

AGENDA

Meeting: Wiltshire Pension Fund Committee
Place: Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Monday 1 February 2016
Time: 3.00 pm

Please direct any enquiries on this Agenda to Libby Beale, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718214 or email elizabeth.beale@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Chairman's Briefing:	Date	Time	Place
	1 February	2:30pm	Kennet Room

Membership:

Voting Membership

Wiltshire Council Members:

Cllr Tony Deane (Chairman)
Cllr Charles Howard (Vice Chairman)
Cllr Mark Packard
Cllr Sheila Parker
Cllr Roy While

Substitute Members

Cllr Chris Hurst
Cllr Bob Jones MBE
Cllr Gordon King
Cllr Bill Moss
Cllr Fleur de Rhé-Philippe
Cllr Ian Thorn
Cllr Philip Whitehead

Swindon Borough Council Members

Cllr Steve Allsopp
Cllr Steve Weisinger

Substitute Members

Cllr Oliver Donachie

Employer Body Representatives

Non-voting Membership

Observers

Tony Gravier
Mike Pankiewicz

RECORDING AND BROADCASTING NOTIFICATION

Wiltshire Council may record this meeting for live and/or subsequent broadcast on the Council's website at <http://www.wiltshire.public-i.tv>. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and/or training purposes.

The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on the Council's website and available on request.

If you have any queries please contact Democratic Services using the contact details above.

PART I

Items to be considered when the meeting is open to the public

1 **Membership**

To note any changes to the membership of the Committee.

2 **Attendance of non-members of the Committee**

To note the attendance of any non-members of the Committee.

3 **Apologies for Absence**

To receive any apologies for absence or substitutions for the meeting.

4 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5 **Chairman's Announcements**

To receive any announcements through the Chairman.

6 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named above (acting on behalf of the Corporate Director), no later than 5pm on Monday 25 January 2016. Please contact the officer named on the first page of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

7 **Investment Regulations Consultation** *(Pages 5 - 12)* 3pm

A report proposes a response from the Wiltshire Pension Fund to the Government's consultation on the amendments to the Local Government Pension Scheme Investment Regulations for approval by the Committee.

8 **Date of Next Meeting** 3:20pm

To note that the next ordinary meeting of the Committee will be held on Thursday 10 March 2016.

9 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be considered as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

10 **Exclusion of the Public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Item Number 11 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraphs 1 & 3 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

PART II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

11 **LGPS Investment Reform Criteria Consultation and Proposed Options for Polling of Investment Assets** *(Pages 13 - 72)* 3:30pm

A confidential report outlines the current options with regards to pooling of assets in the South West and proposes a draft response to the Government's consultation for Committee's approval.

WILTSHIRE COUNCIL

WILTSHIRE PENSION FUND COMMITTEE

1 February 2016

LOCAL GOVERNMENT PENSION SCHEME (LGPS): REVOKING AND REPLACING THE LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2009

Purpose of the Report

1. At the meeting on 10 December 2015, the Committee were introduced to the current government consultations which included the Investment Regulations changes issued on 25 November 2015 from the Department of Communities and Local Government (DCLG).
2. This reports considers a proposed response on behalf of the Wiltshire Pension Fund for approval at this meeting.
3. This consultation complements the Investment Reform Criteria and Guidance consultation elsewhere on this agenda.

Background

4. 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. The Government believes 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 in more illiquid asset classes such as infrastructure. The Government has therefore invited authorities to develop ambitious proposals for pooling assets that meet published criteria.
5. This consultation complements that invitation, recognising that the existing regulations place restrictions on certain investments that may constrain authorities from any proposed pooling of their assets. It also allows a refresh of the current regulations to reflect the changes to the investment landscape since their implementation.
6. The closing date for submission of responses is 19 February 2016. The full consultation can be viewed on the following link:

<https://www.gov.uk/government/consultations/revoking-and-replacing-the-local-government-pension-scheme>

Considerations for the Committee

7. The purpose of the consultation includes:
 - Removing some of the existing prescriptive means of ensuring that investments are suitably diverse, instead making Funds responsible for determining the balance of their investments and taking account of the risk;
 - Introducing safeguards to ensure that the more flexible legislation being discussed is used appropriately through the use of a prudential approach;

- 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 regulations and guidance.
8. The consultation requests responses to the following questions by 19th February 2016:
- Q1. 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?
- Q2. Are there any specific issues that should be reinstated? Please explain why.
- Q3. Is six months the appropriate period for the transitional arrangements to remain in place?
- Q4. 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?
- Q5. Are there any sources of evidence that the Secretary of State might draw on to establish whether an intervention is required?
- Q6. 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?
- Q7. Does the proposed approach allow the Secretary of State sufficient flexibility to ensure that he is able to introduce a proportionate intervention?
- Q8. 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?
9. Officers have considered this consultation and proposed the draft response attached.
10. The key areas of concern are as follows:
- There is currently no guidance in terms of how Funds will assess if they have acted prudently;
 - In relation to regulation 8 (2) (b) where the Secretary of State could specify what investments should be made. This may not meet the objectives of the Fund; and
 - There is no requirement for the Secretary of State to appoint an appropriate independent person to investigate a fund where there is a trigger indicating it is failing.

Financial Considerations & Risks Assessment

11. The financial implications are considered as part of the Investment Reform Criteria and Guidance consultation proposed response but have no immediate impact for the Fund.
12. The pooling of assets is a specific risk identified on the Risk Register, PEN020. There is also a potential risk to *PEN07 Significant rises in employer contributions due to poor/negative investment returns*.

Legal Implications

13. The response to the consultation includes consideration as to the legal implications of the proposed changes to the investment regulations. The proposal to approve the attached response to the consultation has no direct legal implications.

Environmental Impact of the Proposal

14. There is no known environmental impact of this proposal.

Safeguarding Considerations/Public Health Implications/Equalities Impact

15. There are no known implications at this time.

Reason for Proposals

16. The Fund should be proactive in shaping the future of the scheme and therefore should contribute to the consultations issued.

Proposals

17. Members are requested to agree the attached consultation response, subject to any amendments discussed at this meeting.

MICHAEL HUDSON
Treasurer to the Pension Fund

Report Author: Catherine Dix, Strategic Pensions Manager

Unpublished documents relied upon in the production of this report:

This page is intentionally left blank



Wiltshire Pension Fund, County Hall, Trowbridge, Wiltshire BA14 8JN
T: 01225 713613 ♦ F: 01225 713645 ♦ E: pensionenquiries@wiltshire.gov.uk
www.wiltshirepensionfund.org.uk

Victoria Edwards
LGPS Reform
Department for Communities and Local Government
2/SE Quarter, Fry Building
2 Marsham Street
London
SW1P 4DF

LGPSReform@communities.gsi.gov.uk

Please ask for: David Anthony Our ref: PENS/

February 2016

Dear Ms Edwards,

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

Please find below the response from the Wiltshire Pension Fund (WPF) in respect to the Local Government Pension Scheme: Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 following discussion at its Committee meeting on 1st February 2016.

Q1. 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?

The proposed Investment Regulations do allow a lot more flexibility for Funds, however there is a concern around how Funds assess Prudence. When the prudential approach was adopted for Treasury Management a number of Prudential Indicators were required to demonstrate that Local Authorities had considered risk and were staying within set boundaries. WPF would recommend that a Code of Practice be produced with best practice guidance on assessing prudence.

In terms of taking advice, under the proposed regulations there appears to be an increased requirement to utilise consultants. Committees need to be comfortable that they have the appropriate knowledge and skills to challenge advisors. There would also be a greater need to assess the performance of advisors.

Q2. Are there any specific issues that should be reinstated? Please explain why.

The proposed regulations removed the requirement to report against the Myners principles, however Funds should still have regard for this guidance. WPF believe the requirement to comply or explain against the Myners principles should be reinstated. This will provide evidence to the Secretary of State that Funds have reviewed their position in this respect.

Q3. Is six months the appropriate period for the transitional arrangements to remain in place?

Under the proposed regulations there is a requirement to publish an Investment Strategy Statement “no later than 1st October 2016”. The regulations also state that “the Authority must review and if necessary revise its investment strategy from time to time, and at least every 3 years..” The Investment Strategy is by its nature heavily linked to the Funds Funding Strategy Statement, no mention has been made in the proposed regulations to this document.

WPF would recommend that future dates of review be aligned for the Funding Strategy Statement and the Investment Strategy Statement (becoming effectively part of the Valuation).

This would effectively mean that most likely the Investment Strategy would be reviewed at the time of the publication of the 2016 valuation results, Autumn 2016. This is quite a tight timetable to ensure Committees has sufficient time to be comfortable with the new policy statement. WPF would recommend that the first Investment Strategy Statement should have an extended deadline to 1st December 2016. This would allow time for training ahead of the Strategy approval.

Q4. Should the regulations 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.

The private sector regulations clearly state that ‘derivative instruments may be made only in so far as they-

- a) Contribute to reductions of risks; or
- b) Facilitate efficient portfolio management.’

WPF believe the definition of derivatives should be made explicitly in the regulations and match the private sector definition.

Q5. Are there any sources of evidence that the Secretary of State might draw on to establish whether an intervention is required?

Regulation 8(4) does provide a list of evidence the Secretary of State might draw on. It should be made clear that the trigger for intervention is based upon evidence of failings as indicated by one or more of the following:

- Adverse auditor report
- Adverse report from Pension Regulator
- Adverse report by actuary
- Adverse reports from pension ombudsman or exceptionally high number of cases where the fund has failed
- Report from Pension Board
- Indication the pension committee members and supporting officers and advisors do not have the relevant skills and knowledge
- Substantially poorer returns relative to other funds over a rolling three year period
- Employer contributions higher than other funds
- Complaints from whistle blowers.

Regulation 8(3) and 8(5) should clarify that if the Secretary of State if not satisfied should appoint an appropriate independent expert to investigate and prepare a report.



Wiltshire Pension Fund, County Hall, Trowbridge, Wiltshire BA14 8JN
T: 01225 713613 ♦ F: 01225 713645 ♦ E: pensionenquiries@wiltshire.gov.uk
www.wiltshirepensionfund.org.uk

Q6. 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.

The proposed regulation do not currently state a set period of time for Authorities to review their Investment Strategy Statement or to provide evidence following consultation by the Secretary of State under regulation 8 (3). WPF recommends that a period of time be stated in the regulations allowing Funds to review their positions. A period of 2 months may be an appropriate timescale.

Q7. Does the proposed approach allow the Secretary of State sufficient flexibility to ensure that he is able to introduce a proportionate intervention?

It is still unclear what form intervention would look like. WPF has concerns in relation to regulation 8 (2) (b) where the Secretary of State could specify what investments should be made. This may not meet the objectives of the Fund as stated in the Funding Strategy Statement. WPF would be extremely concerned if this was a method of ensuring Funds invest in specific asset classes, such as UK infrastructure which didn't meet the risk / return profile objectives of the Fund's investment strategy.

Q8. Do the proposals meet the objective 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?

WPF feel that clear guidance is vital and priority should be given to immediately preparing best practice guidance. Until this is provided Funds will have no way of assessing its usefulness and whether the proposals will meet the policy objective. In terms of the pooling proposals, plans are currently being designed, any proposed vehicles will need to be operationally fit for purpose with clear transition arrangements in place. At this stage it is unclear how the governance arrangements will operate under the new pools and if there is a requirement for pools to be registered with the FCA. A clear understanding of the risks associated with assets allocated to pools will need to be made.

Conclusion

The WPF welcomes the additional flexibilities proposed Investment Regulations; however it is essential that Funds are provided with sufficient guidance to ensure a prudent approach is taken. Time will be needed to train Committee members with the new arrangements and risks associated with the pooling arrangements will need to be assessed and quantified.

Yours sincerely,

David Anthony
Head of Pensions

Michael Hudson
Treasurer to the Pension Fund

Councillor Tony Deane
Chairman of Pension Fund

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank