Local Members Interest	
Nil	

PENSIONS COMMITTEE – 15 FEBRUARY 2016

Report of the Director of Finance and Resources

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

Recommendation of the Chair

1. That the Pensions Committee notes that the Government has issued a consultation paper on Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 which:

    (i) set out a package of reforms for a less prescriptive set of LGPS Investment Regulations;
    (ii) introduce safeguards to ensure that this more flexible legislation is used appropriately and that the guidance on pooling assets is adhered to; and
    (iii) include a suggested power for the Secretary of State to intervene in the investment function of an administering authority when necessary.

2. That the Pensions Committee approves the Staffordshire Pension Fund response to the consultation, provided as Appendix 2 to this report.

Background

3. In the July Budget 2015, the Chancellor announced the Government's intention to work with Local Government Pension Scheme (LGPS) administering authorities to ensure that they pool investments to significantly reduce costs while maintaining overall investment performance. The Chancellor has announced that the pools should take the form of up to six British Wealth Funds, each with assets of at least £25bn, which are able to invest in infrastructure and drive local growth.

4. To assist with this process, there is considered a long overdue need to revoke and update the LGPS (Management and Investment of Funds) Regulations 2009. There are 2 main areas of reform:

    (i) A package of reforms that propose to remove some of the existing prescribed means of securing a diversified investment strategy and instead place the onus on authorities to determine the balance of their investments and take account of risk.

(ii) The introduction of safeguards to ensure that the more flexible legislation proposed is used appropriately and that the guidance on pooling assets is adhered to. This includes a suggested power for the Secretary of State to intervene in the investment function of an administering authority when necessary.

Consultation Response

5. At their meeting on 18 December 2015, Committee Members received a report and presentation on LGPS Pooling, together with a full set of the consultation documents, including those relating to the Investment Regulations, that are the subject of this report; they are not therefore re-appended to this report.

6. Staffordshire Pension Fund's response to the consultation is provided, at Appendix 2. This restates the 8 questions asked in the consultation documents and provides our answer. This is due to be submitted, to DCLG, alongside the Fund's initial proposal on the LGPS Investment Reform Criteria by 19 February 2016.

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Director of Finance and Resources

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Background Documents:

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

Draft Regulations – The Local Government Pensions Scheme (Management and Investment of Funds) Regulations 2016

Appendix 1

1. **Equalities implications:** There are no direct equalities implications arising from this report.

2. **Legal implications**: The legal implications are considered in the main body of this report.

3. **Resource and Value for money implications:** There are no direct resource and value for money implications arising from this report.

4. **Risk implications:** There are no direct risk implications arising from this report.

5. **Climate Change implications:** There are no direct climate change implications arising from this report.

6. **Health Impact Assessment screening:** Not applicable

Appendix 2

Staffordshire Pension Fund (SPF) welcomes the opportunity to respond to the Consultation on LGPS: Revoking and replacing the LGPS (Management and Investment of Funds) Regulations 2009. The specific questions that the consultation asks are repeated in the table below, together with the Funds response.

	Question	SPF Response
1	Does the proposed deregulation achieve the intended policy aim of removing any unnecessary regulation while still ensuring that authorities' investments are made prudently and having taken advice?	Yes. The proposed regulations provide the Fund with additional flexibility.
2	Are there any specific issues that should be reinstated? Please explain why.	Whilst neither current practice nor future intention to hire and fire managers regularly, we would welcome consideration of re-instating the 1 month termination provision (2009 No.3093 9(2)) which we find extremely useful for procurement and legal purposes in determining Investment Management Agreements.
3	Is six months the appropriate period for the transitional arrangements to remain in place?	Given the extensive programme of pooling being undertaken by the LGPS and the absence of appropriate guidance in formulating the Investment Strategy Statement, we would advocate the 6 months transitional period commencing from the date guidance is issued.
4	Should the regulation be explicit that derivatives should only be used as a risk management tool?	No, the regulation should not restrict the use of derivatives, solely for risk management purposes because it can be difficult to differentiate between their use for risk management and return e.g. how would a forward foreign currency agreement be viewed? However, derivatives are often used for risk management purposes e.g. transition management, and the Investment Strategy Statement will identify how they will be used in the Fund.
5	Are there any other sources of evidence that the Secretary of State might draw on to establish whether an intervention is required?	Draft Regulation 2016 No. 0000 8(4)(d) 'any other evidence available for the Secretary of State regards as relevant….' is sufficiently widely drafted, that we can think of no other source.
6	Does the intervention allow	The proposed regulations as currently

	authorities sufficient scope and time to present evidence in favour of their existing arrangements when either determining an intervention in the first place, or reviewing whether one should remain in place?	drafted do not specify any minimum time limits for authorities to respond and this should be addressed before we can comment constructively. Our suggestion is that any minimum time specified should be proportionate to the seriousness of the intervention.
7	Does the proposed approach allow the Secretary of State sufficient flexibility to ensure that he is able to introduce a proportionate intervention?	The proposed regulations appear to be widely drafted and the issue of proportionate intervention can only be judged on a case by case basis.
8	Do the proposals meet the objectives of the policy, which are to allow the Secretary of State to make a proportionate intervention in the investment function of an administering authority if it has not had regard to best practice, guidance or regulation?	Whilst the proposals do appear to meet the policy objective, we have a concern that guidance often covers a range from ‘good’ through ‘exemplary’ practice. Whilst all Funds might aspire to achieve best practice, in some cases this may not offer best value for money, which is a judgement call for the Fund. The Secretary of State’s intervention should only be exercised where the Fund is failing significantly and risks falling below a minimum acceptable standard.