

REPORT FOR: Pension Fund Committee

Date of Meeting: 22 November 2016

Subject: **Information Report** – The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016

Responsible Officer: Dawn Calvert, Director of Finance

Exempt: No

Wards affected: All

Enclosures: Appendix 1 – The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016

Section 1 – Summary

This report advises the Committee of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 which came into effect on 1 November 2016.

FOR INFORMATION

Section 2 – Report

1. At their meeting on 9 March 2016 the Committee were advised of a consultation document received from DCLG entitled “Local Government Pension Scheme: Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.” Comments were invited by 19 February 2016.
2. The document discussed many important issues in connection with the future management of the Local Government Pension Scheme including:
 - Deregulation of investment decisions
 - Investment Strategy Statement to replace Statement of Investment Principles
 - Non-financial factors – inappropriate use of investment policies
 - Investment – appropriate use of certain investments
 - Secretary of State’s intervention powers of intervention
3. However, the consultation process was limited to eight questions to which answers were requested divided into two proposals as follows:

Proposal 1: Adopting a local approach to investment

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?

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

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

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

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

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?

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

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?

4. DCLG have now finalised the new Regulations which show only one change from the draft namely that the date of their coming into force has been changed to 1 November 2016 with the date by which the new investment strategy statements have to be published set at 1 April 2017.

5. A summary of the Regulations, based on that provided by DCLG in the consultation document is as follows:

(1) Citation, commencement and extent

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

(2) Interpretation

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

(3) Investment

This 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 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 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 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 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.

(8) Directions by the Secretary of State

This provision grants 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 actions 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 regulation allows administering authorities to invest in Treasury-approved collective investment schemes.

(11) Consequential amendments

This regulation lists the prior regulations that are amended as a result of the regulations

(12) Revocations and transitional provisions

The provision lists the regulations that are revoked by the regulations. Transitional arrangements are put in place 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 regulation seven. These transitional arrangements apply for up to six months after the regulations came into effect.

6. With the revocation of the 2009 Regulations a comparison of the two sets is largely of academic interest. The main changes are those discussed under clauses 7, 8 and 10 above.

Financial Implications

7. Whilst significant changes in the Regulations can have a considerable impact on the performance of the Fund there are no financial implications arising from this report.

Risk Management Implications

8. The risks arising from the management and investment of funds are included in the Pension Fund risk register.

Equalities implications

9. There are no direct equalities implications arising from this report.

Council Priorities

9. Investment performance has a direct impact on the financial health of the Pension Fund which directly affects the level of employer contribution which then, in turn, affects the resources available for the Council's priorities

Section 3 - Statutory Officer Clearance

Name Dawn Calvert Director of Finance

Date: 8 November 2016

Ward Councillors notified: NO

Section 4 - Contact Details

Contact: Ian Talbot, Treasury and Pension Fund Manager
0208 424 1450

Background Papers - None

