WILTSHIRE
PENSION FUND

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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.

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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	Michael Hudson	Councillor Tony Deane
Head of Pensions	Treasurer to the Pension Fund	Chairman of Pension Fund