

# Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund, Pension Board to be held on 16 March 2016.

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

## Summary statement:

The Department for Communities and Local Government (DCLG) consulted on Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, some of the replacement regulations will be necessary to enable the pooling of investments.

The new regulations, in summary, make three changes:-

- The introduction of an Investment Strategy and the removal of the prudential limits.
- The requirement for funds to pool their assets.
- The power for the Secretary of State to intervene where an Investment Strategy is deemed not acceptable, a fund does not make satisfactory pooling arrangements, or a fund does not make suitable arrangements to make investments determined by the Secretary of State. Only infrastructure investments are specifically mentioned in the consultation.

## Recommendations:

It is recommended that Members note WYPF responses to

- Consultation to revoke and replace the regulations that current govern the management and investment of funds in the Local Government Pension Scheme
- Government criteria and guidance for investment reform (Pooling)

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Rodney Barton  
Director

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**Portfolio:**

**Leader of Council & Strategic Regeneration**

**Overview & Scrutiny Area:**

n/a



## **1. Background**

- 1.1 This consultation proposed to revoke and replace the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 with the draft regulations described in Appendix A.
- 1.2 The reforms proposed 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.
- 1.3 The reforms also proposed the introduction of safeguards to ensure that the more flexible legislation is used appropriately and that the guidance on pooling assets is adhered to. This included a power to allow the Secretary of State to intervene in the investment function of an administering authority when necessary.
- 1.4 Views were sought on 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.
- 1.5 Views were also sought on whether the proposals to introduce the power of intervention as a safeguard would 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. Views had not been sought on what might be a more pertinent question, whether the Secretary of State should have the power to intervene
- 1.6 Consultation closed on 19 February 2016

The full set of documents and responses have been published on <http://www.wyph.org.uk/Member/Consultation/ConsultationHome.aspx>

## **2. Appendix**

Appendix A – LGPS draft regulations 2016

Appendix B - WYPF response to consultation to revoke and replace the regulations that current govern the management and investment of funds in the Local Government Pension Scheme

Appendix C – WYPF response to Government criteria and guidance for investment reform (Pooling)

Appendix D – Pool submission document



2016 No. 0000

**PUBLIC SERVICE PENSIONS, ENGLAND AND WALES**

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

<i>Made</i>	2016
<i>Laid before Parliament</i>	2016
<i>Coming into force</i> - -	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<sup>(a)</sup>.

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<sup>(b)</sup>;

“the 2013 Regulations” means the Local Government Pension Scheme Regulations 2013<sup>(c)</sup>;

“the Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014<sup>(d)</sup>;

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(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<sup>(a)</sup> (local authority’s general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004<sup>(b)</sup> 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<sup>(c)</sup>.

(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<sup>(d)</sup> 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<sup>(a)</sup>;

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(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.

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(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.

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(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).

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(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<sup>(a)</sup> 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<sup>(b)</sup> and the Local Government Pension Scheme (Management and Investment of Funds) (Amendment) Regulations 2013<sup>(c)</sup> 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

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<sup>(a)</sup> 1961 c. 62; section 11(1) was amended by the London Government Act 1963 (c. 4) and the Local Government Act 1985 (c. 51).

<sup>(b)</sup> S.I. 2009/3093.

<sup>(c)</sup> 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

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

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

Date *Name*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

**EXPLANATORY NOTE**  
*(This note is not part of the Regulations)*



# West Yorkshire Pension Fund (WYPF) Response to the consultation on revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

## **Executive Summary**

This is the response of WYPF to the Department for Communities and Local Government (DCLG) consultation on Revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009. The proposed new regulations, in summary, make three changes:-

- The introduction of an Investment Strategy and the removal of the prudential limits.
- The requirement for funds to pool their assets.
- The power for the Secretary of State to intervene where an Investment Strategy is deemed not acceptable, a fund does not make satisfactory pooling arrangements, or a fund does not make suitable arrangements to make investments determined by the Secretary of State. Only infrastructure investments are specifically mentioned in the consultation.

## **General Comments**

WYPF welcomes the revision of the investment regulations, and the widening of local discretion and accountability that comes with the removal of the schedule of limits from the regulations.

WYPF is, however, concerned that introducing a power of direction for the Secretary of State is completely contrary to the principle behind the changes to the regulations, increasing local discretion and accountability. WYPF is therefore of the view that all matters where any direction or intervention may be required it should be guided by the national Scheme Advisory Board (SAB), which has been established by the Secretary of State under the Pensions Act 2013 to advise the Secretary of State, and individual funds, and produce guidance on best practice. The SAB membership is determined by the Secretary of State, and contains the knowledge and expertise that would be required in the event that a fund requires assistance in fully complying with the regulations.

## Response to Consultation 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?**

WYPF welcomes the widening of local discretion and accountability that comes with the removal of the schedule of limits from the regulations, and the move towards the private sector 'prudent man' approach.

Whether the proposed deregulation will achieve the intended policy aim is somewhat difficult to judge, as the regulations are being considered in isolation, as the guidance to be issued by the Secretary of State could have a significant impact on the proposed freedoms.

Draft regulation 7(4) is prescriptive, and is contrary to the principle of deregulation, and the administering authority being given the power to develop a prudent investment policy having taken proper advice

An Investment Strategy (IS) should be relatively straightforward to develop, as funds already have a Statement of Investment Principles, which covers many of the requirements of the IS.

It is unclear why it is necessary for the Secretary of State to introduce a power of direction in revised regulations where the stated policy objective is reduced regulation. The Secretary of State has established the SAB in accordance with the Pensions Act 2013 to advise the Secretary of State and individual funds, and develop guidance and encourage best practice. Any intervention, which should stop short of direction which would in effect mean the Secretary of State would be taking responsibility for the result, which, ultimately, is the meeting of the liabilities of the fund. WYPF would therefore not support intervention without evidence that the SAB had failed to perform its role in relation to promoting best practice in complying with regulations.

Assuming that the power of direction is included in the final regulation, with all the risks to the Secretary of State making directions would bring, the circumstances in which the power may be exercised must be much more clearly defined in the regulations, and they should specify whose judgement he will rely on when, for example he rejects an IS which has been developed by a fund after taking proper advice.

Greater clarity in the regulations as to how any direction is to be implemented is required, as it would not be appropriate for the Secretary to State to control his own actions by guidance. For example, would there be a role for the SAB, DCLG staff, elected members or officers from another administering authority?

WYPF takes the view that if the guidance yet to be produced is clear then there will be little need for the power of direction, as there are sufficient extant remedies

available to the Secretary of State and other interested parties, for example, the Local Pension Board (LPB) and the SAB.

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

No.

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

With the advent of pooling 6 months is likely to prove to be too soon, and as 2016 is a valuation year funds will already be consulting on their Funding Strategy Statement (FSS) later in the year. As these two documents are interdependent, and both require consultation, it would make administrative sense if the IS and FSS were prepared simultaneously. Transitional arrangements should apply until the date of approval of the next FSS, and terminate for each fund on the date of the approval of its ISS.

**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?**

Derivatives are currently used for more than just risk management, for example financial futures may be used to implement asset allocation decisions in a timely manner, giving immediate market exposure while allowing time for considered stock selection.

Although the use of derivatives is wider than risk management or portfolio hedging, there is no doubt that their use must be understood and controlled by the pensions committee members.

Therefore it would be sensible if the regulations specified that derivatives and other complex financial products may only be used where pension committee members have received appropriate technical training, can demonstrate an understanding of the products to be used, have received a report which shows the worst outcome for the fund, and have discussed this with an independent advisor.

This also begs the question why the regulations do not require pensions committee members to have the appropriate knowledge and skill to exercise their responsibilities prudently and effectively, particularly as members of the LPB, which only has the power to scrutinise decisions of the pensions committee, are specifically required to have or obtain appropriate knowledge. The large, well governed funds already have a knowledge and skills framework in place, and making this a requirement would improve governance across the LGPS, and fits well with the policy objective of greater local discretion. This period of significant change would be a good moment for such a change.

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

As Regulation 8(4) is widely drafted the sources of evidence to be consulted could be developed in the guidance to be produced. However, the one obvious source of evidence that should be consulted in all cases before an intervention should be the external auditor, as an independent person familiar with the relevant fund and the regulations and guidance applicable.

- 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?**

The regulation allows sufficient scope to present evidence, but as no time is prescribed, and investment management is a long term business, evidenced by the removal of the requirement for a review of investment managers every three months, it is not possible to conclude that sufficient time is allowed. The regulations should specify a minimum period of at least 180 days, which would allow the fund adequate time to gather, prepare and submit evidence, and for the Local Pension Board to consider the evidence before it is submitted to the Secretary of State.

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

The Regulation provides the Secretary of State with almost unlimited flexibility to intervene. It is more relevant to consider whether the scope for intervention or direction is too wide, particularly as the intervention can include instruction in relation to the exercise of its (the administering authority) functions under the regulations (Regulation 8(2)(d)) which may have direct financial implications (cost) for the fund concerned. This clearly steps beyond the line of maintaining clear accountability to the local Council Tax Payers.

- 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?**

Without any restrictions in the regulations it cannot be certain that any intervention by the Secretary of State would be proportionate. The regulations should specify that any intervention would be based on advice to the Secretary of State from the national Scheme Advisory Board, which has been established by the Secretary of State in accordance with the Pensions Act 2013 for exactly this purpose.



West Yorkshire Pension Fund

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Marcus Jones MP

Parliamentary Under Secretary of State (Minister for Local Government)

Department for Communities and Local Government

Fry Building

2 Marsham Street

London

SW1P 4DF

19 February 2016

Dear Mr Jones,

### **Local Government Pension Scheme: Investment Reform Criteria and Guidance**

Please find attached a copy of our joint submission, which we believe meets the criteria, as requested.

We welcome the opportunity that pooling presents for reducing costs and joint working, as this is inherent in the operations of West Yorkshire Pension Fund (WYPF). This is demonstrated by the fact that on the administration of the LGPS we also manage administration for Lincolnshire Pension fund on a joint service basis, so that both funds benefit from the economies of scale, as well as for five (and from 1 April 2016 seven) fire and rescue authorities.

WYPF is the 4<sup>th</sup> largest LGPS fund, with over 260,000 members and more than 400 employers. It presently manages investments with a value in excess of £11 billion. All main asset classes are actively managed internally, and it has a consistently good track record of investment returns stretching back over 30 years, resulting in one of the highest funding levels within the LGPS, at the last valuation, of 96%. This has been achieved with the lowest cost base of any LGPS, less than £12 per scheme member per annum. This is less than the cost of passive management, and with a lower turnover, hence lower transaction costs.

As you will see from the submission, we are committed to pooling, and delivering cost savings particularly on the unlisted and illiquid portfolios.

However, as our cost base for managing listed assets is so low it is likely that WYPF costs in this arena will rise. Therefore we believe that you should consider requiring WYPF to retain its listed investments outside the pool for a period in order to establish a baseline low cost of managing listed assets for the pools to target, as well as consistent long term performance. For example for the 20 years to 31 March 2015 the return was 8.3% against its benchmark of 7.8% (7.8% was the return for the local authority universe too).

We are looking forward to working closely with the Greater Manchester and Merseyside Pension Funds to deliver a high performing, low cost pool which will have the capacity to invest significantly more into infrastructure assets producing the return required to meet the liabilities of the funds.

Yours sincerely

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Councillor Andrew Thornton, Chair, West Yorkshire Pension Fund