



Department  
for Environment,  
Food & Rural Affairs

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[REDACTED]  
Burgess Salmon LLP  
One Glass Wharf  
Bristol  
BS2 0ZX

**Your ref:**  
**Our ref:** c26110  
**Date:** December 2024

Dear [REDACTED]

**Contract for the provision of legal services by Burgess Salmon LLP, One Glass Wharf, Bristol, BS2 0ZX as Legal Provider to The Environment Agency, Horizon House, Bristol, BS1 5AH, as administering authority (the "Administering Authority") of the Environment Agency Pension Fund (the "EAPF") as Client pursuant to the Legal Services Framework Agreement dated 16<sup>th</sup> January 2023 between Norfolk County Council (the Authority) (1) and the Solicitor as the Provider(2)**

1. We refer to the above Legal Services Framework Agreement (the "**Framework Agreement**"). For the purposes of this Letter of Appointment:
  - capitalised terms and expressions used in this Letter of Appointment have the same meanings given to them in or pursuant to the Call-Off Terms attached to this Letter of Appointment unless the context otherwise requires;
  - references to Appendices are references to the appendices to this Letter of Appointment; and
  - the Appendices shall form part of this Letter of Appointment.
2. This Letter of Appointment constitutes an Order for the provision by you to us of the Contract Services specified in Appendix 1 on the basis of the Contract Charges set out in Appendix 2 and, pursuant to the provisions set out in Annex C, in accordance with the Call-Off Terms.
3. The partner at the Solicitor with overall responsibility for the supply of the Contract Services is [REDACTED] and the fee earners initially assigned to the supply of the Contract Services are [REDACTED]
4. The Client's Representative for the purpose of the Contract are [REDACTED], and to include [REDACTED] in the case of any scheme employer instructions and any disputes in relation to the Contract shall be escalated in accordance with clause 23 of the call-off terms and conditions.
5. Payments to the Solicitor in respect of the Contract Services shall be made to the following bank account of the Solicitor: [REDACTED]

Please

quote our invoice number when remitting funds. Remittance advices should be e-mailed to

[REDACTED]

6. For the purposes of the Contract, the address of each Party is:

- for the Client:

Environment Agency,

Horizon House, Deanery Road, Bristol BS1 5AH

For the attention of:

[REDACTED]

Tel:

[REDACTED]

Email:

[REDACTED]

- for the Solicitor:

Burges Salmon LLP

One Glass Wharf

Bristol

BS2 0ZX

For the attention of:

[REDACTED]

Tel:

Email:

[REDACTED]

**You should be aware that by signing and returning this Letter of Appointment you will have entered into a legally binding contract with us to supply the Contract Services specified in Appendix 1 and represent and warrant that you have carried out a conflict check in relation to such contract that revealed no conflicts of interest.**

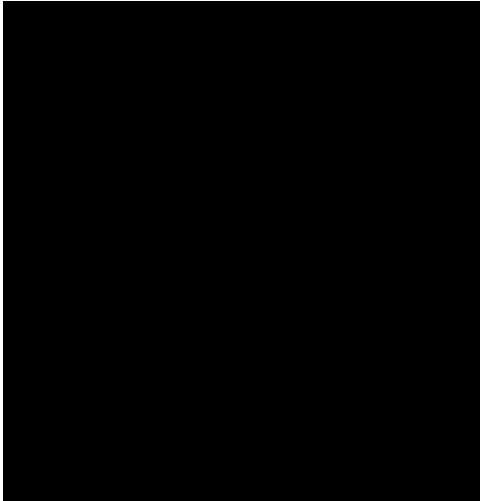
Yours faithfully

For and on behalf of the Solicitor:-

[REDACTED]



For and on behalf of the Customer:-



## **Appendix 1 (Contract Services)**

(Appendix 3 from the ITT Bidder Pack Procurement Specific Requirements:)

### **1. Background to requirement**

This contract is for the period 1/1/25 to 31/12/27 with the option to extend at the discretion of the Authority for a further 3 years.

Environment Agency Pension Fund (EAPF) is part of the Local Government Pension Scheme (LGPS). The Fund, a defined benefit scheme, has (as of March 24) circa £4.9 billion of assets (the majority active and 5.6% in a closed fund) and over 40,000 members, providing pension benefits for employees and former employees of the Environment Agency, Natural Resources Wales and Shared Services Connected Limited.

We set long term strategies to manage our investment and funding risks. Our last formal triennial valuation at 31 March 2022 reflected a funding ratio of 106%, which remains amongst the best across the LGPS. Our funding ratio at 31 March 2024 was still over 100%, reflecting the success of our long term strategies. Our employer contribution rates remain amongst the lowest across the LGPS with employers committed to protecting members' pensions and ensuring the Fund maintains its excellent funding position.

Responsible Investment remains at the core of our Fund and it is more pressing than ever as we face a climate emergency. Through strong governance, we have a comprehensive approach to managing the risks from climate change across our portfolio and within each asset class. We have seen our Fund generate strong financial returns by investing in companies that contribute to the long term sustainable success of the economy and society. With the need for responsible and sustainable investment more important than ever, we have a strong desire to keep innovating and driving change.

The day-to-day management of the Fund's investments is delegated to asset managers via Brunel Pension Partnership (Brunel) (now 63% of Active assets), 3 legacy equity managers (including real assets and infrastructure) contracted direct to the Fund and c30 private markets managers contracted direct to the Fund [please note that there is also a private markets allocation to Brunel].

The Environment Agency Pension Fund (EAPF) needs legal services for the EAPF active fund, closed fund, internal dispute resolution procedure (IDRP) and pensions administration (e.g., member's benefits, employer issues, admission agreements, discretions, legislative change) and the work areas that may be required are outlined in the National Framework documentation (Lot 1) and further informed by a recent 'Request for Information' carried out in February this year (Part D in the list of work below).

### **About the Environment Agency Pension Fund**

We ask that you please refer to our [Annual Report and Financial Statements](#) and particularly pages 2 to 19.

Please also note the range of our investments through different asset managers and Brunel Pension Partnership, our focus on members and our net zero commitment.

### **2. Management information**

As well as data required to provide the services as outlined in this specification, we may on occasion ask for management information to be provided both for internal purposes or as a result of external changes (e.g. new data requirement provisions).

### 3. Regular Legal Services areas of work – (set fees), including:

Workstream description	Time period to cost
<p>Partner to attend (allow for all to be in-person - mainly London but please allow for Bristol):</p> <p>4 Pensions Committee (PC) meetings</p> <p>4 Investment Sub Committee meetings</p> <p>4 ad hoc special matters meetings</p> <p>Include in the cost the preparation time (c200+ pages meeting pack for PC) and travel etc.</p>	Annual
<p>Complaints to the Fund may result in c4-8 Internal Dispute Resolution Procedure (IDRPs) annually. These range from fairly simple, to ongoing and complex (with potential sensitivity/reputational aspects):</p> <p>Please explain any aspect of your ways of working that helps to keep costs down and include any innovative or fixed fee cost proposals for working on IDRPs.</p>	<p>Please base this on one member who feels their pension is wrong, the case was initially badly handled, the member provides financial paperwork and the case is resolved in 6 months.</p>
<p>Advice to the Fund on a specific private market fund investment (across various jurisdictions including the US and including approaches to taxation).</p> <p>Please set out your fees approach for advice on a private market investment including any fixed fees.</p>	<p>Scoring will be based on the cost for legal advice to complete one mandate with one asset manager.</p>

This contract is for new work in the areas below, we have tried to make this list comprehensive, but there may be other areas of work we have not listed or which develop during the course of the contract.

#### **PART A (INVESTMENT WORK)**

- Investment fund vehicles (regulated and unregulated), including closed-ended limited partnerships, Open Ended Investment Companies (OEICs), Authorised and Unauthorised Unit Trusts, Undertakings for Collective Investment in Transferable Securities (UCITS), Real Estate Investment Trusts (REITs), listed vehicles, other types of alternative investment funds (AIFs) and with a familiarity of other commonly used European, US and off-shore vehicles and their regulation.
- All forms of corporate and partnership vehicles used in investment fund structures.
- Alternative investment fund establishment for different types of asset classes, including liaising with the Financial Conduct Authority (FCA) in relation to applications for the requisite authorisations/Financial Services and Markets Authority (FSMA) permissions, investor fund-raising/marketing restrictions, preparation of fund launch documentation, setting up tax-efficient investment holding structures, ongoing compliance with UK and international financial services law and regulation (such as AIFMD, UK AIMFD, UK MiFIR, MiFID II and FATCA).

Details of relevant experience in relation to particular asset classes should be included.

- Advising on Financial Services, Corporate and EU law as it applies to investment funds and investment practice in the UK (and including both compliance and transactional aspects) on behalf of investors or in relation to fund managers/vehicles.
- Investment management arrangements, agreements, relevant codes of practice and guidelines issued by UK statutory and industry bodies, when acting for an LGPS fund as an institutional investor or the authorised fund manager of an LGPS investment pool or similar structure.
- Advising on commercial property; conveyancing (to include all forms of documentation relating to acquisitions and disposals and other legal services relating to property management); searches; lease re-gears; property management and associated/related legal advice.
- All forms of corporate & partnership vehicles used in making direct and indirect investments in infrastructure.
- Governance and compliance issues for funds and managers adopting a best practice approach to new regulation (UK MiFIR, MiFID II, SMCR) and perimeter guidance associated with investment activities.
- Advising on company secretarial matters and general corporate governance.
- Any Class actions and other legal advice relating to Class Actions.
- Advising on and negotiating documents relating to the purchase of existing private fund interests on the secondary market, with up-to-date knowledge of the latest market practices/norms.
- Agreements for Global Custody and sub-custodian services, portfolio transition management, administration, use of derivatives and currency hedging, and other investment services.
- The negotiation of financial legal documents, including ISDA master agreements, commodity agreements, repurchase master agreements, securities lending master agreements and brokerage documentation.
- Advising on cross-border transactions within the UK and other EU jurisdictions, the US, off-shore and in other jurisdictions commonly encountered in investment and other investment management/administration transactions (including the emerging and developing markets).
- Advising on investment governance including the exercise of fiduciary duty by Pension Committees, Environmental, Social and Governance (ESG) considerations, ethical and responsible investment matters, and the application of the Myners Principles, the UK Stewardship Code, the TPR single code of practice and any other codes of best practice.
- Providing or co-ordinating specialist tax support and knowledge in the investment funds/ management sector, including advising on all UK pension fund taxation and application of VAT and VAT exemptions. This may require having sufficient in-house expertise or networks to facilitate advice on overseas tax requirements, the availability of exemptions for LGPS investors and routes for recovering overpayments of tax. It could involve reviewing contracts with foreign tax agents and providing advice on completion of foreign tax returns.
- Advising on and supporting LGPS funds with existing or potential pooling arrangements for investment services.

## **PART B (BENEFIT ADMINISTRATION, EMPLOYER BODIES AND GOVERNANCE WORK)**

- Employer admissions (when acting for the LGPS Fund itself or a scheme employer), reorganisations, other types of constitutional change, outsourcing arrangements, restructurings and cessations, as well as negotiating payment plans and other risk mitigation strategies aimed at protecting the interests of pension fund stakeholders. This requires knowledge of TUPE, 'Fair Deal', Best Value and COSOP.
- Advising on third party benefit administration and service level agreements and pension bulk transfer agreements.
- Drafting and negotiating admission agreements with different types of scheme employer (including Secretary of State applications), guarantees and where appropriate, security packages for unfunded scheme employer contributions or deficits.
- Transposing complex LGPS regulations and member communications to ensure they are both legally accurate to protect the funds from any liability or reliance risk and user- friendly for fund members to read and understand.
- The protection of accrued pension rights e.g. TUPE situation, Rule of 85 provisions, career breaks and opt-outs, benefit aggregation, early and flexible retirement terms, public sector transfer club rules, private sector transfers, and scope of transitional arrangements.
- The exercise of pension discretions including on making death grants and the establishment of trust arrangements for juveniles or incapacitated beneficiaries.
- Disbursement of pension fund benefits, exercise of delegations and the scope of any related policies and best practice guidance.
- The discharge of unfunded liabilities and payment of pension gratuities.
- Pension issues arising from registered civil partnership and fund member divorce including earmarking and pensions sharing orders.
- Complex early pension release transfers and issues regarding pension liberation schemes/ and potential fraudulent activity. Ability to advise on Pensions Pledge and Pensions Nudge.
- Member complaints in relation to pension benefits, including drafting responses on Stage 1 and Stage 2 IDRP and Pension Ombudsman cases, and advising funds on future prevention and mitigation measures.
- Recovery of pension fund overpayments and other payments made in error, handling of pension fraud and complex debt recovery cases including litigation and court action (including High Court) if required and advising on the requirements of the unauthorised payment rules.
- Administering exit credits and the potential implications for a LGPS funding strategy.
- Delivering pensions knowledge for Pension Committees/Boards and similar bodies, providing training to such bodies and LGPS staff as required, and induction training for new appointees. This will require an understanding of Local Government Governance arrangements as set out in the Local Government Act 1972 and Public Services Pensions Act 2013.
- Internal pension fund governance matters (including compliance obligations, effective risk management and decision-making, sub-delegations, requirements of the good governance project and minimising conflicts of interests).
- Advising Pensions Committee, Boards or similar bodies and LGPS staff on all aspects of public and pension fund law, constitutional matters, governance and primary fiduciary duties toward the pension fund and the financial interests of fund members.

- The scope of the fiduciary responsibilities for Pensions Committee, Boards or similar bodies and LGPS staff, and any liabilities exposure for members when acting in this capacity.
- Pension funding obligations and fund deficit recovery and repayment plans from LGPS employers. Flexibility regarding exiting employers and payments in instalments - deferred debt or debt spreading arrangements.
- Advising on trust law where relevant to any LGPS pensions matters.
- The impact of changes in government policy affecting LGPS funds and scheme employers, including the outcomes from national consultation on pensions reform options.
- Aspects of employment law and HR policies and practices e.g. human rights legislation, age discrimination, default retirement obligations etc.
- LGPS obligations with respect to provision of contractually agreed benefit promises, dealing as necessary with DLUHC on potential regulatory amendments.
- Issues arising from the exercise of scheme employer pension discretions, pensions issues arising from statutory redundancy and voluntary early retirement schemes, and ill-health retirement cases.
- Impact of conversions of maintained schools to academies, and other types of scheme employer conversions and how it impacts on funding pension liabilities.
- Accessing Specialist pensions tax matters, including the scope of unauthorised payment rules, and any applicable employment tax rules.
- The establishment of or participation in shared service or potential pooling arrangements for pensions administration services.
- Advice on regulatory and compliance matters in connection with The Pensions Regulator, CIPFA and the LGPS Scheme Advisory Board.
- Advising on employment law including but not limited to employment disputes.

## **PART C (GENERAL WORK)**

- Advising on outsourcing and procurement matters.
- Advising on general commercial and trust law issues, including commercial contracts.
- Advising on the body of regulations applicable to LGPS funds.
- Implications of recent Appeal, Supreme and High Court and other case law and Pension Ombudsman's decisions.
- Advise on post Brexit implications on the LGPS in terms of compliance, regulation, funding and the investment environment.
- Dispute resolution.
- Instructing and liaising with specialist Counsel where required.
- New pensions law, finance acts, and other possible changes for LGPS funds, consultation exercises, and assessing national and local government policy changes affecting LGPS pension funds and scheme employers.
- General property law advice e.g. charges on assets for funding liabilities.

## **PART D (areas of work identified in the Request for Information)**



- Advising on the spectrum of EAPF investments matters including private market funds capturing all legal aspects including financial regulatory, ESG, funds, pensions law and tax issues
- Advising the Administering Authority on exercising its discretion on the distribution and payment of death grants following the death of an EAPF member and other discretionary benefits.
- Individual benefit cases on matters such as pension sharing on divorce, recovery of overpayments and any fraud/debt recovery cases.
- Provision of training to committee members, local pension board members and Fund officers.
- Cyber security and data protection issues
- Member complaints in relation to pension benefits, including drafting responses on Stage 1 and Stage 2 IDRPs and Pension Ombudsman cases, and advising funds on future prevention and mitigation measures.
- Equality Act matters impacting on EAPF planning or operation.
- Interpretation of LGPS legislation and general case law on matters such as fiduciary obligations and public law decision makers.
- Supporting on general legal developments and horizon watching.
- Advising the EAPF on procurement issues
- TPR General Code of Practice
- LGPS benefit and tax related issues (e.g. McCloud remedy, abolition of the lifetime allowance).
- Advising the Administering Authority on ESG requirements and factors including climate change reporting.
- Advising on complex benefit matters by reference to the LGPS Regulations 2013 or historic regulations and future regulatory changes.
- Compliance with regulatory obligations including the general code of practice.
- Input into the Fund's governance arrangements – fiduciary duties is a particular area that often comes up from a legal perspective.
- Advise in relation to changes in the legal and/or regulatory framework impacting the LGPS (e.g. tax, amendments to the LGPS Regulations).
- Advising the Administering Authority on the exit payment and exit credit requirements under Regulation 64 of the LGPS Regulations 2013
- Advising on employer body issues including employer structural and machinery of government changes, and the participation and exit of employers, including advising on the different types of employer body in the LGPS, and HM Treasury Fair Deal requirements which can apply on staff transfers.

## **PART E (other)**

- Advising on Freedom of Information Act requests

### **4. Roles including that of stakeholders**

Chairs of the Pensions Committee (PC) and the Investment Sub Committee (ISC)

Committees – The Pensions Committee delegates investment decisions to the Investment Sub Committee (ISC).

Chief Pensions Officer and managers, namely:  
Pensions Manager  
and a team of officers.

Further stakeholders:

Internal EA teams including Legal and HR.

Brunel Pension Partnership

Asset managers

Other suppliers at consultant level.

## **5. Data & Cyber Protection**

It is vital that our data is protected and that effective cyber security and business continuity procedures are in place.

## **6. Sustainability**

The EAPF wants to achieve best value for money and continual improvements in the sustainable management of our estate, operations, and procurement. These support the Government's green commitments. The policies are included in Defra's sustainable procurement policy statement published at

[www.gov.uk/government/publications/defra-s-sustainable-procurement-policy-statement](http://www.gov.uk/government/publications/defra-s-sustainable-procurement-policy-statement)

## **7. Equality and diversity**

The EAPF is committed to promoting equality and diversity within our work and that of our suppliers.

## **8. Climate change**

Helping our investments, and the finance industry more broadly get to net zero is a priority for our fund. We support the concept of net zero being incorporated into Legal Services for this contract and the legal profession more broadly.

## **9. Timescales/Deadlines**

<b>Task</b>	<b>Deliverable</b>	<b>Timing</b>
1	Investment Strategy Review	Triennial – next 31/3/2025
2	Annual Accounting Valuations and Content	Annual – 31 <sup>st</sup> March
3	Investment Committee Attendance and Papers	Quarterly (plus ad hoc if required)
4	Pensions Committee Attendance and Papers	Quarterly

## Appendix 2 (Contract Charges)

<b><u>Regular Legal Services areas of work – (set fees) - costing</u></b>		
<b>Workstream description</b>	<b>Time period to cost</b>	<b>Cost</b>
<p>Partner/Senior person to attend (allow for all to be in-person - mainly London but please allow for Bristol):</p> <p>4 Pensions Committee (PC) meetings</p> <p>4 Investment Sub Committee meetings</p> <p>4 ad hoc special matters meetings</p> <p>Include in the cost the preparation time (c200+ pages meeting pack for PC) and travel etc.</p>	Annual	<p>Annual fixed fee for our lead lawyer (partner) attending 12 meetings, including preparation time: [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

<p>Complaints to the Fund may result in c4-8 Internal Dispute Resolution Procedure (IDRPs) annually. These range from fairly simple, to ongoing and complex (with potential sensitivity/reputational aspects):</p> <p>Please explain any aspect of your ways of working that helps to keep costs down and include any innovative or fixed fee cost proposals for working on IDRPs.</p>	<p>Please base this on one member who feels their pension is wrong, the case was initially badly handled, the member provides financial paperwork and the case is resolved in 6 months.</p>	<div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div>
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		<div></div> <div></div> <div>Based on these assumptions our fixed fee proposal would be:</div> <div></div>
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Advice to the Fund on a specific private market fund investment (across various jurisdictions including the US and including approaches to taxation).

Please set out your fees approach for advice on a private market investment including any fixed fees.

Investment by investment basis (one mandate with one manager to be costed)

**Scope**

[REDACTED]

**Fees**

[REDACTED]

Our fees for

Option 1 would be a fixed fee of [REDACTED]

and for Option 2 the fixed fee would be [REDACTED]

[REDACTED]

[REDACTED]

[illegible]

		<div></div> <div></div> <div></div>
<b>Rate Card</b>		
<b>Grade</b>	<b>Hourly rate</b>	
Partner or Director		
Senior Solicitor		
Solicitor		
Junior Solicitor		
Trainee		
Paralegal		



**Appendix 3**  
**(Variations and/or supplements to the Call-Off Terms)]**

Prices shall be fixed for a year from the start of the contract & can increase annually in line with either the CPI or 5%, whichever is lower and certainly less than the framework maximum rates.

The limit of liability (para 4.18 of the call-off terms) shall be:

4.1.8 Subject always to Clauses 4.1.1 and 4.1.4 the liability of the Solicitor to the Client of whatever nature arising out of or in connection with the Contract (including as a result of breach of contract, negligence or any other tort, under statute or otherwise) shall in no event exceed the greater of £5 (five) million for each and every claim and a sum equal to one hundred and fifty per cent (150%) of the value of the Contract Services rendered by the Solicitor pursuant to this Contract in the previous twelve-month period.