

# Palestine

**Is your pension fund investing in the occupation?**

Using your pension to support Palestinian human rights  
A practical guide



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# **Palestine: Is your pension fund investing in the occupation?**

## **Using your pension to support Palestinian human rights**

### **A practical guide**

*"If you are neutral in situations of injustice, you have chosen the side of the oppressor"* Desmond Tutu

*"The annexation of Palestinian land represents a gross violation of international law. Governments, businesses and public bodies all have a responsibility to ensure that none of their purchasing, procurement or investment decisions contribute to the occupation or the violation of Palestinian human rights."* Dave Prentis, UNISON General Secretary

## **1. Summary**

This guide is aimed at UNISON members in the Local Government Scheme (LGPS) and other pension funds that use investments. It describes what actions you can take to encourage your pension fund to put pressure on the companies that are involved in the occupation of Palestine.

It explains:

- How the occupation of Palestine is denying millions of people their human rights and right to self-determination;
- How companies, which pension funds regularly invest in, are taking significant financial, legal and reputational risks through their business dealings with the illegal settlements in the occupied Palestinian territory;
- How the LGPS works;
- How you can argue for your pension fund to begin the process of divestment from companies listed on the United Nations database of business enterprises involved in or with the illegal settlements. And for them to engage with other relevant investee companies, not on the UN database, to demand that they end their involvement in the settlements and the violation of Palestinian human rights;
- The steps you should take to make the case to your pension fund and highlight scheme members' demands that their pensions are not invested in companies involved in the occupation.

The LGPS and other pension funds represent scheme members' money. Pensions are a significant element of an employees' remuneration and the contributions paid into to the scheme are deducted from their wages or paid by the employer for the

work they have done. This campaign is based on the important principle that pensions should be invested in scheme members' interests, so heavily depends on their consultation and participation.

## 2. Introduction

Since 1948, the Israeli state has established a body of laws, policies, and practices that have systematically oppressed Palestinians. This political and legal system impacts Palestinians in different ways, depending on their political and geographical status.

For over half a century the West Bank, including East Jerusalem, and the Gaza Strip has been under occupation by the Israeli government<sup>i</sup>. Today, the occupation continues to control every aspect of the lives of Palestinians; denying their human rights, restricting their access to land, water and other natural resources and curtailing their freedom of movement<sup>ii</sup>.

The Israeli settlements and associated infrastructure, including most of the separation wall, are illegal under international law<sup>iii</sup>. However, numerous major companies conduct business in the occupied Palestinian territory, undermining international law, United Nations resolutions and contributing to the denial of Palestinian human rights<sup>iv</sup>.

Every year the illegal settlements produce and export hundreds of millions of dollars' worth of goods<sup>v</sup>. Many companies, including multinational corporations take significant legal, regulatory and reputational risks<sup>vi</sup> to profit from the occupation and the violation of Palestinian human rights, by building the infrastructure, running businesses or providing the security equipment, machinery or loans which sustain the occupation and the settlements<sup>vii</sup>.

This briefing looks at how we can use the influence of our pension funds to encourage companies to comply with international law by terminating their business interests in the occupied Palestinian territory (oPt) and reduce the risks to pension fund investments. It calls on pension funds to begin the process of divestment from companies listed on the United Nations Human Rights Council database of companies involved in the illegal Israeli settlements in the oPt, which have undergone a rigorous engagement process, as an important first step. It also calls on pension funds to engage with companies involved in the settlements and the violation of Palestinian human rights, but not on the UN database, and demand that they cease these operations or risk divestment.

The people of Gaza have lived under a tight land, sea and air blockade since 2007, cut off from the outside world<sup>viii</sup>. In 2014 Israel launched its fourth major military

attack on Gaza in a decade. More than 2,200 Palestinians were killed in 51 days, including 500 children<sup>ix</sup>. Between 30 March and the end of 2019, during the course of the 'Great March of Return' demonstrations in Gaza, Israeli forces killed 214 protestors, including 46 children and injured approximately 36,100 Palestinians, including nearly 8,800 children<sup>x</sup>.

The blockade continues to hamper efforts to rebuild housing and infrastructure<sup>xi</sup>. Over half the population of Gaza lives beneath the poverty line and 62 percent are food insecure<sup>xii</sup>. Access to adequate shelter and key public services including healthcare, education and water and sanitation is severely limited<sup>xiii</sup> and 97 per cent of water is undrinkable<sup>xiv</sup>, leading the United Nations to estimate in 2012 that Gaza would be uninhabitable by 2020<sup>xv</sup>.

In the West Bank, including East Jerusalem, over 3.1 million Palestinians live under occupation<sup>xvi</sup>. The Israeli government continues to build illegal settlements<sup>xvii</sup>, while segregating the Palestinian population behind a 712km separation barrier<sup>xviii</sup> and demolishing Palestinian homes<sup>xix</sup>.

In April 2020 Israel's governing coalition announced plans to formally annex parts of the West Bank, that it had already occupied, including the illegal settlements and the Jordan Valley<sup>xx</sup>. Annexation, the acquisition of territory by force, is a flagrant violation of international law<sup>xxi</sup>, the UN Charter and UN resolutions. The proposals have been widely criticised by governments<sup>xxii</sup> and international institutions including the UN<sup>xxiii</sup> and EU<sup>xxiv</sup>, and there are growing calls for 'effective measures' to stop annexation, including from parliamentarians<sup>xxv</sup> and governments<sup>xxvi</sup>. These include measures to prevent companies doing business with the illegal settlements<sup>xxvii</sup>.

The struggle for Palestinian freedom and rights is driven by its people, but the self interests of governments and the scale of the oppression means that international solidarity and pressure are essential.

In recent years this solidarity has grown to new levels. Governments all over the world are now beginning to feel the pressure from their citizens to end the Israeli government's violations of Palestinian human rights and international law.

Many of the companies involved in the occupation are also facing increased pressure to terminate their business interests in the occupied Palestinian territory<sup>xxviii</sup>. Governments<sup>xxix</sup>, local authorities<sup>xxx</sup>, churches<sup>xxxi</sup> and unions have put pressure on companies and many have divested<sup>xxxii</sup>.

Many of these companies are big household names<sup>xxxiii</sup>, with operations all over the world. Deregulation means they are not very accountable, but they should listen to their investors, some of the largest of which manage our pensions<sup>xxxiv</sup>.

This briefing will help you win the arguments with your pension fund and encourage them to put pressure on the companies that are involved in the occupation. If just a handful of these companies decided that business in Palestine no longer makes sense, then many more will do the same. This will be a major economic blow to the occupation.

## **2.1 Who is this briefing for?**

This briefing is primarily aimed at UNISON members and others who are in the Local Government Pension Scheme (LGPS), but many of the arguments will apply to members in other schemes that use investments to make money towards paying pensions.

It does not apply to other public sector pension schemes, like the NHS pension scheme, which are funded through government spending.

## **3. UNISON: campaigning against the occupation**

UNISON works with trade unions and other organisations around the world to defend trade union and human rights. The rights of the Palestinian people has consistently been an international priority for the union, resulting in extensive campaigning in the UK and Europe and projects and other work with trade unions, labour organisations and human rights groups in Palestine and Israel. UNISON believes that lasting peace in the Middle East can only be achieved with justice and self-determination for the Palestinian people<sup>xxxv</sup> and supports the creation of a viable, independent Palestinian state alongside Israel<sup>xxxvi</sup>. However, we recognise that the prospects of a two-state solution are undermined by the illegal settlements, the annexation of East Jerusalem and the threatened annexation of large areas of the West Bank.

UNISON believes that the biggest barrier to peace is the continuing Israeli occupation of the West Bank and Gaza, as well as the continuing threat of further annexation<sup>xxxvii</sup>. The occupation has lasted for 50 years in defiance of United Nations resolutions<sup>xxxviii</sup> and international law<sup>xxxix</sup>.

UNISON recognises the injustices being committed against the Palestinian people, and UNISON conferences have repeatedly supported Palestinian rights and international law<sup>xl</sup>. Support for justice and Palestinian rights is seen as a central international issue in the trade union movement. TUC Congress has consistently passed policy in support of freedom and justice for the Palestinians, most recently in 2020, when congress affirmed that annexation would be another significant step in the creation of a system of apartheid<sup>xli</sup>, as have many trade union federations throughout the world<sup>xlii</sup>.

Palestine will continue to be in the news, and that news will rarely be good news for Palestinians. But your support can change that. By joining together with other UNISON branches, trade unions all over the world and the Palestine Solidarity Campaign (PSC), we can take concrete action to help bring an end to the occupation and support freedom and justice for Palestinians. PSC is the leading organisation in the UK campaigning for the rights of Palestinian people<sup>xliii</sup>. UNISON is affiliated to and works closely with PSC and encourages branches to affiliate too.

### 3.1 The Occupation and International law

- Israel's settlements in the West Bank are built on land taken from the Palestinians. The theft of this land contravenes article 46 of the Hague Convention (1907) which states: "Private property cannot be confiscated<sup>xliv</sup>";
- The arrival of Israelis to live in the settlements is a violation of Article 49 of the 4th Geneva Conventions (1949), which state: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies<sup>xlv</sup>";
- Palestinian homes and property, including thousands of acres of farmland, are destroyed to clear the way for settlement building. One of the definitions of a war crime, according to the Rome Statute of the International Criminal Court, is the "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly." (Article 8<sup>xlvi</sup>). Article 53 of the Fourth Geneva Convention (1949) states: "Any destruction by the occupying Power of real or personal property belonging individually or collectively to private persons ... is prohibited, except where such destruction is rendered absolutely necessary by military operations<sup>xlvii</sup>";
- The destruction of Palestinian towns and villages, and the building of settlements on that land, has changed the physical geography of the West Bank. The arrival of Israelis and immigrants from other countries to live in the settlements has altered the population of the West Bank. UN Resolution 465 (1980) states: "All measures taken by Israel to change the physical character, the demographics, the status and institutional structure of the West Bank, Gaza, Jerusalem and the Golan Heights have no legal validity<sup>xlviii</sup>";
- Israel's settlement building policy, as well as the actual building of the settlements, is a breach of international law. UN Resolution 2334, passed in December 2016, "reaffirms that the establishment by Israel of settlements in the Palestinian Territories occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace." It demands "the cessation of all Israeli settlement activities is essential for salvaging the two-State solution, and calls for affirmative steps to be taken immediately to reverse the negative trends on the ground that are imperiling the two-State solution;". In addition it "calls upon all States... to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967<sup>xlix</sup>".

## 3.2 How are companies supporting the occupation?

Businesses are involved in the occupation and the violation of Palestinian human rights in numerous ways including<sup>i</sup>:

- Providing the equipment and materials used to build and expand settlements, the separation wall and other infrastructure;
- Supplying security and surveillance equipment, materials and services used at checkpoints, settlements and the separation wall;
- Providing equipment used to demolish Palestinian homes and property including agricultural land and crops;
- Providing services, utilities and transport used to support the settlements;
- Providing loans and other financial services used to build and expand the settlements, businesses and associated infrastructure;
- Using Palestinian natural resources including water, land and minerals for business purposes;
- The trade in settlement goods including agricultural products;
- Tourism to, or which benefits the settlements;
- Involvement in prisons and detention centres which imprison Palestinians;
- Exploiting Palestinian workers by denying them the pay and conditions they should be entitled to under Israeli law;
- Practices which undermine the Palestinian economy.

## 3.3 Which companies are involved?

The following organisations and resources provide information about some of the companies involved in the occupation and the violation of Palestinian human rights. Further information can be found in appendix 1.

The office of the United Nations High Commissioner for Human Rights published a database listing 112 business enterprises involved in or with the illegal Israeli settlements in February 2020<sup>ii</sup>. These business activities unavoidably contribute to sustaining an illegal situation and systemic human rights violations against Palestinians. The companies were included on the list following a rigorous engagement and assessment process. The list is restricted to business enterprises known to be involved in ten well defined activities during a limited timeframe, so does not cover all business activities that may raise human rights concerns<sup>iii</sup>. Numerous companies known to be involved in or with the settlements are not included on the list, so it is important that pension funds also conduct their own human rights due diligence. However, the database does provide an authoritative, internationally recognised reference to assist pension funds in meeting their human rights obligations. UNISON is calling on pension funds to begin the process of divesting from these companies as an important initial step to ensure that scheme members

money is not invested in companies that are involved in or with the illegal Israeli settlements.

The Palestine Solidarity Campaign (PSC) has worked for many years with others to call on those companies to end their involvement with the Israeli government's violations of international law and Palestinian human rights; including by challenging contracts held by those companies in the UK, taking the issue to boards and investors by attending AGMs, and encouraging consumers not to buy or use products made by those complicit companies<sup>liii</sup>. PSC have developed a useful database which will help you identify if your pension fund has any direct investments in companies that supply the Israeli military, provide technology and equipment for the infrastructure of the occupation, or are active in illegal Israeli settlements: <https://lgpsdivest.org>

As of July 2020 PSC had identified £3.2bn of investments in these companies by 49 funds<sup>liv</sup>. The database does not yet cover all funds and pooled investments. Who Profits is a research centre based in Israel, which provides detailed information on companies that have links with the occupation. It was established in 2007 by the Coalition of Women for Peace<sup>lv</sup>.

Investigate is a project of the American Friends Service Committee. It provides a screening tool to help individuals and institutions identify companies they invest in that are involved in the occupation and violation of Palestinian human rights<sup>lvi</sup>. (UNISON is not responsible for the content of third party websites).

### **3.4 Investor power**

UK pension funds have a combined asset value of approximately £6 trillion<sup>lvii</sup>. At least half of this is invested in companies in the UK and across the world. Pension funds and their investment managers control billions of pound worth of investments on behalf of scheme members, and therefore have significant power when they choose to engage with companies at a board level. It is this financial muscle which can be used to encourage companies to terminate any business operations that support the occupation. Many investors, particularly pension funds, are increasingly taking environmental, social and governance, including human rights, factors into account in their investment decisions. Pension funds regularly engage with company boards to change their ways of operating and minimise risks to their long-term investments. This financial stewardship is a core responsibility of shareholders, particularly pension funds, which have a duty to ensure that funds are invested in scheme members' interests.

There is already considerable evidence of investors, including pension funds and investment companies using their power to influence the actions of companies they invest in:

- In 2016 over half the independent shareholders at the Sports Direct AGM supported a trade union initiated resolution calling for an independent assessment of the company's employment practices<sup>lviii</sup>;
- Pension funds regularly raise issues such as executive pay, board diversity, accounting procedures at AGMs and discussions with board members under their stewardship responsibilities. In some cases, where a company cannot or will not change, investors divest. There are plenty of examples of significant investors divesting from particular companies for environmental, social or governance reasons;
- A number of local authorities, churches and universities have divested or reduced their investment in fossil fuels for ethical and financial reasons<sup>lix</sup>;
- The Norwegian government has excluded a number of companies from their pension fund investment portfolio for providing surveillance equipment and loans to the illegal Israeli settlements<sup>lx</sup>;
- In 2006 the Synod of the Church of England approved a motion calling on the Church to disinvest from companies profiting from the illegal occupation... until they change their policies<sup>lxi</sup>.
- In October 2017 Sampension, the third largest pension fund in Denmark, excluded four companies from their portfolio for violating the fund's guidelines for investments in occupied Palestinian territory<sup>lxii</sup>;
- In 2018 the Falkirk local government pension fund divested from Bank Hapoalim due to the risks associated with the bank's investments in the illegal settlements<sup>lxiii</sup>.

## 4. The Local Government Pension Scheme (LGPS)

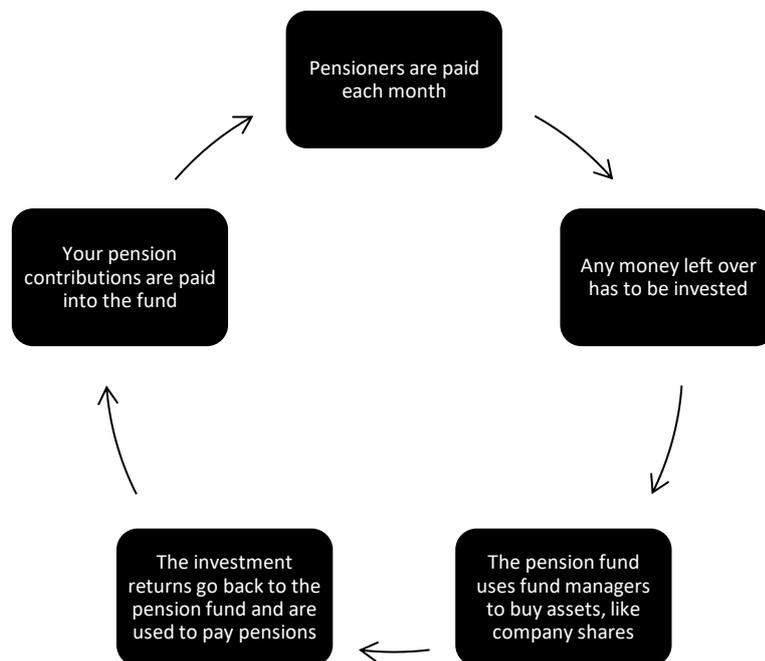
The Local Government pension Scheme (LGPS) has almost six million members<sup>lxiv</sup>, in England and Wales alone. It has 100 administering authorities including 87 local authorities<sup>lxv</sup>. Most administering authorities are geographically based on larger local authorities or groups of local authorities. The Local Government Pension Scheme Northern Ireland is operated by the Northern Ireland Local Government Officers' Superannuation Committee<sup>lxvi</sup> (NILGOSC). Approximately 15,700 different employers pay into LGPS funds. Collectively these funds hold around £291bn of investment assets.

The LGPS is a statutory public service scheme. Parliament makes laws and regulations for the funds in England and Wales; the Scottish Parliament for the funds in Scotland; and in Northern Ireland it is the Assembly. Each fund must follow the rules of investing established by their respective governing bodies.

## 4.1 What does your pension fund do?

- It administers the pension scheme;
- It collects contributions from the employers, some funds may have 300 paying employers;
- It pays pensions;
- It hires investment managers and advisers;
- It invests surplus cash and buys assets – the return on these investments go towards paying pensions

## 4.2 The investment cycle of your pension



### **4.3 How is the LGPS organised?**

Each fund in England, Scotland and Wales has a 'pension board' and many have UNISON members on them as scheme member representatives.

With the exception of the London Pension Fund Authority, the South Yorkshire Pension Fund Authority, the Environment Agency and the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC), all of the investment decisions are made by local authorities and the elected councillors who sit on their pension committees.

The LGPS is not run by a board of trustees; its decisions are made at the Pension Committee once a quarter and implemented by council officers, or officers of the pension fund authorities, in between the cycle of four committee meetings per year.

### **4.4 How are investment decisions made?**

- All of the pension funds have a decision making process.
- There will be a cycle of committee meetings where investment decisions are discussed – normally four times a year.
- For the rest of the time officers of the council are in charge.
- Every council that runs the LGPS will have all of the details about the fund on their website.
- Each fund has to produce an Investment Strategy Statement in England and Wales, or a Statement of Investment Principles in Scotland and Northern Ireland.
- This document will inform you how it is dealing with Environmental, Social and Governance (ESG) issues.

### **4.5 How does the LGPS work?**

Imagine your pension fund is a bucket – it must be filled to the top with investment assets and cash. The bucket holds all of the resources to pay out pensions; the job of the pension fund is to keep the bucket full to the top at all times.

But the level of money and assets in the bucket falls – it does this because it has to pay pensions and it has the costs of running the administration and paying the fund managers and others. Not only that, but the economy is also causing the value of the assets to rise and fall constantly.

A pension fund must decide its investment strategy, what assets it is going to invest in and how much return it thinks this will make for them. A pension fund can employ its own in-house fund managers, but most LGPS funds use external fund managers, mainly from the City of London and Wall Street.

As your pension fund will already own assets, it has to decide how it is going to invest the surplus cash it has once it has collected all of the contributions, paid out all pensions and all the other costs.

Your pension fund administration authority is compelled by the investment regulations to invest the surplus cash, after contributions have been collected and pensions have been paid. It will seek to get the best return or set a 'benchmark return' overall and for each asset class.

It will invest to pay pensions now, and in the medium and the long term. It will also be required to fill any hole in the funding level. LGPS funds must ensure that they have enough in the fund to pay all the liabilities. That is, they must have a 100 per cent funding level, or enough assets and cash to match all of the pension benefits.

## 4.6 The LGPS investment pools

Pension funds in England and Wales are in the process of pooling their assets into eight 'pools<sup>lxvii</sup>' (see the table below). Investment pooling was introduced as part of the Local Government Pension Scheme (Management and Investment of Funds) Regulations in November 2016, with the aim of reducing costs through the sharing of resources and economies of scale. It is anticipated that most of the LGPS's assets will eventually be invested through pools. The Access, Wales and LLP pools do not have union representatives on them.

Name of pool	Funds	Assets (£bn)
London CIV	Established for the 33 LGPS funds administered by London's 32 boroughs and the City of London Corporation	35.9
Northern	West Yorkshire, Greater Manchester and Merseyside	44.9
Central	Cheshire, Leicestershire, Shropshire, Staffordshire, West Midlands, Derbyshire, Nottinghamshire, Worcestershire and the West Midlands Integrated Transport Authority	44.3
Brunel	Avon, Cornwall, Devon, Dorset, Gloucester, Somerset and Wiltshire, Oxfordshire, Buckinghamshire and the Environment Agency Pension Fund	28.9
ACCESS	Northamptonshire, Cambridgeshire, East Sussex, Essex, Norfolk, Isle of Wight, Hampshire, Kent, Hertfordshire, West Sussex and Suffolk	43.2

Wales	Carmarthenshire, Cardiff, Flintshire, Gwynedd, Powys, Rhondda Cynon Taff, Swansea, and Torfaen	16.8
Border to Coast	Cumbria, East Riding, Surrey, Warwickshire, Lincolnshire, North Yorkshire, South Yorkshire, South Yorkshire Passenger Transport Pension Fund, Tyne & Wear, Durham, Bedfordshire, Northumberland and Teesside	45.4
LPP	Lancashire, Berkshire and the London Pension Fund Authority	15.2

## 4.7 What the LGPS invests in - different asset classes

Your pension fund will also invest in a number of different asset classes. Across all the LGPS funds, the current ‘average’ assets are:

- 66% in pooled investment vehicles
- 17% in equities or shares – in companies registered on the UK and other stock markets;
- 7% in ‘gilts’ (government bonds – IOUs with interest);
- 3% in property – commercial real estate – the purchase of real estate to get rental income;
- 7% in alternatives – infrastructure (public private partnerships), private equity, hedge funds<sup>lxviii</sup>.

There are various different investment styles. Two of the main ways to invest pension funds are active and passive management (See glossary). One of the key differences is the cost to the saver of each style, with passive funds having lower fees.

## 4.8 How is it regulated?

The investment regulations are the rules set by government on how your pension fund must invest your money.

These regulations guide decisions made by pension committees (councillors are the equivalent of trustees in the LGPS) who are in charge of overseeing our savings. The appendix includes all of the website links to the investment regulations.

Each fund has a lead UNISON branch attached to it. It will also have a number of UNISON branches with scheme members paying into it including local government, police, higher education, environment agency and community and voluntary sector

branches. With any campaign it is important that all branches are networked and involved in the issue. It's also crucial that you keep your UNISON regional officer or regional lead officer on pensions informed.

## **4.9 Investment strategy statement**

The LGPS funds in England and Wales must produce an 'Investment Strategy Statement'. In Scotland and Northern Ireland they must produce a 'Statement of Investment Principles'. You will find the investment strategy statements and statement of investment principles on your LGPS fund website.

In England and Wales the LGPS funds have to follow the instructions from the 2016 Investment Regulations<sup>lxix</sup>. These provide guidance on preparing and maintaining an Investment Strategy Statement.

In this guidance, Investment Regulation 7(2)(e) provides specific instruction about how social, environmental or corporate governance considerations (non-financial factors) are taken into account in the selection and disposal of investments<sup>lxx</sup>. It states "an administering authority will now have to:

- Take proper advice;
- Explain the extent to which the views of their local pension board and other interested parties who they consider may have an interest will be taken into account when making an investment decision based on nonfinancial factors;
- Explain the extent to which non-financial factors will be taken into account in the selection, retention and realisation of investments."

## **4.10 UNISON's regional structures for LGPS governance**

Each UNISON region should have an LGPS forum to support board members, and each region should also have a lead officer and lay member to assist that process. Regions should ensure that the board members can report to the service groups with LGPS members in the region. Regional representatives will attend and report to the Service Groups Liaison Committee (SGLC)/LGPS forum.

An example of how the structure works:

1. West Midlands Fund Board is administered by Wolverhampton Council
2. The UNISON branch for this council is Wolverhampton local government
3. Birmingham local government branch has members in the same fund
4. West Midlands Police branch has members in the same fund
5. Coventry University branch has members in the same fund

The UNISON branch closest to the establishment of the board is Wolverhampton.

All the other branches with LGPS membership should be consulted and networked.

You can find out who your UNISON board member is by contacting your lead regional officer, via your UNISON regional office. The pensions unit at the UNISON centre will be able to assist and answer your questions.

## **5. How can I influence my pension fund?**

### **5.1 Do your research**

- i. Find out which pension fund you are a member of.
- ii. Find out which other UNISON branches are linked to the fund. Your branch or region will be able to help with this and will be able to put you in touch with these branches and UNISON representatives on the pension fund board. Most funds cover a number of employers, and many will cover at least two local authorities. In these cases one local authority is likely to take the lead in administering the fund and the closest UNISON branch will lead negotiations with the fund. Your region will also be able to tell you about other UNISON activists engaging with your pension fund, particularly on issues such as investment in fossil fuels. There might also be a PSC branch in your area who may be able to help with speakers, information and support your campaign.
- iii. Next find out about your pension fund's investment strategy and their position on environmental, social and governance issues and engagement with the companies they invest in.
- iv. Every LGPS administering authority has a website – here you will find many of the details you need to gather:
  - a. The investment strategy statement or the statement of investment principles; Does it provide for a robust engagement process on environmental, ethical and governance grounds? Does it ensure that scheme members' interests and views are reflected in investment decisions? If not, what opportunities are there to influence the strategy?
  - b. It will tell you who the Chair of the pension committee is;
  - c. You can find out who sits on the pension fund board and read the minutes of meetings.
- v. Find out which companies your fund invests in, starting with PSC's LGPS Divest database. Each fund should produce a list of equity holdings, which is either available online, or by contacting your fund. Check the companies listed against the United Nations Human Rights Council database and the Investigate screening tool. Even if none of the companies listed are involved

in the occupation or the violation of human rights there are likely to be relevant investments through funds and pools. You should also ensure that safeguards are included in the investment strategy statement to ensure the fund is protected from such high-risk investments in future.

- vi. Identify who has the power to make decisions about your pension and how you can influence them. The main people you will need to influence are the councillors on the pensions committee and members of your pension board including employers, member representatives and independent members. All of these, both individually and sometimes through their member organisations, should be open to reasoned discussion.
- vii. Contact your fund's member representative/s. They may well be a branch officer, or at least have contact with the branch or your branch UNISON Pension Champion. Gain their support and use them as an adviser and a vital source of information on the best ways to influence the pensions committee and board. Ask them what the likely barriers are, how different board members are likely to react, and who the most important people to influence are.
- viii. If UNISON members are not represented on the pensions board, find out when elections or selections for member representatives take place, and talk to your branch. It is important that UNISON members are properly represented when decisions about their pensions are made. Pension funds will often want to recruit board members with a background in pensions or finance. However, it's also important to have board members who are well informed about the concerns of scheme members about how and where their pensions are being invested.
- ix. Find out which local councillors sit on the pensions committee, which parties they represent and what their interests are. Do any activists live in their ward, and would they be willing to write them a letter or attend a surgery?
- x. Use the mapping tool (appendix 6) to help you decide whom you need to influence and how you can influence them.

## **5.2 Build branch and scheme member support**

Building awareness and support amongst scheme members is essential, before you seek to influence your pension committee and board. Although the decisions about your pension will be made by councillors, pension funds should represent scheme members' interests. Demonstrating that scheme members support your demands and that this is a scheme member led campaign is therefore essential.

- i. Start with your branch. UNISON has thousands of members in the LGPS and you will need to get your branch members' support first. You will need to show the pensions committee and board that LGPS members are very concerned that their pension funds are being invested in companies that are associated with the occupation, and they want to know what their pension fund is going to do about it.
- ii. Get the support of your branch officers and put it on the agenda of your next branch meeting. Use the model presentation to inform branch members about the issue (appendix 7). If you'd rather have a speaker to address the branch, ask the Palestine Solidarity Campaign if they can help. There may be a local PSC group, which will support your campaign.
- iii. Make sure your branch and other branches linked to your fund have policy on the issue by debating and passing the model motion (appendix 3), mandating your branch to support and resource the campaign.
- iv. Although branch policy will show scheme member support for your campaign, you should consult widely to show you have broad support.
- v. Consider conducting a petition or online poll. Form a campaign group to coordinate your work. Draw on your Branch International Officer, Pensions Champion and scheme member representatives for support. Liaise with others who are trying to influence your pension fund's investment policy on fossil fuels, workers' rights, arms trade, etc.
- vi. Pensions represent scheme members' money, so should be invested in their interests. However, councillors will also be mindful of the views of the communities they represent. As such you should also try to build public support for your campaign. Seek the support of sympathetic political parties, particularly if they have councillors on your local pension committee. Encourage constituency party structures to discuss and pass a resolution supporting your campaign and your calls.
- vii. Seek the support of local community leaders. Branch members may have links with school governors, faith leaders and community group leaders. These people will often have an influential relationship with their local councillors and be able to raise issues of public concern. Some communities and places of worship may have links with Palestine and may offer useful support to your campaign.

## 5.3 Influence decision makers

- i. Develop a paper to be presented to your pension board and committee, including the following:

Content	For further information
<p>A summary calling on the fund to:</p> <ul style="list-style-type: none"> <li>• Begin the process of divestment from companies included on the United Nations Human Rights Council database of business enterprises involved in the illegal Israeli settlements;</li> <li>• Engage proactively with companies not on the UN database, but known to be involved in the occupation and the violation of Palestinian rights, to demand that they end their involvement.</li> <li>• Adopt clauses in their investment strategy statements to ensure that international law, business and human rights responsibilities under the United Nations Guiding Principles and international labour standards are taken into account when making investment decisions.</li> </ul>	
Highlight the level of scheme member support for your proposals.	5.2
The legal, reputational and human rights risks of investing companies involved in the occupation and the violation of Palestinian human rights.	6.4
Fiduciary duties of investment intermediaries.	6.1
International law and UN conventions relating to the occupied Palestinian territory.	3.1
UK government advice on doing business with the settlements	6.3
UK government National Action Plan on Business and Human Rights.	6.4
A list of all investments in companies involved in the occupation, including details of how they are violating Palestinian human rights, highlighting any that are on the UN database. Use information from credible sources such as the UN database and Who Profits.	3.3
Make the case for the fund to begin the process of divestment from investee companies on the UN database and for a robust engagement process with any	6.10

others, lasting no more than 12 months.	
Explain what clauses you would like to see included in the investment strategy statement	6.2

- ii. Arrange a meeting through the branch with your employer to raise your concerns, using the formal negotiating machinery. Seek assurances from them of the steps they will take to raise the issue with the pensions committee and board. Involve other union branches if appropriate.
- iii. Write formally as a branch to the chairs of the pensions committee and board, raising your concerns and seeking a meeting where you can present your paper. See appendix 4 for a model letter.
- iv. If scheme members live within the local authority ask them to write to/email their local councillors to raise the issue. See appendix 5 for a model action for members. Don't forget to include details of how they can contact their councillors and ask for responses to be forwarded to the branch. Encourage those who take an active interest in the campaign to attend their local councillor's next surgery and lobby them, particularly if they sit on the pensions committee.
- v. Meeting your pensions committee and board members: Make it clear that scheme members and the public are deeply concerned that pension funds are being invested in companies associated with the occupation (if this is the case). Give examples such as the policy you have passed and highlight who else is raising it as a concern. Explain how companies are involved in the occupation, and the steps that have already been taken to get them to change their ways. Make it clear what you are calling on them to do. We want them to begin the process of divesting from companies on the UN database and put pressure on any other companies they invest in to cease any involvement with the occupation, and if they don't, to divest. We are also calling on them not to make future investments in companies associated with the occupation and the violation of Palestinian human rights. Be prepared for the arguments that will be used against you. Ask to be informed of any responses they receive from companies and update you on the steps they are taking to ensure that no further investments are made in companies involved in the occupation. Make it clear that this is a major issue for scheme members and it won't go away!

## 5.4 Keep up the pressure

- i. If your fund agrees to engage with the companies concerned it is vital they are briefed on the arguments they should raise. Your paper should raise many of these arguments but you can also be asked to be kept involved.

- ii. Ask to be kept informed of all progress made, and ensure that if a timetable for engagement has been agreed it is kept to.
- iii. If a company continues to violate human rights and labour law and the United Nations guiding principles after exhausting the engagement process the only option available to your pension fund is to divest.
- iv. Find out which other branches in your region are engaging with their pension fund on the issue of Palestinian human rights. Encourage funds to work collaboratively to engage companies through the investment pool system.
- v. If your fund is a member of the Local Authority Pension Fund Forum, encourage them to work collaboratively with other funds to engage companies.

## 6. Key arguments

### 6.1 Fiduciary Duties of Investment Intermediaries

Pension fund committees are also guided by the principle of ‘fiduciary duty’, the responsibility to look out for our, and the fund’s financial best interests. Many well respected organisations such as the United Nations<sup>lxxi</sup> have stated that ‘fiduciary duty’ (or the responsibility of investors to look out for our financial best interest) shouldn’t get in the way of action on environmental, social and other factors. UK Law also supports this view. The Law Commission was set up by the UK Government to explain and clarify complicated sections of the law.

The government guidance on Preparing and Maintaining an Investment Strategy Statement reflects the Law Commission’s guidance on Fiduciary Duties of Investment Intermediaries:

*“Although schemes should make the pursuit of a financial return their predominant concern, they may also take purely non-financial considerations into account provided that doing so would not involve significant risk of financial detriment to the scheme and where they have good reason to think that scheme members would support their decision.*

*Investments that deliver social impact as well as a financial return are often described as ‘social investments’. In some cases, the social impact is simply in addition to the financial return; for these investments the positive social impact will always be compatible with the prudent approach. In other cases, some part of the financial return may be forgone in order to generate the social impact. These investments will also be compatible with the prudent approach providing administering authorities have good reason to think scheme members share the*

*concern for social impact, and there is no risk of significant financial detriment to the fund.”*

Law Commission: Fiduciary Duties of Investment intermediaries<sup>lxxii</sup>.

It is important to show your pensions committee and board that this is an issue that members are concerned about. A motion from trade union branches might be a start, but to make a stronger case you may consider a petition or online poll of fund members.

## **6.2 Investment strategy statement**

Pension funds are required to review and revise their investment strategy statement or statement of investment principles from time to time, and at least every three years, and must consult with scheme members on the contents.

As investment decisions will be made in line with the investment strategy it is vital that members influence the contents of this document and ensure it contains a robust policy on how they will engage with the companies they invest in on environmental, social and governance (ESG) issues.

The investment strategy should be easily obtainable from your fund website or administrators. Find out what it says about ESG considerations in investment decisions, how engagement takes place with companies on these issues, when it will next be reviewed and how consultation will take place.

You should argue that the investment strategy statement should allow the pension committee to consider not investing or divesting from companies engaged in activities that breach international law, human rights law, the International Labour Organisation core conventions<sup>lxxiii</sup> or the United Nations Guiding Principles are considered when making investment decisions.

You should make the case for the strategy to include the following elements at a minimum:

- Corporate governance, environmental, social, and ethical issues will be considered in all investment decisions;
- International legal obligations, and business and human rights responsibilities under the United Nations Guiding Principles, the UK National Action Plan and the International Labour Organisation core conventions, will be taken into account when making investment decisions;
- The companies the fund invests in will be expected to respect the human rights of workers, the communities in which they operate and other stakeholders throughout the supply chain;

- The fund will actively engage with the companies it invests in to ensure conformity to high ethical, social and governance standards and produce better long-term shareholder returns. This should include voting at company annual general meetings, engagement with company boards and collaboration with others on issues of common concern;
- Where a company fails to address environmental, ethical and governance concerns, the fund will consider divestment in order to reduce risks to its investments;
- Investments will be made in scheme members' best interests. The fund will consider scheme members' and their representative trade unions' views when making investment decisions;
- Ideally you should request a specific clause that recognises that the risk of gross human rights violations is heightened in conflict affected areas, particularly occupied territories, and that the fund will not make investments where there is any risk of contributing to adverse human rights impacts or breaches of international humanitarian law.

### 6.3 UK Foreign policy

The UK government guidance: 'Overseas Business Risk - The occupied Palestinian territory'<sup>lxxiv</sup> highlights the legal and economic risks of companies conducting business with, in or benefitting the settlements, and makes it clear that government does not support such activity.

Pension funds should be seeking to minimise these risks to their investments by demanding that companies cease any operations in the settlements.

*"There are therefore clear risks related to economic and financial activities in the settlements, and we do not encourage or offer support to such activity. Financial transactions, investments, purchases, procurements as well as other economic activities (including in services like tourism) in Israeli settlements or benefiting Israeli settlements, entail legal and economic risks stemming from the fact that the Israeli settlements, according to international law, are built on occupied land and are not recognised as a legitimate part of Israel's territory. This may result in disputed titles to the land, water, mineral or other natural resources which might be the subject of purchase or investment. EU citizens and businesses should also be aware of the potential reputational implications of getting involved in economic and financial activities in settlements, as well as possible abuses of the rights of individuals."*

Overseas Business Risk - The Occupied Palestinian Territory, Foreign and Commonwealth Office<sup>lxxv</sup>

## 6.4 Government National Action Plan on Business and Human Rights

The UK government national action plan “Good Business -Implementing the UN Guiding Principles on Business and Human Rights<sup>lxxvi</sup>” highlights the government’s expectations of businesses to implement the human rights principles. The document also emphasises that trade unions should play a role in the implementation of the principles both domestically and internationally.

Pension funds should be proactively engaging with companies they invest in to ensure that the human rights principles are being implemented.

*“Companies should:*

- *comply with all applicable laws and respect internationally recognised human rights, wherever they operate;*
- *seek ways to honour the principles of internationally recognised human rights when faced with conflicting requirements;*
- *treat as a legal compliance issue the risk of causing or contributing to gross human rights abuses wherever they operate;*
- *adopt appropriate due diligence policies to identify, prevent and mitigate human rights risks, and commit to monitoring and evaluating implementation;*
- *consult people who may potentially be affected at all stages of project design and implementation;*
- *adopt or participate in effective grievance mechanisms which are transparent, equitable and predictable;*
- *be transparent about policies, activities and impacts, and report on human rights issues and risks.”*

Good Business -Implementing the UN Guiding Principles on Business and Human Rights, Foreign and Commonwealth Office<sup>lxxvii</sup>.

The United Nations Human Rights Commission has produced specific guidance on the implementation of the UN Guiding Principles in the context of the occupied Palestinian territory<sup>lxxviii</sup>. The guidance makes it clear that enterprises doing business connected with the settlements should demonstrate they are not complicit in human rights abuses. Where they cannot prevent or mitigate human rights abuses they should, where necessary, terminate their business activities. Businesses should also use their leverage to mitigate any human rights abuses by third parties such as suppliers and subcontractors. Where it is unsuccessful in mitigating these abuses, it should consider terminating the business relationship.

*“Business enterprises doing business, or seeking to do business, in or connected to the Israeli settlements in the OPT need to be able to demonstrate that they neither support the continuation of an international illegality nor are complicit in human rights*

*abuses; that they can effectively prevent or mitigate human rights risks; and are able to account for their efforts in this regard – including, where necessary, by terminating their business interests or activities. Failure to undertake effective human rights due diligence can lead to adverse human rights impacts or to complicity in abuses committed by other actors...Where an enterprise is unsuccessful in mitigating risks of adverse human rights impacts, despite its best efforts to use and seek to increase its leverage, it should consider ending the business relationship.”*

Statement on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the occupied Palestinian territory, United Nations Office of the High Commissioner for Human Rights<sup>lxxix</sup>.

The UN Office of the High Commissioner for Human Rights has confirmed that the UNGPs also directly apply to institutional investors, including pension funds<sup>lxxx</sup>.

## **6.5 United Nations Database**

The United Nations Human Rights Council has developed a database of 112 business enterprises involved in a number of specific activities, which raise particular human rights violations concerns<sup>lxxxi</sup>. The database provides a limited picture of companies involved in the illegal Israeli settlements, and does not cover all business activities that may raise human rights concerns. The database includes companies known to be involved in the following activities during a limited period:

- *“The supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures;*
- *The supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements;*
- *The supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olives groves and crops;*
- *The supply of security services, equipment and materials to enterprises operating in settlements;*
- *The provision of services and utilities supporting the maintenance and existence of settlements, including transport;*
- *Banking and financial operations helping to develop, expand or maintain settlements and their activities, including loans for housing and the development of businesses;*
- *The use of natural resources, in particular water and land, for business purposes;*
- *Pollution, and the dumping of waste in or its transfer to Palestinian villages;*
- *Captivity of the Palestinian financial and economic markets, as well as practices that disadvantage Palestinian enterprises, including through restrictions on movement, administrative and legal constraints;*

- *Use of benefits and reinvestments of enterprises owned totally or partially by settlers for developing, expanding and maintaining the settlements.”*

Database Pursuant Human Rights Council Resolution 31/36, United Nations Human Rights Council.

The database was presented to the 43<sup>rd</sup> session of the UN Human Rights Council in February 2020, following the adoption of resolution 31/36 in March 2016. The information should be updated annually and presented to the Human Rights Council. In their report to the 37<sup>th</sup> session of the UN Human Rights Council, the UN High Commissioner for Human Rights noted *“it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law.”*<sup>lxxxii</sup>

The Office of the UN High Commissioner for Human Rights (OHCHR) has engaged extensively with each of the companies listed on the UN database to demonstrate they are involved in settlement related activity. It is unlikely, in cases where a company is listed on the UN database, that further engagement by an individual pension fund will result in the company ceasing any settlement related activity. We recommend that pension funds should therefore begin the process of divestment from these companies.

## **6.6 International campaigning against settlement goods**

There is a growing international campaign demanding an end to trade with the illegal settlements. In 2017 Amnesty International launched a major campaign calling on governments to ban the sale of settlement goods and stop companies based in their country from operating in settlements or trading in settlement goods<sup>lxxxiii</sup>. Human Rights Watch is calling on businesses to comply with their own human rights responsibilities by ceasing settlement-related activities<sup>lxxxiv</sup>. Campaigning to end trade with the illegal settlements has gathered significant further momentum since the Israeli government announced plans to annex significant parts of the West Bank, including the illegal settlements and the Jordan Valley, from July 2020<sup>lxxxv</sup>.

## **6.7 Local Authority Pension Fund Forum**

The majority of funds are members of the Local Authority Pension Fund Forum (LAPFF)<sup>lxxxvi</sup>. If your fund is a member, ask them to make the case for joint actions to influence companies involved in the occupation and the violation of Palestinian human rights. LAPFF seeks to influence the companies pension funds invest in by promoting high standards of corporate governance and responsibility and acting together as shareholders on issues of common concern. In 2020 approximately 80 funds and six pools were members of LAPFF<sup>lxxxvii</sup>. Scheme members are not represented on the body.

## 6.8 Engagement or divestment?

Pension fund managers and councillors regularly receive requests to divest from certain companies, particularly producers of fossil fuels. Most funds will adopt an approach of engagement with the companies they invest in, in order to minimise risk and maximise the fund's leverage with the company concerned. Funds will often argue that if they divest, the new owner of the stock is far less likely to raise ethical and human rights concerns.

In this campaign we encourage a process of carefully managed and timebound engagement by pension funds, before divestment is considered. However, funds should be encouraged to begin the process of divestment from companies on the UN database of business enterprises involved in or with the illegal settlements, as a rigorous UN led engagement process has already taken place. Engagement is also unlikely to be successful where a company has failed to respond to substantial lobbying, campaigning and shareholder pressure, or if its principal activities are based in the occupied Palestinian territory.

Engagement is most likely to be effective when it has a realistic timeframe, involves coordinated actions with other investors and is backed by the potential threat of divestment.

## 6.9 Government guidance on divestment

Pension funds in England and Wales must comply with the revised 2017 government 'Guidance on Preparing and Maintaining an Investment Strategy Statement'<sup>lxxxviii</sup>.

This succeeds the 2016 government guidance which included the following unlawful statement: *"using pension policies to pursue boycotts, divestment and sanctions against foreign nations and UK defence industries are inappropriate other than where formal legal sanctions, embargoes and restrictions have been put in place by the Government"*.

In April 2020 the Supreme Court ruled that the guidance is unlawful<sup>lxxxix</sup>. The case was initiated by the Palestine Solidarity Campaign and supported by UNISON.

The Local Government Pension Scheme Advisory Board has issued a legal summary on the Supreme Court case<sup>xc</sup>. The summary confirms that "the Secretary of State went beyond his powers by including the contested passages in the guidance. The reissued guidance from July 2017 (with the relevant passages removed) remains valid." The summary also clarifies that although responsibility for investment decisions rests with the administering authority, funds represent scheme members money, rather than public money. Importantly the summary concludes that "when taking non-financial considerations into account in relation to investment

decisions, members' views should be effectively communicated to, and considered by, administering authorities as an intrinsic part of their investment decision making processes.”

In its advice to funds on the implications of the judgement<sup>xcii</sup> the LGPS Advisory Board has also confirmed that funds may take into account non-financial factors when making investment decisions where;

- a. *this would not involve significant risk of financial detriment to the scheme and*
- ii. *where the administering authority has good reason to think that scheme members would support its decision.*

Lawyers for Palestinian Human Rights (LPHR) published a briefing in July 2017 for local authority pension funds on investment decision-making relating to companies operating in the occupied Palestinian territory. The briefing confirms that pension funds can make decisions to divest from, or not to invest in, individual companies on the basis of involvement in human rights violations against Palestinians in the occupied Palestinian territory<sup>xciii</sup>. Further details can be found in appendix 1.

In December 2019 the UK government outlined plans to "ban public bodies from imposing their own direct or indirect boycotts, divestment or sanctions campaigns against foreign countries"<sup>xciii</sup>. The measures are expected to cover purchasing, procurement and investment decisions by public bodies. At the time of writing the government is yet to provide any further details or timescale for its plans.

It should be noted that this campaign calls for the application of international law, and international advice from the United Nations to business in relation to the settlements in the oPt. It is therefore unclear whether the government proposals would apply, particularly considering the UK government's longstanding position on the illegal Israeli settlements and the UN Guiding Principles on Business and Human Rights.

## **6.10 Setting a timeframe**

Pension funds are unlikely to have established procedures for engagement, so the process can be long and difficult to conclude. In order to ensure that any engagement process is fair, thorough and time bound, you should request that the fund adopts a formal procedure lasting no more than 12 months. This would allow ample time for a company to consider and respond to the initial complaint about its business practices in the oPt, take steps to resolve the complaint and adhere to the required standards, and if the complaint has not been resolved, for the pension fund to decide whether it should divest.

Other processes include a similar timeframe. For example, the UK government has established a 'National Contact Point<sup>xciiv</sup>' for dealing with complaints under the 'OECD Guidelines for Multinational Enterprises<sup>xcv</sup>'. The process includes a clear timeframe of 12 months for considering and resolving complaints against corporations by those who are negatively affected by their activities, fairly and thoroughly.

## **7. Conclusion**

The companies engaged in or with the illegal settlements and the occupation are contributing to systemic human rights violations against Palestinians. By using engagement and divestment we can persuade these companies to comply with their human rights obligations and stop contributing to an illegal situation.

Many UNISON members will be concerned to learn that their pension funds have investments in companies that are involved in or with the occupation and the violation of Palestinian human rights, but the good news is we can stop it.

We hope you will find this briefing useful and join the many other UNISON branches campaigning to ensure that our pension funds aren't invested in companies that are involved in the occupation.

Do keep your regional officer informed and let the international unit know how you are getting on with the campaign by emailing [i.relations@unison.co.uk](mailto:i.relations@unison.co.uk), and let us know if you need any additional information and advice.

Decision making in pension funds can be a long process, so stick with the campaign and keep up the pressure. If a small number of companies end their involvement with the occupation it can make an important difference to the lives of millions of Palestinians and the prospects of a viable Palestinian state alongside Israel.

# Appendices

1. Useful contacts and resources
2. Pensions glossary
3. Model motion
4. Model letter to the pension fund
5. Model action for scheme members
6. Mapping tool
7. Model presentation

# Appendix 1: Useful contacts and resources

## UNISON regional LGPS contact

You should contact your UNISON regional LGPS lead officer via your UNISON regional office.

## About the LGPS

UNISON is not responsible for the content of third party websites

### Local Government Scheme Advisory Board - England/Wales

[www.lgpsboard.org](http://www.lgpsboard.org) Select: Scheme information/ local pension boards (this section provides a list of LGPS funds and their pension boards)

The purpose of the Board is to be both reactive and proactive. It seeks to encourage best practice, increase transparency and coordinate technical and standards issues for the LGPS. There are six employer representatives and six trade union representatives. UNISON holds the vice-chair position.

### Local Government Scheme Advisory Board - Scotland

<http://lgpsab.scot>

The purpose of the Local Government Pension Scheme (Scotland) Advisory Board is to provide advice to the Scottish Government on the desirability of changes to scheme design and the implication of other policy issues. UNISON are the staff side secretary to the board.

### Local Government Pension Scheme for Northern Ireland

[www.nilgosc.org.uk](http://www.nilgosc.org.uk)

The NILGOSC is the corporate body responsible for the administration of the Scheme and is a non- departmental public body, sponsored by the Department for Communities.

### Local Authority Pension Fund Forum (LAPFF)

[www.lapfforum.org](http://www.lapfforum.org)

A group of 80 LGPS funds and six pools combining £300bn of assets, but no scheme member representation. LAPFF develops responsible investment policies and engages with companies.

### The Local Government Pension Scheme

[www.lgpsmember.org](http://www.lgpsmember.org) Select: 'Contact your LGPS Fund'

The website for LGPS scheme members in England and Wales has a useful contact your pension fund section.

### **LGPS Divest**

[www.lgpsdivest.org](http://www.lgpsdivest.org)

includes a series of useful resources to support this campaign, developed by the Palestine Solidarity Campaign, including a database highlighting £3.2bn of direct investments by 49 funds in companies that supply the Israeli military, provide technology and equipment for the infrastructure of the occupation, or are active in illegal Israeli settlements. The database does not cover all funds or pooled investments.

### **Lawyers for Palestinian Human Rights**

[www.lphr.org.uk](http://www.lphr.org.uk)

LPHR is a legal charity in the UK that takes a legal and human rights-based approach to all of its analysis. LPHR have produced a briefing for local authority pension funds on investment decision-making relating to companies operating in the occupied Palestinian territory and/or Israel.

### **UNISON**

[www.unison.org.uk/pensions](http://www.unison.org.uk/pensions)

The UNISON website contains comprehensive sections about the Local Government Pension Scheme and about pension governance

## **About Palestine**

### **Palestine Solidarity Campaign**

[www.palestinecampaign.org](http://www.palestinecampaign.org)

The Palestine Solidarity Campaign has a wealth of campaign information and background on the situation in Palestine, as well as about information about how your branch can affiliate. They can also put you in touch with your local PSC branch.

### **United Nations Office for the Coordination of Humanitarian Affairs**

[www.ochaopt.org](http://www.ochaopt.org)

The United Nations Office for the Coordination of Humanitarian Affairs for the occupied Palestinian territory provides a wealth of factual information about the humanitarian situation in the West Bank, including East Jerusalem, and in Gaza.

## **Identifying companies associated with the occupation**

### **United Nations Human Rights Council database**

[www.ohchr.org](http://www.ohchr.org) Search: 'Database Resolution 31/36'

The United Nations Office for the High Commissioner for Human Rights database (Human Rights Council Resolution 31/36) lists 112 companies involved in a number

of specific activities, which raise particular human rights violations concerns<sup>x cvi</sup>. The database provides a limited picture of companies involved in the illegal Israeli settlements, and does not cover all business activities that may raise human rights concerns.

### **Who Profits**

<https://whoprofits.org>

Who Profits is a research centre based in Israel, which provides comprehensive information on companies alleged to have links with the occupation. It was established in 2007 by the Coalition of Women for Peace.

### **Investigate**

<http://investigate.afsc.org>

Investigate is an online research tool for investors, providing details of the companies and their investment portfolios that are alleged to have links with Israel's illegal occupation of Palestine, including a useful screening tool. It is a project of the American Friends Service Committee.

## Appendix 2: Pensions glossary

The language used to describe pensions can sometimes be complicated and confusing. This pensions glossary explains some of the terms you will come across.

**Active management:** An active investment manager will typically seek to out-perform an investment benchmark such as the FTSE100. Fees charged by fund managers are high and complex to the untrained eye.

**Actuary:** A professional who specialises in statistics and risk who gives advice on a pension scheme's assets and liabilities.

**Asset manager:** See "investment manager".

**Association of British Insurers (ABI):** A trade association representing the majority of UK insurers.

**Automatic enrolment:** A new legislative requirement introduced by the Pensions Act 2008 which requires all employers (beginning with the largest) to automatically enrol their qualifying employees into a qualifying pension scheme.

**Broker:** An individual or organisation that acts as an intermediary between a buyer and seller, usually in return for the payment of a commission.

**Contributions:** The money paid by members and employers into the pension fund.

**Custodian Bank:** An institution that is responsible for the safekeeping and administration of assets belonging to another organisation such as a pension fund.

**Defined benefit (DB) schemes:** A type of pension where the amount an employee receives on retirement is pre-determined, and is often calculated on the basis of the employee's annual salary/average salary and length of service.

**Defined contribution (DC) schemes:** An investment fund where all of the investment risk is with the member. The employer pays a fixed amount of salary as does the scheme member. The fund is meant to grow and provide cash when the member retires. There is no benefit payment.

**Department for Work and Pensions (DWP):** The government department responsible for pension policy.

**Environmental, social and governance (ESG) factors:** A term used to describe non-financial performance indicators across the fields of sustainability, social responsibility, ethics and corporate governance. Examples of ESG factors include the carbon footprint of a company, the wages it pays its workers and issues related to corruption and transparency.

**Fiduciary duty:** A fiduciary is a legal relationship of trust between two or more parties. Typically, a fiduciary prudently takes care of the assets and money for another person or persons. The most common circumstance where a fiduciary duty will arise is between a "trustee" and a beneficiary of a pension scheme. The "trustee" to whom property is legally committed is the legal—i.e., common law—owner of all such property. The beneficiary, at law, has no legal title to the trust; however, the trustee is bound by law to suppress their own interests and administer the property only for the benefit of the beneficiaries.

Financial Conduct Authority (FCA): The regulator of the financial services sector. The FCA is responsible both for regulating the infrastructure of financial markets and standards of conduct. It regulates defined contribution (contract-based) schemes and individual personal pensions.

Financial Reporting Council (FRC): The regulator responsible for corporate governance standards and financial reporting. It publishes the UK Stewardship Code, which sets out a number of areas of good practice to which the FRC believes institutional investors should aspire.

FX (Foreign Exchange): Pension funds need to exchange currency in order to buy assets located in other countries. That exchange is normally carried out by a pension fund's custodian bank, and the fund will incur charges for the exchange.

## **Governance**

Investment mandate: The agreement between an investment manager and their client outlining how the assets of the pension scheme are to be managed. The mandate may contain performance targets by reference to a benchmark, or may contain restrictions on which investments the investment manager can make.

Investment regulations: The LGPS has a set of investment regulations made through Parliament. These instruct the LGPS funds on what they must do before, during and after the investing process.

Investment strategy statement: The LGPS authorities in England and Wales must produce one of these documents and post it on their website. They should consult on it and this is the document that you must read first. It should have a section on ethical, social and governance (ESG) matters.

Member: An individual who contributes or has contributed to a pension scheme.

Negative screening: The use of ethical, social and governance (ESG) factors to exclude investment in particular companies or sectors, such as tobacco companies or pesticide manufacturers.

Passive management: This approach to investment typically involves tracking the investment performance of a specific market index. A passively managed fund is also known as an "index fund". There is often less trading involved, which means the fees are low.

## **The process and structure for decision making of a pension fund**

Investment consultant: An individual (or organisation) that gives strategic advice on the making of investments and/or the selection of an investment manager.

Investment manager: Also known as a "fund manager" (for example, in pensions legislation) and an "asset manager". An individual (or organisation) to whom the responsibility for the day-to-day management of the scheme's assets is delegated. The investment manager will act on the basis of instructions given to them in the investment mandate.

Platform: Also known as an "investment platform". May refer both to a "platform" as a piece of technology or to an intermediary who facilitates the purchase of investments.

**Portfolio-churning:** The excessive buying and selling of investments in a portfolio. It is characterised by very short holding periods for stocks.

**Positive screening:** The use of ethical, social and governance (ESG) factors to select firms (in which to invest) engaged in what are considered to be desirable sectors, such as renewable energy supply, or practices such as good governance.

**Proxy agent:** Advises on how votes should be cast and casts votes at company meetings on behalf of others.

**Public Service Pension Scheme:** A pension scheme for public sector and associated workers, designed by statute, i.e. Parliamentary law, such as the LGPS.

**Shareholder engagement:** An approach to investment which emphasises the importance of effective dialogue between investors and investee companies.

Engagement may involve an exchange of views on issues such as strategy, performance, board membership and quality of management.

**Stewardship:** A philosophy which aims to promote the long-term success of companies in such a way that protects and enhances the value that accrues to the ultimate beneficiary of an investment. Stewardship activities include monitoring and engaging with companies on matters such as strategy, performance, risk, capital structure, and corporate governance, including culture and remuneration.

**Trust-based scheme:** A pension scheme that is established using a trust. The trustees are responsible for managing the scheme and for reviewing and monitoring investments. The LGPS funds do not have trustees, the equivalent is the councillor, but there are some funds with scheme member representatives.

## Appendix 3: Model motion

This model motion is for you to debate and approve at your branch. It commits your branch to support the campaign. Remember to adapt it to your local circumstances first and particularly make sure that you are right that the fund is investing in such companies.

This branch notes:

- 1 For over half a century the people of Palestine have lived under occupation, denied their human rights, in violation of international law.
- 2 That the Israeli government has held Gaza under a tight land, sea and air blockade since 2007, cutting off 1.9 million Palestinians from the outside world.
- 3 That nearly four million Palestinians in the West Bank live under Israeli occupation. The Israeli government continues to build illegal settlements, while destroying Palestinian property and segregating the Palestinian population behind a wall, and that East Jerusalem is occupied, annexed and separated from the rest of the West Bank by a ring of settlements and the wall.
- 4 That many companies contribute to this illegal situation and the violation of human rights by doing business with or in the illegal settlements, providing the infrastructure for the occupation, or supplying weapons and other equipment used to oppress the Palestinian people.
- 5 That companies that profit from the occupation and the violation of Palestinian human rights are taking significant financial, reputational and legal risks.

This branch believes:

- 1 That [name of fund] represents scheme members' money and should be invested in scheme members' interests.
- 2 That scheme members are concerned that their pensions should not be invested in companies involved in the occupation and the violation of Palestinian human rights.
- 3 This branch resolves to campaign for [name of fund] to:
- 4 Begin the process of divestment from companies listed on the United Nations database of business enterprises involved in or with the illegal settlements;
- 5 Engage with other relevant investee companies, not on the UN database, to demand that they end their involvement in the settlements and the violation of Palestinian human rights;
- 6 Commit to not invest in any companies that are associated with the occupation and the denial of Palestinian human rights.

## Appendix 4: Model letter

Use this model letter to write to the chair of your pension committee and board and ask for a meeting. Remember to adapt it to your local circumstances first and particularly make sure that you are right that the fund is investing in such companies.

Dear [name],

Members of [name of branch] are deeply concerned about the deteriorating situation in Palestine, and the denial of basic human rights for millions of Palestinian people living in the occupied Palestinian territory.

We are particularly concerned that [name of fund] may have invested members contributions in companies which are associated with the occupation and the violation of Palestinian human rights. These may include companies on the United Nations database of business enterprises involved in or with the illegal settlements.

[Name of branch] requests that [name of fund] begins the process of:

- Divesting from companies listed on the United Nations database of business enterprises involved in or with the illegal settlements;
- Engaging with other relevant investee companies, not on the UN database, to demand that they end their involvement in the settlements and the violation of Palestinian human rights;
- And commits to not invest in any companies that are associated with the occupation and the denial of Palestinian human rights.

The UK government advise that there are “clear risks related to economic and financial activities in the settlements, and we do not encourage or offer support to such activity.” The government’s national action plan on business and human rights makes it clear that companies should comply with all applicable laws and respect internationally recognised human rights, wherever they operate, and that pension funds should be proactively engaging with companies they invest in to ensure that the human rights principles are being implemented.

Could you please let me know:

- The details of any investments in companies that could be involved in the occupation of Palestine and the violation of human rights? Please provide me with a full list of equity holdings.
- What due diligence and engagement has been undertaken by the fund to minimise the human rights, financial, reputational, legal and regulatory risks associated with these investments?

- What options do you have to ensure our pension fund is not invested in companies involved in the occupation of Palestine and/or the violation of human rights?
- What measures have you taken to ensure that scheme members have been consulted on the investment strategy statement?

We would welcome the opportunity to meet with you and discuss how we can best take forward scheme members concerns about current and future investments in a constructive way.

Yours sincerely,

## Appendix 5: Action for scheme members

Use this model action to encourage scheme members to write to their local councillors in support of the campaign. Remember to adapt it to your local circumstances first.

Dear Councillor [name],

As a member of [name of scheme] I am deeply concerned about the deteriorating situation in Palestine, and the denial of basic human rights for millions of Palestinian people living in Gaza and the West Bank.

I am particularly concerned that my pension could be invested in companies that are associated with the occupation and violation of Palestinian human rights, including companies on the United Nations database of business enterprises involved in or with the illegal settlements. This raises significant human rights concerns as well as reputational, legal and financial risks.

I hope you agree with me and many other scheme members that international law and human rights should be considered when making investment decisions and request that you urge the pensions committee to begin the process of:

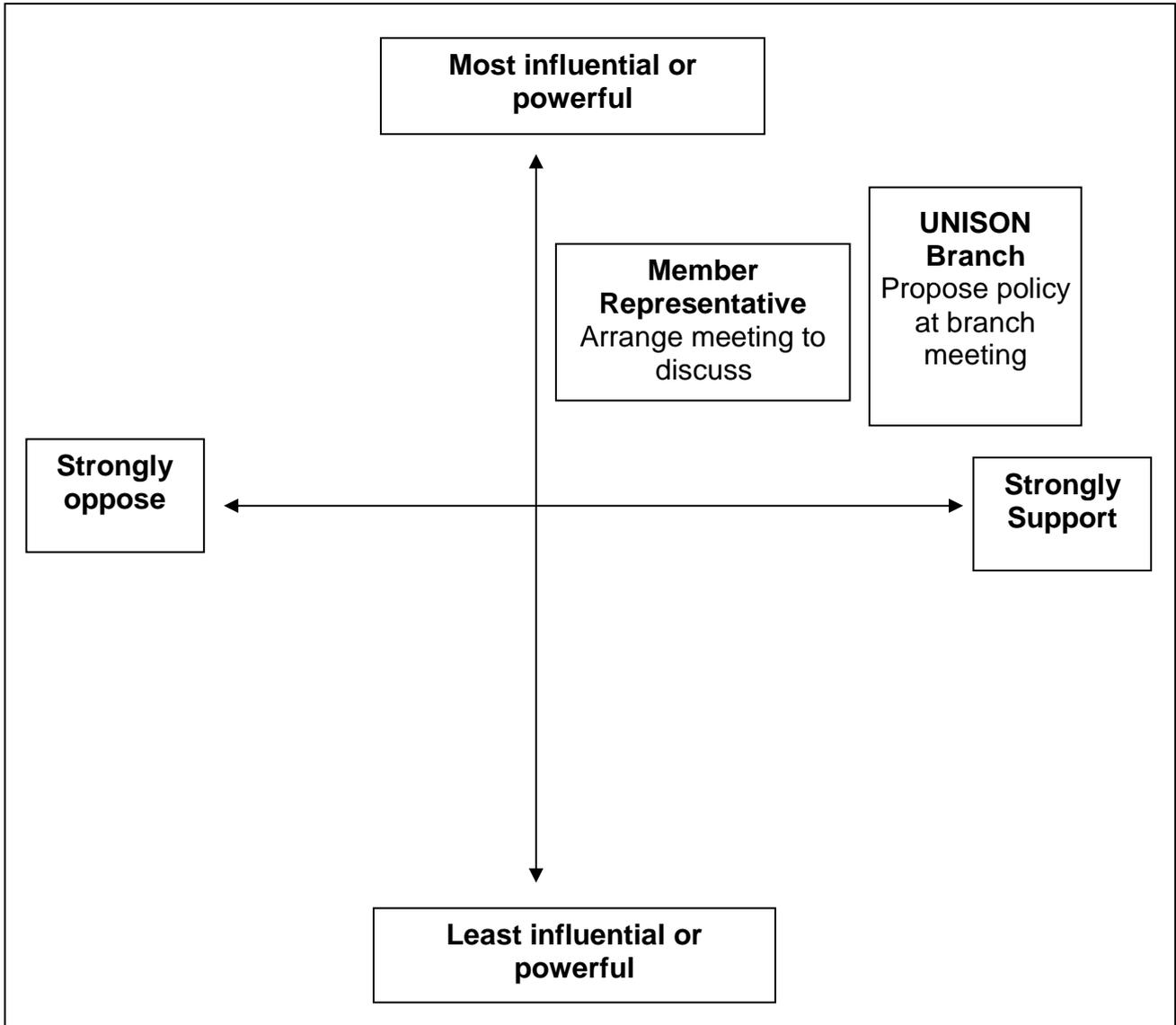
- Divesting from companies listed on the United Nations database of business enterprises involved in or with the illegal settlements;
- Engaging with other relevant investee companies, not on the UN database, to demand that they end their involvement in the settlements and the violation of Palestinian human rights;
- And commit to not invest in any companies that are associated with the occupation and the denial of Palestinian human rights.

I hope you will support us in ensuring that public service workers have decent pensions, but not at the expense of some of the most oppressed and vulnerable people in the world.

Yours sincerely,

# Appendix 6 Mapping tool

Draw the chart on large piece of paper and use sticky notes to map out who you need to influence and how you can influence them



## **Appendix 7 Model presentation**

A model presentation to share with your UNISON branch is available at [www.unison.org.uk/international](http://www.unison.org.uk/international)

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<sup>xc</sup> The Local Government Pension Scheme Advisory Board Supreme Court decision on LGPS investment guidance, June 2020: [https://lgpsboard.org/images/Guidance/SAB\\_SCSN062020.pdf](https://lgpsboard.org/images/Guidance/SAB_SCSN062020.pdf)

<sup>xci</sup> Local Government Pension Scheme Advisory Board Investment, Governance and Engagement Sub Committee Item 3 – Paper B Supreme Court Judgement Palestine Solidarity Campaign and another v Secretary of State (MHCLG), July 2020: <https://lgpsboard.org/images/PDF/IGECJuly2020/Item3PaperBSupremeCourtJudgement.pdf>

<sup>xcii</sup> Lawyers for Palestinian Human Rights' briefing to local authorities on pensions investment and public procurement decision-making relating to companies operating in the occupied Palestinian territory and/or Israel, July 2017

<https://lphr.org.uk/wp-content/uploads/2017/07/LPHR-briefing-to-LAPFs-and-LAs-on-pensions-investment-and-public-procurement-decision-making-relating-to-companies-operating-in-the-occupied-Palestinian-territory-and-or-Israel-July-2017.pdf>

<sup>xciii</sup> Department for International Trade: UK National Contact Point: make a complaint about a multinational enterprise <https://www.gov.uk/guidance/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-oecd-guidelines-for-multinational-enterprises>

<sup>xciv</sup> Queen's Speech December 2019: background briefing notes: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/853886/Queen\\_s\\_Speech\\_December\\_2019\\_-\\_background\\_briefing\\_notes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/853886/Queen_s_Speech_December_2019_-_background_briefing_notes.pdf)

<sup>xcv</sup> OECD Guidelines for Multinational Enterprises <http://www.oecd.org/daf/inv/mne/48004323.pdf>

<sup>xcvi</sup> Lawyers for Palestinian Human Rights' briefing to local authorities on pensions investment and public procurement decision-making relating to companies operating in the occupied Palestinian territory and/or Israel, July 2017

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xcvi Database of all business enterprises involved in the activities detailed in paragraph 96 of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. Human Rights Council, Forty-third session, 24 February-20 March 2020:

[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A\\_HRC\\_43\\_71.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A_HRC_43_71.docx)



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# Palestine

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