA) predicts that global oil demand will significantly fall by 2030, leading their Executive Director to refer to oil and gas companies as potential '*junk investments*'.<sup>11</sup>

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<sup>5</sup> See paragraph 4.2 <https://www.falkirk.gov.uk/coins/viewSelectedDocument.asp?c=e%97%9Dc%8Fly%89>

<sup>6</sup> Rempel, A. & Gupta, J. (2020) *Conflicting commitments? Examining pension funds, fossil fuel assets and climate policy in the organisation for economic co-operation and development (OECD)*, *Energy Research & Social Science*, 69. Available at: <https://www.sciencedirect.com/science/article/pii/S221462962030311X>

<sup>7</sup> Mooney, A. & Nauman, B. (2021) *Most big investors sceptical over oil majors' green ambitions*, *Financial Times*, 3 May. Available at: <https://www.ft.com/content/fdb34abf5990-474a-a5c9-6d601ae41826>

<sup>8</sup> See for specific examples

<https://cdn.friendsoftheearth.uk/sites/default/files/downloads/Briefing%20Pension%20Funds%27%20engagement%20with%20fossil%20fuel%20companies%20March%202018.pdf>

<sup>9</sup> Hook, L. and Raval, A. (2021) *Energy groups must stop new oil and gas projects to reach net zero by 2050*, *IEA says*. *Financial Times*, 18 May. Available at: <https://www.ft.com/content/2bf04fff-5b2f-4d96-a4ea-ff55e029f18e>

<sup>10</sup> UK Divest (2021) *Divesting to protect our pensions and the planet An analysis of local government investments in coal, oil and gas*, p.11. Available at: <https://www.divest.org.uk/report>

<sup>11</sup> *Energy Investing: Exploring Risk and Return in the Capital Markets*, *Joint Report by the International Energy Agency and the Centre for Climate Finance & Investment*, Paris. Available at: <https://www.iea.org/reports/energy-investing-exploring-risk-and-return-in-the-capital-markets>

- 3.14. As such, indications are that legal commitments by governments, including the UK Government and Scottish Government, to limit carbon emissions will ultimately leave fossil fuel reserves unburnable due to their incompatibility with net zero targets. It has been estimated that this asset bubble, known as the ‘carbon bubble’, may be over €1 trillion in Europe alone<sup>12</sup>;
- 3.15. Former Bank of England Governor Mark Carney warned that fossil fuel investments risk becoming “*stranded assets*” (worthless) as investors exit the sector. He also posed the challenge: “*A question for every company, every financial institution, every asset manager, pension fund or insurer – what’s your plan?*”<sup>13</sup>
- 3.16. Consequently, LGPS Falkirk’s fossil fuel investment could constitute a significant long-term financial risk for members, including Clackmannanshire Council employees, in addition to the increasing ecological risks through additional fossil fuel investment.
- 3.17. Paragraph 3.3 of the LGPS Falkirk’s Statement of Responsible Investment Principles notes “*The Fund’s fiduciary duty means that the pursuit of financial return is its paramount concern, although it may also take purely non-financial considerations into account provided that doing so would not involve significant risk of financial detriment. Committee believes that investment should involve a holistic approach to analysis and decision-making that considers sustainability and financially material risks, including environmental (such as climate change), social and governance issues*”<sup>14</sup>
- 3.18. The movement to divest from fossil fuels is accelerating with over 150 pension funds, many leading universities, the Republic of Ireland’s Government, The Welsh Assembly, New York City’s Government and private sector organisations all making public statements to divest<sup>15</sup>. The approximate value of institutions that have divested is \$40.48 trillion<sup>16</sup> while Bloomberg report record investment in clean energy globally of \$705 billion in 2021.<sup>17</sup>
- 3.19. These trends underscore the case to review the Council’s own approach to investment in fossil fuel companies through our treasury management policies.
- 3.20. The trends also highlight the lucrative potential of renewable energy investments and the significant potential for pension funds to support community wealth building through local renewable initiatives. The Law Commission notes this untapped potential as there are “*No legal barriers to social investment, but pension schemes still not investing*”<sup>18</sup>

<sup>12</sup> London School of Economics, Grantham Institute (2018) *What are stranded assets?*, 23 January. Available at: <https://www.lse.ac.uk/granthaminstitute/explainers/what-are-stranded-assets/>

<sup>13</sup> <https://www.bbc.co.uk/news/business-50868717>

<sup>14</sup> FALKIRK COUNCIL PENSION FUND Statement of Responsible Investment Principles

<https://www.falkirkpensionfund.org/media/rhfew1vd/statement-of-responsible-investment-principles.pdf>

<sup>15</sup> Ambrose, J. (2020) *Parliament pension fund cuts fossil fuel investments*, The Guardian, 24 March. Available at: <https://www.theguardian.com/environment/2020/mar/24/parliament-pension-fund-cuts-fossil-fuel-investments>

<sup>16</sup> <https://divestmentdatabase.org/>

<sup>17</sup> <https://about.bnef.com/energy-transition-investment/>

<sup>18</sup> <https://www.lawcom.gov.uk/no-legal-barriers-to-social-investment-but-pension-schemes-still-not-investing/>

- 3.21. Some emerging UK examples include Councils in Manchester and London investing in wind farms<sup>19</sup> and Lancashire Pension Fund investing in the UK's first community-owned solar power cooperative.<sup>20</sup>
- 3.22. Thirty years ago, 60% of the LGPS was invested internally in the UK. By 2018, this figure had dropped to 30%.<sup>21</sup> Local energy investment opportunities also constitute a means of building on LGPS Falkirk's commended local investment of over £30 million in social housing.<sup>22</sup>
- 3.23. The incompatibility of continued fossil fuel investments<sup>23</sup> with the aforementioned legally-binding net zero targets also carries legal risks with pension funds being warned of the possibility of legal challenges due to fossil fuel investments breaching fiduciary duties,<sup>24</sup> whereby local government pension funds have a legal responsibility to invest in the best interests of fund members. There is a growing precedent for this with the UK Government losing a landmark legal challenge on its Net Zero Strategy in 2022.<sup>25</sup>
- 3.24. The UK and Scottish Governments have both set legally-binding targets to reach net zero greenhouse gas emissions by 2050, under the 2019 amendment of the 2008 Climate Change Act, and 2045, under the Scottish Government's Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, respectively.
- 3.25. Clackmannanshire Council unanimously passed a target to reach net zero greenhouse gas emissions by 2040 for the Council's own operations at the latest and a target for the Clackmannanshire area to reach net zero greenhouse gas emissions by 2045 at the latest.
- 3.26. The other two Councils who are members of LGPS Falkirk, Falkirk Council and Stirling Council, also have targets to reach net zero targets for their own operations by 2030 and 3035 respectively while other public bodies that are members of LGPS Falkirk are subject to statutory emission reduction targets under The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020.<sup>26</sup>

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<sup>19</sup> Coyne, B. (2017) *London and Manchester pension funds increase stake in SSE's Clyde Windfarm, The Energyst*, 1 August. Available at: <https://theenergyst.com/londonand-manchester-pension-funds-increase-stake-in-sse-clydewindfarm>

<sup>20</sup> Blue & Green Tomorrow (2013) *Westmill solar co-op gets £12m backing from Lancashire council pension fund*, 8 February. Available at: <https://blueandgreentomorrow.com/economy/westmill-solar-lancashire-pension-fund> Lancashire County Council (2015) *Winning approach for Lancashire pensions*, 15 September

<sup>21</sup> Gray, J. (2018) *The role of pensions in building community wealth, Professional Pensions*, 15 March. Available at: <https://www.professionalpensions.com/opinion/3028528/-role-pensions-building-community-wealth>

<sup>22</sup> Lander, R. (2017) *Divest and Reinvest: Scottish council pensions for a future worth living in*, Friends of the Earth Scotland. Available at: <https://foe.scot/resource/divestreinvest-councils-report/>

<sup>23</sup> <https://www.nature.com/articles/s41560-021-00934-2>

<sup>24</sup> ClientEarth (2016) *Pension trustees could face legal challenge for ignoring climate risk – leading QC confirms*, 2 December. Available at: <https://www.clientearth.org/latest/latest-updates/news/pension-trustees-could-face-legal-challenge-for-ignoring-climate-risk-leading-qc-confirms/> and Financial Times (2018) *Pension funds warned of legal action over climate risk* <https://www.ft.com/content/48dfa43e-4219-3001-a71a-aae47185fd03>

<sup>25</sup> <https://www.bloomberg.com/news/articles/2022-07-18/uk-loses-first-legal-challenge-of-net-zero-climate-target>

<sup>26</sup> See <https://www.gov.scot/policies/climate-change/decarbonisation-in-the-public-sector/>

- 3.27. In Clackmannanshire Council's Interim Climate Change Strategy, divesting from fossil fuels, particularly the pension fund, as set out in the recommendations in Section 2 of this report, was identified as an opportunity to deliver on the Council's net zero targets while concern over Council's investment in fossil fuels has also been raised in the community-based Climate Change Forums.
- 3.28. On 25 October 2022, the Council's Climate Emergency Board endorsed the development of options to drive forward Council divestment from fossil fuels, including of the pension fund, as set out in the recommendations in Section 2 of this report, to be taken to Council for consideration.

#### 4.0 Sustainability Implications

- 4.1. Continued investment in fossil fuels is not compatible with Clackmannanshire Council's, Scottish Government's and UK Government's net zero targets.

#### 5.0 Resource Implications

##### 5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

##### 5.4. *Staffing*

#### 6.0 Exempt Reports

- 6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so

that they can thrive and flourish

(2) **Council Policies** (Please detail)

**8.0 Equalities Impact**

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No

**9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

**10.0 Appendices**

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None.

**11.0 Background Papers**

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes  (please list the documents below) No

**Author(s)**

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**Approved by**

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