Feature

Public Health

How the new guardians of public health are investing heavily in tobacco companies

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When public health doctors move to local authorities next year, they could find that their pensions are being partly paid by the profits of the tobacco industry, Jonathan Gornall reports

Judging by the three day programme for this year's conference of the Local Authority Pension Fund Forum, the people who administer in excess of £137bn (€170bn; $218bn) on behalf of 4.6 million members in England put ethical concerns on a par with other considerations when making investment decisions.

"Shareholder responsibilities" was the title of the 17th annual conference, held this week at Bournemouth's Highcliff Marriott Hotel, and among the topics discussed were investor concerns about media standards, "fat cat" pay, and the ethical crisis in banking. There was, however, not a murmur about the ethics of investing in tobacco, despite the fact that most local authority pension funds in England have direct investments in the industry.

The full scale of the investment by local authority pension funds in the tobacco industry has come to light for the first time thanks to research carried out by a public health specialist. The issue is likely to come to a head in April next year, when responsibility for public health is to be transferred from primary care trusts to local authorities—along with the estimated 5000 NHS staff working in the sector.

Stewart Brock, a public health specialist working on tobacco control at NHS Somerset, made Freedom of Information applications to all 78 local authority funds in England. He discovered that all but 10 of the 78 had direct investments in one or more national or international tobacco companies, with a combined value of £1.64bn.

The total value of investments in tobacco is, however, likely to be much higher. Many, if not most, of the funds—including the majority of the 10 with no direct holdings—have indirect investments, through pooled funds.

Brock, who has set up a blog site to publicise his findings (http://tobaccofreepensions.wordpress.com), has also taken the graphic step of linking the annual toll of more than 83 000 deaths in England from tobacco use to each of the fund areas. The highest number of smoking related deaths is the 4897 in Greater Manchester, where the pension fund has £58m invested in tobacco.

Manchester is one of the 10 heaviest investors (table⇓). The fund most heavily invested in tobacco is West Yorkshire, which had 3764 smoking related deaths last year. West Yorkshire was the only scheme that refused to divulge information to Brock, but its report and accounts for 2012 show that, as of 31 March, its investment in two tobacco companies was worth £161.5m.

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Top 10 heaviest local authority investors in tobacco companies

Local authority	**Tobacco investment shares and bonds (£)**
West Yorkshire Pension Fund (including Leeds and Bradford councils)	125 700 000
Hampshire County Council	94 905 000
Merseyside Pension Fund	84 358 812
Lancashire County Council	70 553 347
Teeside Pension Fund	70 407 340
West Midlands Pension Fund (including Birmingham, Coventry)	67 782 000
South Yorkshire Pension Fund (including Sheffield City Council)	62 782 998
Greater Manchester Pension Fund	58 134 319
Derbyshire County Council	57 136 573
Durham County Council	50 799 561
Total	742 559 950

Source: Freedom of Information requests

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Brock proposes “an alternative return on investment, to be used as a local advocacy tool . . . the ROI [return on investment] in terms of dividends is equal to about £525 per death in England on average.”

Peter Morris, director of pensions for the Greater Manchester Pension Fund, said its managers were “fully aware” of “special interest groups [that] regularly demand that investments are reconsidered.”

All investment decisions were kept under constant review. However, “restrictions can have an adverse effect on returns and the cost of any poor performance would have to be borne by the council-tax payer,” said Morris.

Ian Greenwood, chairman of the Local Authority Pension Fund Forum, said, “Decisions about disinvesting from particular companies are not a matter for the forum. It’s up to the individual funds and their trustees to reach their own decisions.”

Conflicted interests

Martin Dockrell of the campaign group Action on Smoking and Health says the prospect of local authority employees benefiting from shares in tobacco companies while urging people to quit smoking “creates more than a moral dilemma; it creates a direct conflict of interest.” It would, he says, also be a breach of Britain’s commitment to the World Health Organization’s Framework Convention on Tobacco Control.

Britain became a party to the tobacco control convention in March 2005. Article 5.3 states: “In setting and implementing their public health policies with respect to tobacco control, parties shall act to protect these policies from commercial and other vested interests of the tobacco industry.”[1]

Britain’s commitment was re-emphasised in the current government’s tobacco control plan for England, published in March 2011. The government, it stated, took “very seriously” its obligations as a party to the convention.[2]

So far, though, there is no sign that it will compel local authorities to drop tobacco companies from their investment portfolios. A spokesman for the Department of Health told the BMJ: “We are encouraging local authorities to follow the government’s lead and take all necessary action to protect their tobacco control strategies from vested interests.”

For Gabriel Scally, professor of public health and planning at the University of the West of England and a former regional director of public health, “having more than £1.5bn of public sector pensions invested in the tobacco industry is an absolute disgrace.”

The government, he says, has been “told repeatedly by the public health profession that this is unacceptable, but it is, of course, reluctant to act because, as with everything else, it seems to feel that it’s a matter for localism to reign supreme and for local authorities to make their own decisions.

“Of course, it is ignoring the fact that it has got international obligations around the public sector and its engagement with tobacco.”

Other countries, however, have been more proactive. The Norwegian Government Pension Fund—one of the largest in the world, with assets of £400bn—ceased investing in tobacco in 2010. It was, said the country’s finance minister, important that the fund’s ethical guidelines “reflect at all times what can be considered to be the commonly held values of the owners of the fund”—that is, the Norwegian people.

And in July this year First State Super, one of Australia’s largest pension funds, also announced it was turning its back on tobacco investment “following strong feedback from employers and those working in health services, who represent 40% of our total membership.” The move also reflected the fact that “governments are introducing initiatives to dissuade consumers from purchasing tobacco products.” It would not, insisted the fund’s administrators, compromise returns.

Fiduciary difficulties

Some local authorities in England are investigating their options. In November last year Devon County Council’s investment and pension fund committee concluded that “any exclusion of investments on ethical grounds would . . . present problems,” not least because case law regarding fiduciary responsibility was “at best unclear and any decision on excluding investments on ethical ground could be subject to legal challenge.” Devon has £27.7m invested in tobacco and 1941 smoking related deaths.

Norfolk County Council, which administers the Norfolk Pension Fund, with a total direct and indirect exposure of £44m to the tobacco industry (and 1511 deaths), has sought guidance from the Department for Communities and Local Government, the regulator of the local government pension scheme. It is also awaiting the result of a possible Law Commission investigation into the proposal in the Kay review that the currently muddy legal concept of fiduciary duty to investment matters requires further clarification.[3]

Currently it seems that only one of England’s local authority pension funds—that run by the London Borough of Newham—excludes tobacco from its investment portfolio and it does so not on ethical grounds but because “tobacco companies may face large liabilities from outstanding court actions.”

This, says Dockrell, could be one way forward for other funds wary of breaching their fiduciary responsibility towards their members. Fiduciary responsibility, he says, is “used by pension fund managers like garlic to ward off the vampire of ethical investment,” but “we would argue that the regulatory response, nationally and internationally, makes the tobacco industry in the long term a bad investment.”

According to a spokeswoman for the NHS Business Services Authority, which administers the NHS pension scheme for England and Wales, the estimated 5000 NHS staff who transfer to local authority employment “will be allowed to remain members of the NHS pension scheme as long as they remain in their current role.”

However, for staff who move posts—for example, through promotion—or are recruited after 1 April 2013, “a small working group involving all the key parties, including trade unions, is considering pension options.”

Notes

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Footnotes

- Competing interests: The author has completed the ICMJE unified disclosure form at www.icmje.org/coi_disclosure.pdf (available on request from the corresponding author) and declares no support from any organisation for the submitted work; no financial relationships with any organisation that might have an interest in the submitted work in the previous three years; and no other relationships or activities that could appear to have influenced the submitted work.
- Provenance and peer review: Commissioned; not externally peer reviewed.

References

1. ↵

   WHO. WHO Framework Convention on Tobacco Control. 2003. www.who.int/fctc/text_download/en/index.html.

2. ↵

   Department of Health. Healthy lives, healthy people: a tobacco control plan for England. DH, 2011.

3. ↵

   Head of finance and head of pensions, Norfolk County Council, Hymans Robertson LLP. Consideration of investment issues including fiduciary responsibilities related to the tobacco sector. Report to pensions committee. Norfolk County Council, 2012.