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?

   Q.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?

   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.

<u>Financial Considerations & Risks Assessment</u>

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.

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Unpublished documents relied upon in the production of this report: