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Date: 06 January 2016

To: ALL MEMBERS OF THE LOCAL PENSION BOARD

SOUTH YORKSHIRE
LOCAL PENSION BOARD

18 Regent Street
Barnsley
South Yorkshire
S70 2HG

www.southyorks.gov.uk

This matter is being dealt with by: Gill Richards

Direct Line: 01226 772806
Email: grichards@syjs.gov.uk

Dear Member

<u>SOUTH YORKSHIRE JOINT LOCAL PENSION BOARD</u>
<u>Thursday 14 January 2016</u>

A meeting of the South Yorkshire Joint Local Pension Board will be held at 12.00 pm on Thursday 14th January, 2016 at the offices of the South Yorkshire Pensions Authority, 18 Regent Street, Barnsley, S70 2HG.

Car parking will be available at the rear of the building.

The agenda is attached.

Yours sincerely

Diana Terris

D Terris
Clerk

Encs

Distribution: Glyn Boyington (Chair), Geoff Berrett, Steve Carnell, Cllr Ben Curran, Nicola Doolan, Kevin Morgan, Melanie Priestley, Susan Ross, Jill Thompson (Vice-Chair) and Gary Warwick.

Terms of Reference

1. Administration

1.1 Monitor and review the performance of Scheme administration including suggesting any changes to Service Level Agreements.

1.2 Monitor, review and report on the receipt of contributions.

1.3 Monitor investment manager reports.

1.4 Review the format, timing and source of management information presented to the Board.

2. Auditors

2.1 Monitor and review the appointment and performance of the auditors.

2.2 Monitor and review the Annual Report and accounts.

2.3 Review the recommendations produced by audit and give consideration to what action should be taken and make recommendations to the Scheme Manager as appropriate.

2.4 Monitor and Review the Work Programmes for the Pensions Authority and its Boards and the South Yorkshire Passenger Transport Pension Fund Committee.

3. Internal Controls and Risk Register

3.1 Monitor and review the Authority's Risk Register.

3.2 Monitor internal controls and procedures of the Pensions Authority.

4. Communications

4.1 Monitor and make recommendations as appropriate on:-

- The information available on the SYPA internet site
- The information provided to Scheme members on leaving, retirement etc.

4.2 Produce and Annual Report upon its activities to be submitted to the Pensions Authority.

4.3 Produce reports and make recommendations to the Pensions Authority that relate to the work of the LPB. Any reports must be provided at least ten working days in advance of the next Pensions Authority meeting.

5. Monitoring and the Exercising of Discretions

5.1 Monitor the validity of any discretions made by the employers/Administering Authority.

6. Budgets

6.1 Agree a yearly budget for the operation of the Local Pension Board and submit to the Authority for approval.

6.2 Monitor the level of fees against the annual budget set for the Pensions Board.

SOUTH YORKSHIRE JOINT LOCAL PENSION BOARD

THURSDAY 14 JANUARY 2016 AT 12.00 PM

AGENDA

	Item	Page
1	Welcome and Apologies	
2	Declarations of Interest	
3	Minutes of the Meeting of the Board held on 1 October 2015	1 - 4
4	Work Programme	5 - 6
5	Issues for Consideration as a Result of Authority Meetings	
6	Annual Fund Member Survey	7 - 14
7	Review of Risk Management Policy	15 - 26
8	2016 Actuarial Valuation: Update	Verbal Report
9	Government Consultation on Revoking and Replacing the Management and Investment of Funds Regulations	27 - 60
10	Any Other Business	
11	Date of Next Meeting The next meeting of the Board will be on Thursday 17 March 2016 after the meeting of the Pensions Authority.	

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SHEFFIELD CITY REGION COMBINED AUTHORITY/SOUTH YORKSHIRE PENSIONS AUTHORITY

JOINT LOCAL PENSION BOARD

1 OCTOBER 2015

PRESENT: G Boyington (Scheme Member) (Chair)

G Berrett (Employer, SYP), K Morgan (UCATT), M Priestley (Employer, St Mary's Academy Trust), J Thompson (Employer, Action Housing), G Warwick (GMB) and S Ross (Scheme Member)

Officers: J Hattersley (Fund Director SYPA), G Chapman (Head of Pensions Administration SYPA), M McCarthy (Deputy Clerk) and G Richards (Democratic Services Officer)

Councillor H Mirfin-Boukouris and Councillor K Wyatt (Observers)

Apologies for absence were received from S Carnell, Councillor B Curran, N Doolan, F Foster and A Frosdick

1 WELCOME AND APOLOGIES

The Chair welcomed everyone to the meeting. Apologies were noted as above.

2 LGPS/SOUTH YORKSHIRE SCHEME - INDUCTION

Gary Chapman, Head of Pensions Administration, gave a presentation which provided an overview of the Administration Department and its workings and included:

- The staffing of the Department;
- Pensions administration statistics;
- The history of South Yorkshire Pension Fund and South Yorkshire Passenger Transport Pension Fund;
- The statutory basis of the schemes and the national machinery;
- Membership of the Scheme;
- Contributions and benefits;
- Tax considerations and inflation proofing;
- Determinations and appeals;
- Funding; and
- Current issues.

John Hattersley, Fund Director, gave a presentation on the Investment Division, which included:

- Asset and Liability Study;
- Asset class allocation and breakdown of asset classes;

- Recent changes to asset allocation and bond portfolios;
- Fund valuation and outlook;
- Relative performance - risk and return;
- CLG consultation on Collaboration, Cost Savings and Efficiencies;
- Fiduciary duty; and
- 2014/2015 market returns.

The Chair thanked G Chapman and J Hattersley for very informative presentations.

3 DECLARATIONS OF INTEREST

None.

4 MINUTES OF THE MEETING OF THE BOARD HELD ON 23 JULY 2015

The following points were raised from the minutes of the first meeting of the board:

- There had still been no appointment to the Board from Doncaster MBC - M McCarthy would ask the Monitoring Officer to take this up. If no appointment was forthcoming it was noted that either Barnsley MBC or Rotherham MBC could be asked to make an appointment to the Board.
- The budget for the Local Pension Board had been agreed by the Pensions Authority that morning. It was acknowledged that the majority of the budget would be spent on training at this stage.

The minutes of the meeting of the Board held on 23 July 2015 were agreed as a correct record.

5 JOINT LOCAL PENSION BOARD

M McCarthy informed the Board that CLG had eventually given approval for the establishment of a Joint Local Pension Board for the South Yorkshire Pension Fund and the South Yorkshire Passenger Transport Pension Fund.

It was noted that the Joint Board still required an employer representative; M McCarthy would liaise with S Carnell, who had recently retired from First South Yorkshire, to try and secure an appointment.

6 LPB CONSTITUTION AND TERMS OF REFERENCE

M McCarthy informed the Board that at its meeting earlier in the day the Authority had agreed to the changes requested by the Board to its Constitution and Terms of Reference, namely:

- That the Board would meet four times per year; and
- That a member of the Board may serve a maximum of two terms of office.

The Constitution and Terms of Reference would be amended accordingly.

7 CORRESPONDENCE RECEIVED REGARDING CONSTITUTION AND TERMS OF REFERENCE

The Board considered a letter that had been received from Unison regarding concerns about the Constitution, in particular Section 4, "Scheme Manager Consents" and a reply to the letter from the Monitoring Officer. Additionally, Unison also felt that substitute members to the Board should also be allowed.

Section 4.1.1 reads:

"The Local Pension Board shall not: question what investment decisions have or have not been made by the Authority or its Boards, for the avoidance of doubt these shall include but not be limited to financial investment decisions and property related investment decisions".

The Chair noted that this matter needed to be considered by the Authority as they had to agree to any changes to the Constitution and commented that the matter had already been discussed several times at Authority meetings.

Whilst it was recognised that there was no intention to prevent open dialogue, the Board felt that the Constitution, with its present wording, imposed prohibitions on the Board and they would like the Constitution to be less restrictive.

After further discussion on the role and remit of the Board, and acknowledging that the response from the Monitoring Officer did offer a degree of reassurance, the Board requested that officers consider re-wording the relevant paragraph.

With regard to substitute members, the Chair reminded the Board that they had agreed at the last meeting of the Board that, as per the Constitution, substitute members were not necessary.

8 ISSUES FOR CONSIDERATION AS A RESULT OF AUTHORITY MEETINGS CONVENED SINCE THE LAST MEETING OF THE LOCAL PENSION BOARD

It was noted that there had only been one Pensions Authority meeting since the last meeting of the Local Pension Board - the Investment Board meeting on 17 September 2015; the Board had no issues arising from this meeting.

Members of the Board would receive agendas and minutes from all Authority/SYPTPF meetings and could raise any issues from the meetings for consideration at the next meeting of the Board. The Chair and Vice-Chair would be involved with the Development of a Work Programme.

9 MEMBER LEARNING AND DEVELOPMENT UPDATE

Members of the Board who had attended the recent training on The Effective Audit Committee remarked how useful it had been and had given an understanding on what the role of the Board should be.

Board members would be invited to training events provided for Authority members and officers were still trying to source external events for Local Pension Board members.

M McCarthy requested that members share any courses, articles etc. that they may come across.

The Chair commented that a presentation on the valuation process and associated issues would be useful.

10 ANY OTHER POINTS OF BUSINESS

The Chair informed members of the Board that the SYPF Annual Fund Meeting would be held at Doncaster Racecourse on 22 October; he encouraged Board members to attend if possible, noting that it was a very worthwhile event.

11 DATE OF NEXT MEETING

The next meeting of the Local Pension Board will be in January 2016 on a date to be arranged.

CHAIR

South Yorkshire Joint Local Pension Board

SOUTH YORKSHIRE LOCAL PENSION BOARD

WORK PROGRAMME

23 July 2015	1 October 2015	14 January 2016	March 2016	July 2016
Election of Chair	Minutes of the previous meeting & matters arising	Minutes of the previous meeting & matters arising	Minutes of the previous meeting & matters arising	Minutes of the previous meeting & matters arising
Election of Vice-Chair	Work Programme	Work Programme	Work Programme	Work Programme
Work Programme	Induction	Issues for consideration as a result of Authority meetings	Issues for consideration as a result of Authority meetings	Issues for consideration as a result of Authority meetings
Constitution & Terms of Reference	Issues for consideration as a result of Authority meetings	Risk Management Policy	Risk Register	Risk Register
Conflicts of Interests Policy		Risk Register		
Member Learning & Development Programme		SYP Annual Fund Meeting Survey		
		2016 Actuarial Valuation Update		
		Investment Pooling Update		

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SOUTH YORKSHIRE PENSIONS AUTHORITY

Joint Local Pension Board

14 January 2016

Consultation Programme – Annual Fund Member Survey

1. Purpose of the Report

To inform Members of the results of the survey carried out amongst the scheme members with a view to testing customer satisfaction as a result of attending the Annual Fund Meeting.

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2. Recommendations

Members are recommended to examine the analysis attached at Appendix 1 with a view to commenting on any future service delivery changes they wish to see.

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3. Information

3.1 As part of the Authority's Consultation Strategy we are committed to carrying out member satisfaction surveys after the attendance at the authority's Annual Fund Meeting.

3.2 The survey is designed to gauge perceptions of the service provided by SYPA in terms of venue, travel arrangements, directions, speakers, subjects and the helpfulness of staff.

3.3 All delegates at the AFM were issued with a survey. Delegates were invited to give feedback on any area of the meeting in order for SYPA to improve on future AFM's.

3.4 53 out of 72 delegates returned a completed survey.

3.5 The analysis of these replies have been carried out by the Communications and Training Team who will take on board all comments when organising future AFM's.

3.6 The overall "score" for the various service elements was:-

Service Element	Excellent	Good	Satisfactory	Poor
Start time	50.95%	33.96%	15.09%	0.0%
Venue	73.58%	22.64%	3.77%	0.0%
Travel arrangements	42.86%	46.43%	10.71%	0.0%
Directions	76.00%	20.00%	4.00%	0.0%
Helpfulness of SYPA staff	77.36%	18.87%	3.77%	0.0%
Navigation around venue	64.15%	30.19%	5.66%	0.0%
Hand-out/booklet	33.96%	62.26%	3.77%	0.0%
Speakers and Presentations	37.74%	38.99%	22.01%	1.26%

The format of the meeting was the same as last year in that members had the opportunity to write in prior to the meeting with a question, 88.68% found this useful.

For the first time this year the meeting was available to view live, in addition to it being recorded and made available on YouTube. 94.34% said they found the live streaming of the AFM a useful addition.

The meeting can be viewed at www.youtube.com/sypensions

In comparison to previous AFM's 42.86% said it was better 51.43% said it was about the same with 5.71%, which represents 2 members, saying it was not as good.

3.7 Appendix 1 gives the detailed analysis of the responses, and also provides individual comments received as feedback.

4. Future Performance Targets

4.1 Members will be aware that we publish and report on our casework performance standards. Therefore in every survey we issue, members are asked to give us a rating based on the overall satisfaction level of SYPA. The results are shown below:

Very Satisfied	Satisfied	Dissatisfied	Very Dissatisfied
62.26%	37.74%	0.0%	0.0%

These results will be added to the results of the same question asked in other surveys to form the basis of our overall performance.

5. Implications and risks

Implications

- Financial - none
- Legal - none
- Diversity - none

Joanne Webster
Communications Manager
Phone 01226 772915
E-mail jwebster@sypa.org.uk

Background papers used in the preparation of this report are available for inspection in the Pensions Administration Unit.

Other sources and references:

Annual General Meeting
Survey 2015

22nd October. Doncaster Racecourse

Q1 Did you attend as a:

Pensioner	**43**	*(81.13%)*
Current Contributing Scheme Member	**6**	*(11.32%)*
Deferred Scheme Member	**1**	*(1.89%)*
Councillor	**3**	*(5.66%)*
Employer's Representative	**0**	*(0.0%)*

Q2 Please indicate your level of satisfaction with the arrangements.

	Poor	*Satisfactory*	*Good*	*Excellent*	*N/A*
Time the meeting started	**0** *(0.0%)*	**8** *(15.10%)*	**18** *(33.96%)*	**27** *(50.94%)*	**0** *(0.0%)*
The Venue	**0** *(0.0%)*	**2** *(3.78%)*	**12** *(22.64%)*	**39** *(73.58%)*	**0** *(0.0%)*
Travel arrangements *(if you used transport provided)*	**0** *(0.0%)*	**3** *(5.66%)*	**13** *(24.53%)*	**12** *(22.64%)*	**25** *(47.17%)*
Directions provided *(if you made your own way)*	**0** *(0.0%)*	**1** *(1.89%)*	**5** *(9.43%)*	**19** *(35.85%)*	**28** *(52.83%)*
Helpfulness of SYPA staff	**0** *(0.0%)*	**2** *(3.77%)*	**10** *(18.87%)*	**41** *(77.36%)*	**0** *(0.0%)*
Navigation around venue	**0** *(0.0%)*	**3** *(5.66%)*	**16** *(30.19%)*	**34** *(64.15%)*	**0** *(0.0%)*

- Coach had to wait a long time at some stops to check whether member was going to turn up. I understand that last year the coach arrived at venue late, so I do appreciate that estimating journey time is very difficult
- I would like a telephone number printed on the ticket so people who cannot come to the meeting for any reason, not being their fault can ring up. So the transport is not wasting time waiting for them.
- Travel waiting for one person man I think who lived quite close to venue making his from Sheffield later than usual.
- Temperature rose quickly as meeting progressed

Q3 Please indicate your level of satisfaction with the speakers and their presentations.

	Poor	*Satisfactory*	*Good*	*Excellent*
Cllr Ellis – Introduction	**0** *(0.0%)*	**17** *(32.08%)*	**27** *(50.94%)*	**9** *(16.98%)*
John Hattersley – Investments	**2** *(3.77%)*	**18** *(15.09%)*	**18** *(33.97%)*	**25** *(47.17%)*
Gary Chapman – Administration	**0** *(0.0%)*	**10** *(7.5%)*	**17** *(31.3%)*	**26** *(61.2%)*

If you have indicated a poor level of satisfaction please give your reasons

- Too long winded and too complicated to understand
- John & Gary went on longer than normal
- Stupid quiz trivia- time wasting not interested in watches! Make more time for members questions
- Martin no time available
- Gary was on for too long and some of the info about names??? wasted time and was of no interest therefore left less time for important info
- John's use of too much jargon (put in agenda booklet). Cllr Ellis could have said more about herself.

Q4 Please indicate how you felt about the length of each presentation;

	Too Short	*About Right*	*Too Long*
Cllr Ellis – Introduction	**3** *(5.66%)*	**50** *(94.34%)*	**0** *(0.0%)*
John Hattersley – Investments	**0** *(0.0%)*	**41** *(77.36%)*	**12** *(22.64%)*
Gary Chapman – Administration	**1** *(1.89%)*	**46** *(86.79%)*	**6** *(11.32%)*

Q5 In your opinion was there enough time for questions at the end?

Yes **28** *(52.83%)* **No** **25** *(47.17%)*

Q6 What do you think to the AFM 2015 hand-out/booklet?

Poor	**0**	*(0.0%)*
Satisfactory	**2**	*(3.77%)*
Good	**33**	*(62.27%)*
Excellent	**18**	*(33.96%)*

Would you like to comment further on this?

- I would have referred some of John's comment on Fossil Fuels/SRI and the future of LGPS investment policy to be backed up with slides.
- The way things had put together
- Enjoyable

- Clear & concise, just what we needed

Q7 You have the opportunity to write in with a question prior to the meeting, do you find this;

Very useful	**25**	*(47.17%)*
Useful	**22**	*(41.51%)*
Not very useful	**1**	*(1.89%)*
No use at all	**5**	*(9.43%)*

Q8 The meeting has been recorded and will be available to view on our YouTube account. Do you think this is a good idea?

Yes	**44**	*(83.02%)*
No	**7**	*(16.98%)*

If no please give reasons

- However if you add Martin's talk which was not given it would be a great help
- No interest
- No computer
- Not with IT = no computer
- Don't have the service
- Don't have YouTube
- No computer

Q9 The meeting has been broadcast via live streaming this year, do you think this is a good idea?

Yes	**50**	*(94.34%)*
No	**3**	*(5.66%)*

Please give reasons

- No interest
- Except for not being able to pose, in person, questions prompted by presentations would mean attendance absolutely essential. Good idea
- Don't know what this is

Q10 If you have attended the AFM before, how does this year's event compare to previous AFM's, was it:

Better	**15**	*(28.30%)*
About the same	**18**	*(33.96%)*
Not as good	**2**	*(3.77%)*
N/A	**18**	*(33.96%)*

Q11 Please let us have any comments on any aspect of the meeting.

- An excellent venue. My question was not included in any of the presentations
- Both John and Gary's presentations were very long. I would have preferred members questions after each presentation
- Commercial Break- too long. Just needed a mention - no need to show fields etc. Wastes time. Banal questions in Members question section
- Venue Excellent
- The meeting was very good
- Venue is easy to find, of good quality, good parking
- 'Commercial Break'- OK but! ..... of fluid presentation regrettable!
- John's presentation was masterful. His reference to a Dire Straits song made my heart skip a beat. His reference to Betamax was so Meta he should have thrown in laserdiscs to mix it up. Gary's cartoon was refreshing. The quiz was good fun.
- The corporate social responsibility statement needs re-writing to include what actions SYPA will take to implement CSR policy and also what SYPA will and will not invest in, including not investing in the arms trade.
- Best venue I have been to in 9 years. Fantastic sound system.

Q12 Overall With every survey we also like to ask members, how satisfied are you with the performance of SYPA?

Very satisfied	**33** *(62.26%)*	Dissatisfied	**0** *(0.0%)*
Satisfied	**20** *(37.74%)*	Very dissatisfied	**0** *(0.0%)*

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SOUTH YORKSHIRE PENSIONS AUTHORITY

SOUTH YORKSHIRE JOINT LOCAL PENSION BOARD

14 January 2016

Review of the Risk Management Policy

1) Purpose of the Report

To inform the Board of a review to the Risk Management Policy.

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2) **Recommendations**

Members are recommended to:

Submit suggestions for the review of the Risk Management Policy.

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3) Background Information

At the meeting of the Pensions Authority on 3 December 2015 it was agreed that a review of the Authority's Risk Management Policy be undertaken in collaboration with A Hunt, Risk and Governance Manager at BMBC, in order to present a series of options or a draft proposal for the Authority moving forwards.

The Risk Management Policy and Risk Register are attached for comment.

Gill Richards
Democratic Services Officer
01226 772806
grichards@syjs.gov.uk

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PART 6c - RISK MANAGEMENT POLICY

Date Approved:	2006
Date Revised:	November 2009; April 2010; confirmed April 2011; July 2012; June 2013; September 2014; October 2015
Date of Next Review:	October 2016
Owner:	Deputy Clerk

Contents

Section 1- Overview

1.1 Risk Management is central to any organisation's strategic management and is a fundamental element of good corporate governance. It is a means of maximising opportunities and minimising the costs and disruption caused by undesirable events. The internal control arrangements of an organisation should have the management of significant risks as a principal aim and should link all policies and procedures, which taken together support its effective and efficient operation and enable it to respond to significant business, operational, financial and other risks.

1.2 The South Yorkshire Pensions Authority ("the Authority") recognises that it has a responsibility to ensure that there is an effective framework in place for managing risk and maximising opportunity. Such a framework is an enabler for control of the Authority's assets and liabilities and protection of employees and the community against potential losses. It also helps to minimise uncertainty in achieving its goals and objectives.

1.3 The Authority must be satisfied that there are adequate and appropriate systems of internal control for the management of risk in place.

Section 2 – Aims, Objectives, Approach and Benefits

2.1 The key aims of the strategy are to ensure that the Authority:

- Meets specified governance requirements
- Realises the business benefits of formal risk management processes

2.2 Key objectives are to:

- Integrate risk management into the culture of the Authority
- Manage risk in accordance with best practice and adhere to national guidance
- Minimise loss, disruption, damage and injury and reduce the cost of risk, thereby maximising resources
- Protect the Authority's assets
- Anticipate and respond to changing political, economic, sociological, technical, environmental, legal and organisational requirements
- Exploit opportunities
- Preserve and enhance the effectiveness of service delivery
- Inform policy and operational decisions by identifying risks and their likely impact
- Protect the corporate image and reputation of the Authority
- Maintain effective stewardship of the Authority's funds and demonstrate good corporate governance

2.3 Approach – the Authority will achieve these objectives by:

- Approving this Risk Management Policy and keeping it under review
- Ensuring that appropriate resources are allocated to risk management activities
- The Clerk establishing and maintaining the risk management framework identified in this Policy
- Embedding the Risk Management Process as outlined in this document.

- Establishing clear roles and responsibilities for all stakeholders
- Providing risk management training and awareness sessions to Members and officers
- Fully integrating risk management into the organisation's management processes e.g. Planning process, Business Continuity, Partnership arrangements, Financial Planning
- Actively maintaining awareness of current best practice via other organisations, publications and networking

2.4 Benefits expected:

- A framework for consistent and controlled activity
- Improved decision making, planning and prioritisation through structured understanding of business activity and associated threats/opportunities
- An aid to appropriate allocation of funding and resources
- Protection of assets and the organisation's image/reputation
- Helps to optimise operational efficiency
- Helps to develop and support people and the organisation's knowledge base

Section 3 – Governance – Risk Management Roles & Responsibilities

3.1 **Pensions Authority**

Role:

- To ensure that a comprehensive approach to risk management is developed and implemented by the Authority
- To oversee the effective management of the Authority's risks; and
- To approve the Authority's risk strategy.

Responsibilities:

- Helps to develop and support people and the organisation's knowledge base
- To gain a broad understanding of risk management and its benefits;
- To challenge officers to ensure that risks are considered and documented in all reports.
- To consider the Authority's Risk Register on an annual basis and to annually review the Strategic Plan

3.2 Corporate Planning and Governance Board

Role:

- To oversee the development of the Authority's Risk Register;
- To oversee the effective management of risks by officers by receiving and considering quarterly monitoring reports on risk from officers; and
- To get involved in the identification of high level, strategic risks.

Responsibilities:

- To require officers to develop and implement an effective framework for risk management; and
- To require officers to report upon significant risks on a regular basis.

3.3 **Clerk**

Role:

- To support and develop the risk management culture of the Authority;
- To develop and maintain a risk management framework within the Authority; and
- To report to the Authority periodically on the operation of the risk management framework.

Responsibilities:

- To ensure there is a written strategy in place for managing risk;
- To ensure the Authority has clear structures and processes for risk management which are successfully implemented;
- To ensure the Authority has developed a corporate approach to the identification and evaluation of risk which is understood by all staff;
- To ensure the Authority has well defined procedures for recording and reporting risk;
- To allocate resources for the maintenance of the Authority's risk register
- To ensure that regular reports are presented to the Authority (or Boards as appropriate) of significant risks facing the Authority;
- To provide advice on the risk implications of any decisions Members of the Authority are required to make;
- To ensure there are well-established and clear arrangements for financing risk;
- To ensure the Authority has developed a programme of risk management training for relevant staff; and
- To ensure that Members receive sufficient and appropriate information and training on risk management.

In discharging these responsibilities the Clerk is supported by the Fund Director and Head of Pensions Administration and other senior officers. Risk management is a standing item on the agenda of the Pensions Planning Group, which is chaired by the Deputy Clerk

3.4 **Pensions Planning Group**

Role:

- To develop, maintain and oversee risk management and reporting within the Authority; and
- To maintain the Authority's Risk Register.

Responsibilities:

- The identification and evaluation of significant risks that should be reported and monitored at a corporate level;
- The registration of key risks on Authority's Risk Register; the register to be maintained and updated by the Risk Co-ordinator appointed by the Clerk.
- Action planning to mitigate the impact of risks on the achievement of the Authority's objectives.
- Ensure that risk controls and scores are reviewed on a regular basis by the functional teams.
- To identify "risk owners" for the significant risks who will be responsible for managing the risk and ensuring that the actions identified to mitigate the risk are carried out.

3.5 **Strategic Risk Owners**

- To complete all actions identified by the Pensions Planning Group.
- To report to the Pensions Planning Group on progress of work on the actions to mitigate the risk.

3.6 **Service Response**

The Fund Director and his senior colleagues within the Service will be responsible for:

- Identifying the operational risks to the achievement of the Authority's objectives;
- Evaluating those risks, prioritising them and recommending the appropriate action to the Pensions Planning Group;
- Monitoring all operational risks on the Service Risk Registers.
- Undertaking a regular review of risk controls and scores for all current risks.
- Providing guidance and training for staff on risk awareness.

3.7 **Internal Audit**

- The risk management process will be subject to audit.
- Internal Audit will provide advice on risk management processes.
- Internal Audit will regularly review the risk registers and incorporate risk areas into its work programme as appropriate.

Risk No.	Date Raised	Risk (Threat to achievement of business objective)	Current Risk Owner	Original Risk (no controls in place)			Control Measures in Place	Residual Risk (Control measures implemented)		
				Impact (1-4)	Likeli-hood (1-4)	Risk Rating		Impact (1-4)	Likeli-hood (1-4)	Risk Rating
1	Jan 2010	<u>MEMBER LEARNING AND DEVELOPMENT</u> Members do not acquire appropriate knowledge and expertise to discharge their statutory responsibilities. Local Pension Board membership require knowledge and skills training.	Deputy Clerk	3	3	**MEDIUM**	• Induction training provided for new Members; • All Members attend the external LGPS 3 day fundamentals training course; • An in-house Fundamentals refresher was piloted and following positive appraisal will be repeated; • A Lead Member for (Member) learning and development has been appointed; • Presentations/briefing sessions are provided as part of work programme planning for the Authority and Boards; The Pensions Regulator and new CLG / SAB guidance require more emphasis on Member knowledge and skills going forward. The self-assessment framework for Members and Chairs will be reviewed when the new governance arrangements are in place. Member training requirements will need to be assessed alongside those put forward for the Local Pension Board	2	2	**LOW**

Risk No.	Date Raised	Risk (Threat to achievement of business objective)	Current Risk Owner	Original Risk (no controls in place)			Control Measures in Place	Residual Risk (Control measures implemented)		
				Impact (1-4)	Likeli-hood (1-4)	Risk Rating		Impact (1-4)	Likeli-hood (1-4)	Risk Rating
2	2006/07	LOSS OF KEY STAFF Loss of key staff i.e. Clerk, Treasurer, Head of Pensions Admin, Fund Director impacting upon people, reputation, continuity of operations & targets.	Clerk	3	4	**HIGH**	• Training of staff. Knowledge management. Use of minutes & central resources, external/professional courses to support workforce development; • Encourage involvement in all aspects of the management team meetings; promote continuity; Encourage input to policy group meetings; The Fund Director has notified the Authority of his intention to retire with effect from March 2016. The Authority has established an Appointments Panel to coordinate the appointment of a successor.	4	2	**MEDIUM**
3	2006/07	INACCURATE PAY & CONTRIBUTIONS DATA FROM DISTRICT COUNCILS or DATA NOT PROVIDED IN A TIMELY MANNER Operations, Targets, Reputation & Assets. Will affect the accuracy and production of the valuations and the information given to employees and pensioners.	Clerk/Head of Pensions Admin	3	3	**MEDIUM**	• Section 41/District Officer & member monitoring meetings established; • Regular report on progress to Corporate Planning & Governance Board, and standing item on SY Treasurers Association with practitioner officer working group established; • External audit notified.	2	3	**MEDIUM**
4		SERVICE DELIVERY **Financial, People, Operational and Strategic Risks. If budget cuts required**	Clerk/Fund Director/Head of	4	2		Trade union consultation/liaison arrangements well established; Authority indicated support for maintaining present levels of	3	2	

Risk No.	Date Raised	Risk (Threat to achievement of business objective)	Current Risk Owner	Original Risk (no controls in place)			Control Measures in Place	Residual Risk (Control measures implemented)		
				Impact (1-4)	Likeli-hood (1-4)	Risk Rating		Impact (1-4)	Likeli-hood (1-4)	Risk Rating
		would necessitate compulsory redundancies ; ; impact upon staff morale & motivation; cost-effectiveness of staff has to be recognised in terms of performance delivered and standards	Pensions Admin			**MEDIUM**	service.			**MEDIUM**
5	Sept 2010	FUTURE CHANGES TO LGPS **Financial, People, Operational, Strategic Regulatory Targets** Fresh "consultations" on cost saving and investment structures following Chancellor's statements during Autumn.. Could have significant consequences for Authority, Fund and employees. New governance arrangements (eg LPB) need to be bedded in. Outlook for actuarial valuation 2016 ominous given bond yields remain at historically low levels. Viability of LGPS remains in doubt. Current Corporate Strategy will need to be updated in due course.	Clerk / Treasurer/Fund Director/Head of Pensions Admin	4	3	**HIGH**	Ongoing monitoring. **Fresh "consultation" on pooling of investments direct threat to present internal management arrangements. Could have significant consequences for Authority and staff. Will lead to increased co-operation with other LGPS funds.** Governance and longer term viability issues to be resolved.	4	3	**HIGH**
6	Sept 2015	INTRODUCTION OF NEW PENSIONS ADMINISTRATION SYSTEM **People Operational, Strategic, Regulatory Targets** The switch to the UPM System has affected the Authority's ability to conduct its business at or near its accustomed service levels and standards since the November 2014 launch. The failings of the Company to: • deliver a fully working and tested product • react appropriately to product faults • provide adequate training, support and resource both prior to and following the live	Clerk/Treasurer/Fund Director/Head of Pensions Admin	4	3	**HIGH**	Control measures implemented to reduce back log of work associated with the system failure. Discussions ongoing with supplier to remedy operational problems (payment withheld until issues resolved). Overall performance improving month on month in terms of caseload completed – position being monitored closely. Authority being updated on current position in relation to management of the key risks and in particular impact on Scheme	4	3	**HIGH**

Risk No.	Date Raised	Risk (Threat to achievement of business objective)	Current Risk Owner	Original Risk (no controls in place)			Control Measures in Place	Residual Risk (Control measures implemented)		
				Impact (1-4)	Likeli-hood (1-4)	Risk Rating		Impact (1-4)	Likeli-hood (1-4)	Risk Rating
		launch • provide crucial fixes in a timely manner at critical junctures, • comprehend the sensitive nature of the Authority's business, and • understand the imperative of statutory deadlines has resulted in significant operational issues for Service personnel.					Members.			

Department for
Communities and
Local Government

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

Consultation

November 2015
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at http://forms.communities.gov.uk/ or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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Contents

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact DCLG Consultation Co-ordinator.

Department for Communities and Local Government

2 Marsham Street

London

SW1P 4DF

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

The consultation process and how to respond

Scope of the consultation

Topic of this consultation:	This consultation proposes to revoke and replace the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 with the draft regulations described in this paper. There are two main areas of reform: 1. 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. 2. 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 to allow the Secretary of State to intervene in the investment function of an administering authority when necessary.
Scope of this consultation:	Views are sought on: 1. Whether the proposed revisions to the investment regulations will give authorities the flexibility to determine a suitable investment strategy that appropriately takes account of risk. 2. Whether the proposals to introduce the power of intervention as a safeguard will enable the Secretary of State to intervene, when appropriate, to ensure that authorities take advantage of the benefits of scale offered by pooling and deliver investment strategies that adhere to regulation and guidance.
Geographical scope:	This consultation applies to England and Wales.
Impact Assessment:	The proposed interventions affect the investment of assets by local government pension scheme administering authorities. These authorities are all public sector organisations, so no impact assessment is required.

Basic Information

To:	The consultation is aimed at all parties with an interest in the Local Government Pension Scheme (the Scheme) and in particular those listed on the Government's website: https://www.gov.uk/government/publications/local-government-pension-scheme-regulations-information-on-who-should-be-consulted
Body/bodies responsible for the consultation:	Secretary of State, Department for Communities and Local Government. The consultation will be administered by the Workforce, Pay and Pensions Division.
Duration:	25 November 2015 to 19 February 2016
Enquiries:	Enquires should be sent to Victoria Edwards. Please email LGPSReform@communities.gsi.gov.uk or call 0303 444 4057.
How to respond:	Responses to this consultation should be submitted to LGPSReform@communities.gsi.gov.uk by **19 February 2016**. Electronic responses are preferred. However, you can also write to: LGPS Reform Department for Communities and Local Government 2/SE Quarter, Fry Building 2 Marsham Street London SW1P 4DF
Additional ways to become involved:	If you would like to discuss the proposals, please email LGPSReform@communities.gsi.gov.uk
After the consultation:	All consultation responses will be reviewed and analysed. A Government response will then be published within three months, and subject to the outcome of this consultation, the resulting regulations laid in Parliament.
Compatibility with the Consultation Principles:	This consultation has been drafted in accordance with the Consultation Principles.

Background

Getting to this stage:	The proposals in this consultation are the culmination of work looking into Local Government Pension Scheme investments that began in early 2013. It has been developed in response to the May 2014 consultation, *Opportunities for collaboration, cost savings and efficiencies,* which considered whether savings might be delivered through collective investment and greater use of passive fund management. A copy of the consultation and the Government's response is available on the Government's website: https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies. The consultation responses called for a voluntary approach to reform, opposing the introduction of a single, national model of pooling. The Government has therefore invited authorities to develop their own proposals for pooling, subject to common criteria and guidance. The criteria for reform have been developed using the consultation responses and following a series of workshops and conversations with authorities and the fund management industry since the July Budget 2015. Some respondents to the May 2014 consultation also suggested that amendments were required to the investment regulations in order to facilitate greater investment in pooled vehicles. In addition, prior to that consultation, authorities and the fund management industry had called for wider reform. A small working group, whose participants are listed in Annex A, was established to look at whether the approach to risk management and diversification in the existing regulations was still appropriate. They recommended moving towards the "prudential person" approach that governs trust based pension schemes. The group also sought clarity as to whether certain types of investment were possible, such as the use of derivatives in risk management. The work of that group has informed the development of this consultation. In relaxing the regulatory framework for scheme investments, it is important to introduce safeguards to ensure that the less prescriptive approach is used appropriately. The July Budget 2015 announcement also indicated that measures should be introduced to ensure that those authorities who do not bring forward ambitious proposals for pooling, in keeping with the criteria, should be required to pool. This consultation therefore sets out how the Secretary of State might 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.

Previous engagement:	The proposed changes in this consultation are the result of a programme of engagement that began in summer 2013: • Round table event, 16 May 2013. Representatives of administering authorities, employers, trade unions, the actuarial profession and academia discussed the potential for increased cooperation within the Scheme. • A call for evidence, run with the Local Government Association, June to September 2013. This gave anyone with an interest in the Scheme the opportunity to inform the Government's thinking on potential structural reform. The results were shared with the Shadow Scheme Advisory Board, which provided the Minister for Local Government with their analysis of the responses. • Consultation, *Opportunities for collaboration, cost savings and efficiencies,* May to June 2014. The consultation set out how savings of £470-660m a year could be achieved by collective investment and greater use of passive fund management. It also sought views as to how these reforms might best be implemented. The Government's response is available online: https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies. • Informal engagement, July to November, 2015. Since the July Budget 2015 announcement, officials have attended over 25 workshops and bi-lateral meetings with administering authorities and the fund management industry. These discussions have been used to develop the criteria for reform and inform how the proposed power of the Secretary of State to intervene might work. In addition, the Investment Regulation Review Group was formed in 2012 to consider potential amendments to the investment regulations. The group included representatives from administering authorities, actuarial firms, pension lawyers and the fund management industry. An initial proposal for reform was prepared that has also informed the development of the draft regulations that are the subject of this consultation.

Introduction and Background

Introduction

1.1 In May 2014 the Government published a consultation which set out how savings of up to £660m a year might be achieved through greater use of passive management and pooled investment. Investing collectively can help authorities to drive down costs and access the benefits of scale, and also enables them to develop the capacity and capability to invest more cost effectively in illiquid asset classes such as infrastructure. The Government has therefore invited authorities to develop ambitious proposals for pooling assets that meet published criteria. More information about the criteria and process of reform is available on the Government's website: https://www.gov.uk/government/publications/local-government-pension-scheme-investment-reform-criteria-and-guidance.

1.2 This consultation complements that invitation, recognising 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 This paper sets out the purpose and rationale of the suggested amendments to the investment regulations, and seeks views as to whether the proposed approach would best deliver those stated aims.

Background

1.4 With assets of £178bn at its last valuation on 31 March 2013, the Local Government Pension Scheme is one of the largest funded pension schemes in Europe. Several thousand employers participate in the Scheme, which has a total of 4.68 million active, deferred and pensioner members.[1] The Department for Communities and Local Government is responsible for the regulatory framework governing the Scheme in England and Wales.

1.5 The Scheme is managed through 90 administering authorities which broadly correspond to the county councils following the 1974 local government reorganisation as well as each of the 33 London boroughs. In most cases, the administering authorities are upper tier local authorities such as county or unitary councils, but there are also some authorities established specifically to manage their pension liabilities, for example the London Pension Fund Authority and the Environment Agency Pension Fund. The

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[1] Scheme asset value and membership figures taken from Department for Communities and Local Government statistical data set - Local government pension scheme funds summary data: 2012 to 2013 https://www.gov.uk/government/statistical-data-sets/local-government-pension-scheme-funds-summary-data-2012-to-2013

administering authorities have individual governance and working arrangements. Each has its own funding level, cash-flow and balance of active, deferred and pensioner members. Authorities take these circumstances into account when preparing their investment strategies, which are normally agreed by the councillors on each authority's pension committee. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 set the legal framework for the development of these investment strategies and the investments carried out by administering authorities. This consultation proposes that the Government revokes and replaces those regulations.

1.6 Under the Public Service Pensions Act 2013, there is a requirement for a national scheme advisory board, as well as a local board for each of the 90 funds. In 2013, Scheme employers and the trade unions established a shadow board, which has been considering a number of issues connected with the Scheme, including its efficient management and administration. Appointments have now been made to the national scheme advisory board and the Chair is expected to be appointed shortly.

Getting to this stage

2.1 The consultation is formed of two main proposals:

1. A package of reforms that propose to remove some 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. The changes proposed would move towards the "prudent person" approach to investment that applies to trust based pension schemes.
2. 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, including a power to allow the Secretary of State to intervene in the investment function of an administering authority when necessary.

Pooling assets to deliver the benefits of scale

2.2 The proposals set out in this consultation are the culmination of work carried out over the last two and a half years to explore how to reform the way the Scheme makes its investments in order to achieve the benefits of scale and drive efficiencies.

2.3 In summer 2013, the coalition government launched a call for evidence to explore how the Scheme might be made more sustainable and affordable in the long term. 133 responses were received, many of which took the opportunity to discuss whether collective investment and greater collaboration might deliver savings for the Scheme.

2.4 Following the call for evidence, the Minister for the Cabinet Office and Minister for Local Government commissioned a cost-benefits analysis from Hymans Robertson on a range of proposals. Hymans Robertson's report explored three areas:

- **The cost of investment:** Many of the costs associated with investment are not transparent and so difficult to capture. The costs of managing and administering the Scheme were reported as being £536 million in 2012-13.[2] However, Hymans Robertson found that the actual cost was likely to be rather higher; with investment costs alone estimated as in excess of £790 million a year.[3]
- **Approaches to collaboration:** Hymans Robertson was asked to examine the costs and benefits of three options for reform: merging the authorities into 5-10 funds, creating 5-10 collective investment vehicles, or establishing just 1-2 collective investment vehicles. They found that the net present value of savings over ten years was highest with a small number of vehicles, while merging funds offered the lowest benefit.[4]

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[2] Local government pension scheme funds summary data: 2012 to 2013

[3] Department for Communities and Local Government: Local Government Pension Scheme structure analysis, Hymans Robertson pp. 10-11. https://www.gov.uk/government/consultations/local-government-pension-scheme-opportunities-for-collaboration-cost-savings-and-efficiencies

[4] Hymans Robertson, p.6

- **The aggregate performance of the scheme:** The report found that the Scheme as a whole had been achieving the market rate of return in each of the main equity markets over the ten years to March 2013. If the Scheme's investments in bonds and equities had been managed passively instead of actively, authorities could have saved at least £230m a year in management fees without affecting overall investment returns.[5]

2.5 Drawing on the Hymans Robertson report and the call for evidence, the coalition government published a consultation in May 2014 entitled *Opportunities for collaboration, cost savings and efficiencies*. This set out how the Scheme could save up to £660m a year by using collective investment vehicles and making greater use of passive management for listed assets like bonds and equities. The consultation sought views on these proposals, and how they might be most effectively implemented. Respondents were broadly in favour of pooling assets, but felt that any reform should be voluntary and led by administering authorities. While many recognised a role for passive management in an investment strategy, most also felt that some active management should be retained.

2.6 At the July Budget 2015, Ministers having reflected on the consultation responses, the Chancellor announced the Government's intention to invite administering authorities to bring forward proposals for pooling local government pension scheme investments. Authorities' proposals would be assessed against published criteria, designed to encourage ambition in the pursuit of efficiencies and the benefits of scale. These criteria have now been published and are available online at https://www.gov.uk/government/publications/local-government-pension-scheme-investment-reform-criteria-and-guidance.

Updating the investment regulations

2.7 When considering the implications of creating asset pools amongst authorities, some respondents to the May 2014 consultation took the opportunity to call for a review of the existing investment regulations. At their introduction in 2009, the regulations sought to ensure that authorities established a balanced and diversified portfolio by placing restrictions on the proportion of their assets that could be invested in different vehicles. For example, deposits with a single bank, institution or person, (other than the National Savings Bank), were restricted to 10% of an authority's assets. These restrictions have been kept under regular review and have been subject to change following representations from the investment sector and pension fund authorities.

2.8 Some respondents to the consultation suggested that the current limits on investments would prevent authorities from making meaningful allocations to a collective investment vehicle, one of the leading options for asset pooling, as the allocation to particular types of vehicle is capped at 35%. Participants in the London Boroughs' collective investment vehicle and the collaboration between the London Pension Fund Authority and Lancashire County Council also wrote to the Department encouraging reform in this area.

[5] Hymans Robertson, p.12

2.9 While the proposals for collective investment in the May 2014 consultation prompted encouragement to review the investment regulations, the idea of reform was not new. In 2012, following representations from the investment sector, the Government formed a small working group to revisit and examine the investment regulations with input from actuaries, fund managers and administering authorities. This group, whose membership is set out in Annex A, recommended that a more permissive approach should be taken to the legislative framework, similar to the "prudent person" model that applies to trust based pension schemes. This approach places the onus on the pension fund to determine a suitable balance of investments to meet its liabilities, which are clearly articulated in an investment strategy. The group also felt that the existing regulations introduced uncertainty for some authorities as to what constituted a permitted investment, as some asset classes were explicitly referenced but others were not. In particular, concern has been expressed as to whether or not pension fund authorities are permitted to invest in vehicles such as derivatives, hedge funds and forward currency contracts.

2.10 The proposals in this consultation paper therefore seek to address these issues, placing the onus on authorities to determine a diversified investment strategy that appropriately takes risk into account.

2.11 However, in relaxing the regulatory framework for scheme investments, it is also important to introduce safeguards to ensure that the less prescriptive approach proposed is used appropriately. Similarly, the July Budget 2015 announcement stated that draft regulations would be introduced to require an authority to pool its investments if it did not bring forward ambitious proposals that met the Government's criteria. This consultation therefore sets out how the Secretary of State might 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.

Response to the Law Commission's Review of Fiduciary Duty

2.12 The Kay Review on Fiduciary Duty published its final report in July 2012. In addition to making a number of recommendations to address the excessive focus on short-term performance in equity investment markets, it recommended that the Government ask the Law Commission to review the fiduciary duties of investment intermediaries amid concerns that these common law duties were being interpreted by some pension schemes as a requirement to focus solely on short-term financial returns.

2.13 In their report, published in July 2014, the Law Commission called on the Department to review:

- Whether the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 should transpose article 18(1) of the Institutions for Occupational Retirement Provision (IORP) Directive, and
- Those aspects of Regulation 9 of the 2009 Regulations which require investment managers to be appointed on a short-term basis and reviewed every three months.

2.14 These recommendations were supported by the Government's progress report on the implementation of the Kay Review published in October 2014 by the Department for Business Innovation and Skills.

2.15 Article 18(1) of the IORP Directive requires assets to be invested in the best interests of members and beneficiaries and, in the event of a conflict of interest, in the sole interests of members and beneficiaries.

2.16 Regulation 4 of The Occupational Pension Schemes (Investment) Regulations 2005 (SI 2005 No 3378) transposed Article 18(1):

"4. (1) The trustees of a trust scheme must exercise their powers of investment, and any fund manager to whom any discretion has been delegated under section 34 of the 1995 Act (power of investment and delegation) must exercise the discretion, in accordance with the following provisions of this regulation

(2) The assets must be invested:

(a) In the best interests of members and beneficiaries; and

(b) In the case of a potential conflict of interest, in the sole interest of members and beneficiaries."

2.17 The Local Government Pension Scheme is a statutory scheme made under section 1 of the Public Service Pensions Act 2013 and previously under The Superannuation Act 1972. It is not subject to trust law and those responsible for making investment decisions in the Scheme are not therefore required to comply with Regulation 4 of the 2005 Regulations.

2.18 However, this does nothing to change the general legal principles governing the administration of Scheme investments and how those responsible for such decisions should exercise their duties and powers under the Scheme's investment regulations.

2.19 In a circular issued by the then Department of the Environment in 1983 (No 24), the Secretary of State took the view that administering authorities should pay due regard to the principle contained in the case of Roberts v Hopwood [1925] A.C. 578 p. 595:

"A body charged with the administration for definite purposes of funds contributed in whole or in part by persons other than members of that body owes, in my view, a duty to those latter persons to conduct that administration in a fairly business-like manner with reasonable care, skill and caution, and with a due and alert regard to the interest of those contributors who are not members of the body. Towards these latter persons, the body stands somewhat in the position of trustees or managers of the property of others."

2.20 Those in local government responsible for making investment decisions must also act in accordance with ordinary public law principles, in particular, the ordinary public law principles of reasonableness. They risk challenge if a decision they make is so unreasonable that no reasonable person acting reasonably could have made it.

2.21 Having considered fully the recommendation made by the Kay Review and supported by both the Law Commission and the Government, Ministers are satisfied that the Scheme is consistent with the national legislative framework governing the duties placed on those responsible for making investment decisions. The position at common law is also indistinguishable from that produced by the 2005 Regulations applicable in respect of trust-based schemes.

2.22 We do, however, propose to remove the requirement for the performance of investment managers to be reviewed once every three months from the regulations.

Proposal 1: Adopting a local approach to investment

Deregulating and adopting a local approach to investment

3.1 In developing these draft regulations, the Government has sought, where appropriate, to deregulate and simplify the regulations that have governed the management and investment of funds since 2009. Some of the existing provisions have not been carried forward into the draft 2016 Regulations in the expectation that they would be effectively maintained by general law provisions and so specific regulation is no longer needed. For example, those making investment decisions are still required to act prudently, and there remains a statutory requirement to take and act on proper advice. Some of the provisions in the 2009 Regulations which have not been carried forward on this basis include:

- Stock lending arrangements under Regulation 3(8) and (9) of the 2009 regulations. The view is taken that the definition of "investment" in draft Regulation 3 is sufficient given that a stock lending arrangement can only be used if it falls within the ordinary meaning of an "investment".
- Regulation 8(5) of the 2009 regulations ensures that funds are managed by an adequate number of investment managers and that, where there is more than one investment manager, the value of the fund money managed by them is not disproportionate. Here, the view is taken that administering authorities should be responsible for managing their own affairs and making decisions of this kind based on prudent and proper advice.
- There are many provisions in the 2009 Regulations which impose conditions on the choice and terms of appointments of investment managers. Since the activities of investment managers are governed by the contracts under which they are appointed, the view is taken that making similar provision in the 2016 Regulations would be unnecessary duplication. Examples include the requirement for investment managers to comply with an administering authority's instructions and the power to terminate the appointment by not more than one month's notice.
- 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.

3.2 These examples of deregulation are for illustrative purposes only. It is not an exhaustive list of provisions which the Government proposes to remove. Consultees are asked to look carefully at the full extent of deregulation and comment on any particular case that raises concerns about the impact such an omission might have on the effective management and investment of funds.

Investment strategy statement

3.3 As part of this deregulation, the draft regulations also 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.

3.4 Key to this will be the investment strategy statement, which authorities will be required to prepare, having taken proper advice, and publish. The statement must cover:

- 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.

Transitional arrangements

3.5 Draft regulation seven proposes to require authorities to publish an investment strategy statement no later than six months after the regulations come into force (this is currently drafted as 1 October 2016, in case the draft regulations come into effect on 1 April 2016). However, the draft regulations would also revoke the existing 2009 Regulations when they come into effect. Transitional arrangements are therefore required to ensure that an authority's investments and investment strategy are regulated between the draft regulations coming into effect and the publication of an authority's new investment strategy statement. The transitional arrangements proposed in draft regulation 12 would mean that the following regulations in the 2009 Regulations would remain in place until the authority publishes an investment strategy or six months lapses from the date that the regulations come into effect:

- 11 (investment policy and investment of pension fund money)
- 14 (restrictions on investments)
- 15 (requirements for increased limits)
- Schedule 1 (table of limits on investments)

Statement of Investment Principles

3.6 We do not propose to carry forward the existing requirement under regulation 12 of the 2009 Regulations to maintain a Statement of Investment Principles. However, the main elements, such as risk, diversification, corporate governance and suitability, will instead be carried forward as part of the reporting requirements of the new investment strategy statement. Administering authorities will still be required to maintain their funding strategy statements under Regulation 58 of the 2013 regulations.

Non-financial factors

3.7 The Secretary of State has made clear that using pensions and procurement policies to pursue boycotts, divestments and sanctions against foreign nations and the UK defence industry are inappropriate, other than where formal legal sanctions, embargoes and restrictions have been put in place by the Government. The Secretary of State has said, "Divisive policies undermine good community relations, and harm the economic security of families by pushing up council tax. We need to challenge and prevent the politics of division."

3.8 The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 already require administering authorities to publish and follow a statement of investment principles, which must comply with guidance issued by the Secretary of State. The draft replacement Regulations include provision for administering authorities to publish their policies on the extent to which environmental, social and corporate governance matters are taken into account in the selection, retention and realisation of investments. Guidance on how these policies should reflect foreign policy and related issues will be published ahead of the new Regulations coming into force. This will make clear to authorities that in formulating these policies their predominant concern should be the pursuit of a financial return on their investments, including over the longer term, and that, reflecting the position set out in the paragraph above, they should not pursue policies which run contrary to UK foreign policy.

Investment

3.9 A few definitions and some aspects of regulation 3, which describes what constitutes an investment for the purpose of these regulations, have been updated to take account of changing terminology and technical changes since the regulations were last issued in 2009. For example, the reference to the London International Financial Futures Exchange (LIFFE) has been removed as it now operates as a clearing house and so is covered by the approved stock exchange definition.

3.10 Some additional information has been included to make clear that certain investments, such as derivatives, may be used where appropriate. The Government expects that having considered the appropriateness of an investment in their investment strategy statement, authorities would only use derivatives as a means of managing risk, and so has not explicitly stated that this should be the case.

Questions

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?

2. Are there any specific issues that should be reinstated? Please explain why.

3. Is six months the appropriate period for the transitional arrangements to remain in place?

4. Should the regulation be explicit that derivatives should only be used as a risk management tool? Are there any other circumstances in which the use of derivatives would be appropriate?

Proposal 2: Introducing a safeguard - Secretary of State power of intervention

Summary of the proposal

4.1 The first part of this consultation lifts some of the existing restrictions on administering authorities' investments in order to make it easier for them to pool their investments and access the benefits of scale. To ensure that this new flexibility is used appropriately, the consultation also proposes to introduce a power to intervene in the investment function of an administering authority if the Secretary of State believes that it has not had regard to guidance and regulations. The consultation sets out the evidence that the Secretary of State may draw on before deciding to intervene, and makes clear that any direction will need to be proportionate. The power proposed in this consultation is intended to allow the Secretary of State to act if best practice or regulation is being ignored, which will help to ensure that authorities continue to pursue more efficient means of investment.

4.2 The July Budget 2015 announcement set out the Government's intention to introduce "backstop" legislation to require those authorities who do not bring forward sufficiently ambitious plans to pool their investments. It also explained that authorities' proposals would need to meet common criteria, which have been published with draft guidance alongside this consultation. The draft power to intervene discussed in this paper could be used to address authorities that do not bring forward proposals for pooling their assets in line with the published criteria and guidance. The guidance will be kept under review, and will be revised as circumstances change and authorities' asset pools evolve.

4.3 The following sections set out the process for intervention described in draft regulation 8.

Determining to intervene

4.4 The draft regulations propose to give the Secretary of State the power to intervene in the investment function an administering authority, if the Secretary of State has determined that the administering authority has failed to have regard to the regulations governing their investments or guidance issued under draft regulation 7(1). In reaching that conclusion, the Secretary of State will consider the available evidence, which might include:

- Evidence that an administering authority is ignoring information on best practice, for example, by not responding to advice provided by the scheme advisory board to local pension boards.
- Evidence that an administering authority is not following the investment regulations or has not had regard to guidance published by the Secretary of State under draft Regulation 7 (1). For example, this might include failing to participate in one of the large asset pools described in the existing draft guidance, or proposing a pooling arrangement that does not adhere to the criteria and guidance.

- Evidence that an administering authority is carrying out another pension-related function poorly, such as an unsatisfactory report under section 13(4) of the Public Service Pensions Act 2013, or another periodic reporting mechanism. (Section 13(4) of the 2013 Act requires a person appointed by the Secretary of State to report on whether the actuarial valuation of a fund has been carried out in accordance with Scheme regulations, in a way that is consistent with other authorities' valuations, and so that employer contribution rates are set to ensure the solvency and long term cost efficiency of the fund.)

4.5 If the Secretary of State has some indication to suggest that intervention might be necessary, the draft regulations propose that he may order a further investigation to provide him with the analysis required to make a decision. If additional evidence is sought, draft regulation 8(5) would allow the Secretary of State to carry out such inquiries as he considers appropriate, including seeking advice from external experts if needed. In this circumstance, the administering authority would be obliged to provide any data that was deemed necessary to determine whether intervention is required. The authority would also be invited to participate in the review and would have the opportunity to present evidence in support of its existing or proposed investment strategy.

The process of intervention

4.6 If the Secretary of State is satisfied that an intervention is required, he would then need to determine the appropriate extent of intervention in the authority's investment function. The draft regulations propose to allow the Secretary of State to draw on external advice to determine what the specific intervention should be if necessary.

4.7 Draft regulation 8(2) describes the interventions that the Secretary of State may make. The power has been left intentionally broad to ensure that a tailored and measured course of action is applied, based on the circumstances of each case. For example, in some cases it may be appropriate to apply the intervention just to certain parts of an investment strategy, whereas in particularly concerning cases, more substantial action might be required. The proposed intervention might include, but is not limited to:

- Requiring an administering authority to develop a new investment strategy statement that follows guidance published under draft Regulation 7(1).
- Directing 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.
- Requiring that the investment functions of the administering authority are exercised by the Secretary of State or his nominee.
- Directing the implementation of the investment strategy of the administering authority to be undertaken by another body.

4.8 The Secretary of State will write to the authority outlining the proposed intervention. As a minimum, this proposal will include:

- A detailed explanation of why the Secretary of State is intervening and the evidence used to arrive at their determination.

- A clear description of the proposed intervention and how it will be implemented and monitored.
- The timetable for the intervention, including the period of time until the intervention is formally reviewed.
- The circumstances under which the intervention might be lifted prior to review.

4.9 The authority will then be given time to consider the proposal and present its argument for any changes that it thinks should be made. If, at the end of that period an intervention is issued, any resulting costs, charges and expenses incurred in administering the fund would be met by the pension fund assets.

Review

4.10 As set out above, each intervention will be subject to a formal review period which will be set by the Secretary of State but may coincide with other cyclical events such as the preparation of an annual report or a triennial valuation. At the end of that period, progress will be assessed and the Secretary of State will decide whether to end, modify or maintain the current terms of the intervention, and will notify the authority of the outcome. The authority will also have the opportunity to make representations to the Secretary of State if it feels a different course of action should be followed. Throughout this period of intervention, the authority will be supported to improve its investment function, so that it is well placed to bring the intervention to an end at the first opportunity.

4.11 The Secretary of State's direction will include details about what is required of the authority in order to end the intervention, and how progress will be measured. Progress could, for example, be measured by creating a set of performance indicators to be monitored on an ongoing basis by Government officials, the local pension board, the scheme advisory board, or an independent body. A regime of regular formal reports to the Secretary of State could also be required.

4.12 The draft regulations also allow the Secretary of State to determine that sufficient improvement has been made to end the intervention before the review date. The administering authority may also make representations to the Secretary of State before that date, if it has clear evidence that the prescribed action is no longer appropriate.

Questions

5. Are there any other sources of evidence that the Secretary of State might draw on to establish whether an intervention is required?

6. Does the intervention allow 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?

7. Does the proposed approach allow the Secretary of State sufficient flexibility to ensure that he is able to introduce a proportionate intervention?

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?

Summary of the draft regulations

(1) Citation, commencement and extent

This details the citation and scope of the draft regulations, and gives the date at which they will come into force.

(2) Interpretation

These provisions define terms used in the draft regulations with reference to legislation, and cite the legislation that gives administering authorities the powers that may be impacted by the draft regulations.

(3) Investment

This draft regulation defines what is considered an investment for the purposes of the regulations. This definition includes futures, options, derivatives, limited partnerships and some types of insurance contracts. It also defines who a person with whom a contract of insurance can be entered into is.

(4) Management of a pension fund

This draft regulation lists the monies that an administering authority must credit to its pension fund, including employer and employee contributions, interest, and investment capital and income. It also sets out the administering authority's responsibility to pay benefits entitled to members, and states that, except where prohibited by other regulations, costs of administering the fund can be paid by the fund.

(5) Restriction on power to borrow

This proposed regulation outlines the limited circumstances under which an administering authority can borrow money that the pension fund is liable to repay.

(6) Separate bank account

The draft regulation states that an administering authority must deposit all pension fund monies in a separate account, and lists those institutions that can act as a deposit taker. It also states that the deposit taker cannot use pension fund account to set-off any other account held by the administering authority or a connected party.

(7) Investment strategy statement

This draft regulation places an obligation on the administering authority to consult on and publish an investment strategy statement, which must be in accordance with guidance from the Secretary of State. The statement should demonstrate that investments will be suitably diversified, and it should outline the administering authority's maximum allocations for different asset classes, as well as their approach to risk and responsible investing.

In many respects, the investment strategy statement replaces the list of restrictions given in Schedule 1 of the 2009 Regulations and enables the criteria to be determined at local level. Schedule 1 of the 2009 Regulations will remain in force until such time that the new investment strategy statements have to be published.

Provision is made for authorities to publish their policy on the extent to which environmental, social and corporate governance factors are taken into account in the selection, retention and realisation of investments.

Separate guidance will be issued by the Secretary of State that will clarify how the Government's recent announcement on boycotts, sanctions and disinvestment will be exercised.

(8) Directions by the Secretary of State

This provision would grant the Secretary of State the power to intervene in the investment function of an administering authority if he is satisfied that the authority is failing to have regard to regulation and guidance. He can also initiate inquiries to determine if an intervention is warranted, and must consult with the authority concerned. Once it is determined that an intervention is needed, the Secretary of State can intervene by directing the authority undertake a broad range of actoins to remedy the situation.

(9) Investment managers

This draft regulation details how an administering authority must appoint external investment managers.

(10) Investments under section 11(1) of the Trustee Investments Act 1961

This draft regulation allows administering authorities to invest in Treasury-approved collective investment schemes.

(11) Consequential amendments

This proposed regulation lists the prior regulations that are amended by the draft amendments.

(12) Revocations and transitional provisions

The draft provision lists the regulations that would be revoked if the draft regulations come into effect. It also proposes transitional arrangements to ensure that the existing regulations governing the investment strategy remain in place until a new investment strategy statement is published by an authority under draft regulation seven. These transitional arrangements would apply for up to six months after the draft regulations came into effect.

Annex A: Members of the Investment Regulation Review Group

Alison Hamilton	Barnet Waddingham
Bob Claxton	Wandsworth Pension Fund
Clifford Sims	Squire Patton Boggs
Dawn Turner	Environment Agency Pension Fund
Geoff Reader	Bedford Pension Fund
Graeme Russell	Greater Gwent Pension Fund
Guy Sears	Investment UK
Loretta Stowers	Greater Manchester Pension Fund
Nick Buckland	Dorset Pension Fund
Nigel Keogh	Chartered Institute of Public Finance and Accountancy
Paul Dale	Bromley Borough Council
Peter Morris	Greater Manchester Pension Fund

STATUTORY INSTRUMENTS

2016 No. 0000

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016

Made - - - -	*2016*
Laid before Parliament	*2016*
Coming into force - -	*2016*

These Regulations are made in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013(**a**).

In accordance with section 21 of that Act, the Secretary of State has consulted such persons and the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.

(2) These Regulations come into force on 1st April 2016.

(3) These Regulations extend to England and Wales.

Interpretation

2.—(1) In these Regulations—

"the 2000 Act" means the Financial Services and Markets Act 2000(**b**);

"the 2013 Regulations" means the Local Government Pension Scheme Regulations 2013(**c**);

"the Transitional Regulations" means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(**d**);

(**a**) 2013 c. 25
(**b**) 2000 c.8.
(**c**) S.I. 2013/2356.
(**d**) S.I. 2014/525.

"authority" means an administering authority listed in Part 1 of Schedule 3 to the 2013 Regulations;

"fund money" means money that is or should be in a pension fund maintained by an authority;

"proper advice" means the advice of a person whom the authority reasonably believes to be qualified by their ability in and practical experience of financial matters;

"the Scheme" means the scheme established by the 2013 Regulations.

(2) Any restrictions imposed by these Regulations apply to authorities which have the power within section 1 of the Localism Act 2011(**a**) (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004(**b**) in the exercise of those powers.

(3) Any authority which does not have the powers mentioned in paragraph (2) has, by virtue of these Regulations the power to do anything authorised or required by these Regulations.

Investment

3.—(1) In these Regulations "investment" and related expressions have their normal meaning.

(2) But the following provisions of this regulation specify things which count as investments for these Regulations, although they might not otherwise do so, and exclude things which might otherwise count.

(3) A contract entered into in the course of dealing in financial futures, traded options or derivatives is an investment.

(4) A contract of insurance is an investment if it is a contract of a relevant class, and is entered into with a person within paragraph (5) for whom entering into the contract constitutes the carrying on of a regulated activity within the meaning of section 22 of the 2000 Act(**c**).

(5) The persons within this paragraph are—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities) to effect or carry out contracts of insurance of a relevant class;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the 2000 Act (EEA passport rights), which has permission under paragraph 15 of that Schedule(**d**) to effect or carry out contracts of insurance of a relevant class; and

(c) a person who does not fall within sub-paragraph (a) or (b) whose head office is in an EEA state other than the United Kingdom, and who is permitted by the law of that state to effect or carry out contracts of insurance of a relevant class.

(6) A contract of insurance is of a relevant class for the purposes of paragraphs (4) and (5) if it is—

(a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or an index of, the value of property of any description (whether or not so specified); or

(b) a contract to manage the investments of pension funds, whether or not combined with contracts of insurance covering either conservation of capital or payment of minimum interest.

(7) It is an investment to contribute to a limited partnership in an unquoted securities investment partnership.

(8) For the purposes of this regulation—

"limited partnership" has the meaning given in the Limited Partnerships Act 1907(**a**);

(**a**) 2011 c. 20.
(**b**) 2004 c. 21; section 5A was inserted by section 9(1) of the Localism Act 2011.
(**c**) Section 22 was amended by section 7(1) of the Financial Services act 2012 (c.21).
(**d**) Paragraph 15 was amended by S.I. 2007/126.

"recognised stock exchange" has the same meaning as in section 1005 of the Income Tax Act 2007(**b**);

"traded option" means an option quoted on a recognised stock exchange; and

"unquoted securities investment partnership" means a partnership for investing in securities which are not quoted on a recognised stock exchange when the partnership buys them.

Management of a pension fund

4.—(1) An authority must credit to its pension fund(**c**), in addition to any sum otherwise required to be credited by virtue of the 2013 Regulations or the Transitional Regulations—

(a) the amounts payable by it or payable to it under regulations 15(3), 67 and 68 of the 2013 Regulations (employer's contributions and further payments);

(b) all amounts received under regulation 69(1)(a) of the 2013 Regulations (member contributions);

(c) all income arising from investment of the fund; and

(d) all capital money deriving from such investment.

(2) In the case of an authority which maintains more than one pension fund, as respects sums which relate to specific members, the reference in paragraph (1) to the authority's pension fund is to the fund which is the appropriate fund(**d**) for the member in question in accordance with the 2013 Regulations.

(3) Interest under regulation 71 of the 2013 Regulations (interest on late payments by Scheme employers) must be credited to the pension fund to which the overdue payment is due.

(4) An authority must pay any benefits to which any person is entitled by virtue of the 2013 Regulations or the Transitional Regulations from its pension fund.

(5) Any costs, charges and expenses incurred administering a pension fund may be paid from it except for charges prescribed by regulations made under sections 23, 24 or 41 of the Welfare Reform and Pensions Act 1999(**e**) (charges in relation to pension sharing costs)(**f**).

Restriction on power to borrow

5.—(1) Except as provided in this regulation, an authority must not borrow money where the borrowing is liable to be repaid out of its pension fund.

(2) Subject to paragraph (3), an authority may borrow by way of temporary loan or overdraft which is liable to be repaid out of its pension fund, any sums which it may require for the purpose of—

(a) paying benefits due under the Scheme; or

(b) to meet investment commitments arising from the implementation of a decision by it to change the balance between different types of investment.

(3) An authority may only borrow money under paragraph (2) if, at the time of the borrowing, the authority reasonably believes that the sum borrowed and interest charged in respect of that sum can be repaid out of its pension fund within 90 days of the borrowing.

(**a**) 1907 c. 24.
(**b**) 2007 c.3; section 1005 was substituted by the Finance Act 2007 (c. 11) and amended by the Taxation (International and Other Provisions) Act 2010 (c.8).
(**c**) An administering authority is required to maintain a pension fund by regulation 53(1) of, and paragraph 1 of Schedule 3 to the 2013 Regulations.
(**d**) See regulation 53(2) of and Part 2 of Schedule 3 to the 2013 Regulations for provisions relating to an administering authority becoming the "appropriate administering authority" in relation to a person.
(**e**) 1999 c. 30.
(**f**) See S.I. 2000/1047 and S.I. 2000/1049.

Separate bank account

6.—(1) An authority must hold in a separate account kept by it with a deposit-taker all fund money.

(2) "Deposit-taker" for the purposes of paragraph (1) means—

(a) a person who has permission under Part 4A(**a**) of the 2000 Act (permission to carry on regulated activities) to carry on the activities specified by article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (accepting deposits)(**b**);

(b) an EEA firm of the kind mentioned in paragraph 5(b)(**c**) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule(**d**) to accept deposits;

(c) the Bank of England or the central bank of an EEA state other than the United Kingdom; or

(d) the National Savings Bank.

(3) An authority must secure that the deposit-taker may not exercise a right of set-off in relation to the account referred to in paragraph (1) in respect of any other account held by the authority or any party connected to the authority.

Investment strategy statement

7.—(1) An authority must, after taking proper advice, formulate an investment strategy which must be in accordance with guidance issued by the Secretary of State.

(2) The authority's investment strategy must include—

(a) a requirement to invest fund money in a wide variety of investments;

(b) the authority's assessment of the suitability of particular investments and types of investments;

(c) the authority's approach to risk, including the ways in which risks are to be measured and managed;

(d) the authority's approach to pooling investments, including the use of collective investment vehicles and shared services;

(e) the authority's policy on how social, environmental or corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments; and

(f) the authority's policy on the exercise of the rights (including voting rights) attaching to investments.

(3) The authority's investment strategy must set out the maximum percentage of the total value of all investments of fund money that it will invest in particular investments or classes of investment.

(4) The authority's investment strategy may not permit more than 5% of the total value of all investments of fund money to be invested in entities which are connected with that authority within the meaning of section 212 of the Local Government and Public Involvement in Health Act 2007(**e**).

(5) The authority must consult such persons as it considers appropriate as to the contents of its investment strategy.

(**a**) Part 4A was inserted by section 11 of the Financial Services Act 2012 (c. 21).
(**b**) S.I. 2001/544; article 5 was amended by S.I. 2002/682.
(**c**) Sub-paragraph (b) of paragraph (5) was substituted by S.I. 2006/3211 and then further substituted by S.I. 2013/3115.
(**d**) Paragraph 15 has been amended by S.I. 2003/2066, S.I. 2007/3253, 2012/1906 and 2013/1881.
(**e**) 2007 c. 28; section 212 was amended by the Police Reform and Social Responsibility Act 2011 (c. 13) and there are prospective amendments made by the Local Audit and Accountability Act 2014 (c. 2).

(6) The authority must publish a statement of its investment strategy formulated under paragraph (1) and the first such statement must be published no later than 1st October 2016.

(7) The authority must review and if necessary revise its investment strategy from time to time, and at least every 3 years, and publish a statement of any revisions.

(8) The authority must invest, in accordance with its investment strategy, any fund money that is not needed immediately to make payments from the fund.

Directions by the Secretary of State

8.—(1) This regulation applies in relation to an authority's investment functions under these Regulations and the 2013 Regulations if the Secretary of State is satisfied that the authority is failing to have regard to guidance issued under regulation 7(1) (investment strategy statement).

(2) Where this regulation applies in relation to an authority the Secretary of State may issue a direction requiring all or any of the following—

(a) that the authority make such changes to its investment strategy under regulation 7 as the Secretary of State considers appropriate, within a period of time specified in the direction;

(b) that the authority invest such assets or descriptions of assets as are specified in the direction in such manner as is specified in the direction;

(c) that the investment functions of the authority under these Regulations and under the 2013 Regulations be exercised by the Secretary of State or a person nominated by the Secretary of State for a period specified in the direction or for so long as the Secretary of State considers appropriate;

(d) that the authority comply with any instructions of the Secretary of State or the Secretary of State's nominee in relation to the exercise of its investment functions under these Regulations and the 2013 Regulations and provide such assistance as the Secretary of State or the Secretary of State's nominee may require for the purpose of exercising those functions.

(3) Before making a decision whether to issue a direction under this regulation, and as to the contents of any direction, the Secretary of State must consult the authority concerned.

(4) In reaching a decision whether to issue a direction under this regulation, and as to the contents of any direction, the Secretary of State must have regard to such evidence of the manner in which the authority is discharging or proposes to discharge its investment functions as is reasonably available including—

(a) any report from an actuary appointed under section 13(4) of the Public Service Pensions Act 2013 (employer contributions in funded schemes) or by the authority under section 62 of the 2013 Regulations (actuarial valuations of pension funds);

(b) any report from the local pension board appointed by the authority or from the Local Government Pension Scheme Advisory Board(**a**);

(c) any representations made by the authority in response to the consultation under paragraph (3);

(d) any other evidence available that the Secretary of State regards as relevant to whether the authority has been complying with these regulations or acting in accordance with guidance issued under regulation 7(1) (investment strategy statement).

(5) If the Secretary of State is of the opinion that additional information is required to enable a decision to be taken whether to issue a direction under this regulation, or as to what any direction should contain, the Secretary of State may carry out such inquiries as the Secretary of State considers appropriate to obtain that information.

(6) An authority must co-operate with any request from the Secretary of State intended to facilitate the obtaining of information under paragraph (5).

(**a**) The Local Government Pension Scheme Advisory Board is established under regulation 110 of the 2013 Regulations (which was inserted by S.I. 2015/57).

Investment managers

9.—(1) Instead of managing and investing fund money itself, an authority may appoint one or more investment managers to manage and invest fund money, or any part of such money, on its behalf.

(2) The authority must reasonably believe that the investment manager's ability in and practical experience of financial matters make that investment manager suitably qualified to make investment decisions for it.

(3) The authority must take proper advice in relation to the appointment and the terms on which the appointment is made.

Investments under section 11(1) of the Trustee Investments Act 1961

10. An authority to which section 11 of the Trustee Investments Act 1961(**a**) applies may invest, without any restriction as to quantity, in any investment made in accordance with a scheme under section 11(1) of that Act (which enables the Treasury to approve schemes for local authorities to invest in collectively).

Consequential amendments

11.—(1) The 2013 Regulations are amended as follows.

(2) For regulation 57(1)(a) (pension fund annual report) substitute—

"(i) the current version of the investment strategy under regulation 7 (investment strategy statement) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016;".

(3) For regulation 58(4)(b) (funding strategy statement) substitute—

"(b) the statement of the administering authority's investment strategy published under regulation 7 (investment strategy statement) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.".

(4) For regulation 69(2)(b) (payment by Scheme employers to administering authorities) substitute—

"(b) paragraph (1)(c) does not apply where the cost of the administration of the fund is paid out of the fund under regulation 4(5) (management of a pension fund) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.".

Revocations and transitional provision

12.—(1) Subject to paragraph (2), the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009(**b**) and the Local Government Pension Scheme (Management and Investment of Funds) (Amendment) Regulations 2013(**c**) are revoked.

(2) Regulations 11 (investment policy and investment of pension fund money), 12 (statement of investment principles), 14 (restrictions on investments), 15 (requirements for increased limits) of and Schedule 1 (table of limits on investments) to the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 continue to have effect in relation to an authority until the date when that authority publishes its investment strategy statement under regulation 7(1) (investment strategy statement).

(3) For the period starting on 1st April 2016 and ending on whichever is the earlier of the date the authority publishes its investment strategy statement under regulation 7 (investment strategy

(**a**) 1961 c. 62; section 11(1) was amended by the London Government Act 1963 (c. 4) and the Local Government Act 1985 (c. 51).
(**b**) S.I. 2009/3093.
(**c**) S.I. 2013/410.

statement), or 30th September 2016, Regulation 7 applies to an authority only to the extent necessary to enable that authority to formulate and publish its investment strategy statement.

We consent to the making of these Regulations

Names

Date Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Communities and Local Government

Name

Parliamentary Under Secretary of State

Date Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

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