

GOVERNMENT CONSULTATION: Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

Report of the County Treasurer

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: That the Committee agree the response to the Government consultation as set out in Appendix 1.

1. Introduction

- 1.1 Alongside the Government's policy of requiring Local Government Pension Scheme (LGPS) funds to pool their assets, the Department of Communities and Local Government have issued a consultation on replacing the current investment regulations. Responses are required by 19 February.
- 1.2 This consultation has been issued in recognition that the existing regulations place restrictions on certain investments that may constrain authorities considering how best to pool their assets. It therefore proposes to move to a prudential approach to securing a diversified investment strategy that appropriately takes account of risk. In so doing, and to ensure that authorities take advantage of the benefits of scale, the Government proposes to introduce a power to allow the Secretary of State to intervene to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance.
- 1.3 The consultation asks four questions on the proposed changes to investment regulations and a further four questions around the Secretary of State's power to intervene. A draft response to the consultation, framed around the questions asked, is set out at Appendix 1.

2. Proposal 1 – Adopting a local approach to investment

- 2.1 The new draft regulations propose to remove the existing schedule of limitations on investments. Instead authorities will be expected to take a prudential approach, demonstrating that they have given consideration to the suitability of different types of investment, have ensured an appropriately diverse portfolio of assets and have ensured an appropriate approach to managing risk.
- 2.2 In order to do this, each administering authority will be required to publish an Investment Strategy Statement. This will replace the Statement of Investment Principles, and has many of the same requirements. It will need to set out:

- A requirement to use a wide variety of investments.
- The authority's assessment of the suitability of particular investments and types of investments.
- The authority's approach to risk, including how it will be measured and managed.
- The authority's approach to collaborative investment, including the use of collective investment vehicles and shared services.
- The authority's environmental, social and corporate governance policy.
- The authority's policy on the exercise of rights, including voting rights, attached to its investments.

The new Investment Strategy Statement will be required by 1 October 2016, and certain of the current regulations will remain in force until this date.

- 2.3 Regulation 12(3) of the 2009 Regulations requires administering authorities to state the extent to which they comply with guidance given by the Secretary of State on the Myners principles for investment decision making. As part of the wider deregulation, the draft regulations make no provision to report against these principles, although authorities should still have regard to the guidance. Given that this is the case it is suggested in the proposed response that the requirement to comply or explain against the Myners principles should be reinstated.

3. Proposal 2 – Secretary of State Power of Intervention

- 3.1 The Government had previously suggested that it would introduce backstop legislation to enable the Secretary of State to require LGPS funds to pool their assets if they did not come forward with their own pooling proposals that met the criteria. However, the proposed regulations introduce a much wider power to intervene in the investment function of an administering if the Secretary of State believes that it has not had regard to guidance and regulations.
- 3.2 Under the proposed regulations the Secretary of State would have the power to:
- Require an administering authority to develop a new investment strategy statement that follows guidance published under draft Regulation 7(1).
 - Direct an administering authority to invest all or a portion of its assets in a particular way that more closely adheres to the criteria and guidance, for instance through a pooled vehicle.
 - Require that the investment functions of the administering authority are exercised by the Secretary of State or his nominee.
 - Direct the implementation of the investment strategy of the administering authority to be undertaken by another body.
- 3.3 There has been concern in some quarters that this power could be used to intervene extensively and in effect micro-manage the LGPS, or to force funds to make significant additional investments in UK infrastructure. The proposed response therefore suggests that there should be greater clarity around the circumstances in which the Secretary of State would intervene, and that any intervention should only take place as a last resort.

4. Conclusion

- 4.1 The Committee are asked to approve the response to the Government consultation as set out in Appendix 1.

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Electoral Divisions: All

Local Government Act 1972

List of Background Papers – Nil

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