

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

19th February 2016

Dear Secretary of State

Management and Investment of Funds Regulations 2016

In response to the Department for Communities and Local Government's (DCLG) invitation to comment on the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016, The Local Authority Pension Fund Forum (LAPFF) is pleased to respond with a number of comments and observations which hopefully will be useful in: taking the regulations forward; ensuring they are practical and robust; and facilitating a good working relationship between Government and administering authorities.

LAPFF represents the interests of 69 public sector pension fund members with combined assets of approximately £175 billion. Its mission is to protect the long-term investment interests of beneficiaries by promoting the highest standards of corporate governance and corporate responsibility amongst investee companies.

I would like to open with some key points:

1. LAPFF members are active supporters of pension fund administering authorities working together through pooling arrangements, joint working, partnerships, CIVs and procurement frameworks in England and Wales
2. The new flexibilities and challenges provided by the government's deregulation proposals for the LGPS are therefore welcomed, as are the simplified local pension fund authority management and investment responsibilities of their assets.
3. LAPFF members see opportunities and benefits in pooling LGPS assets where efficiencies and savings are achievable at minimal risk to scheme members, their employers and council tax payers.
4. The form and content of statutory guidance will be pivotal to the success of the pooling process, given that fund administering authorities will continue to retain local stewardship responsibility for their assets. It needs to be comprehensive and detailed so that the compliance process can be straightforward and ensure intervention becomes a rare event. LAPFF stands ready to continue to engage with DCLG in its preparation.

5. To assist Ministers specifically at all stages of an intervention process, LAPFF believes an independent, expert reference group with direct relevant experience and responsibility of LGPS investment issues should be established. The group, including councillors and senior council officers, from best performing funds, would be additional to the sources proposed in draft regulation 8.
6. Before implementation, clarification remains necessary on several key operational issues already identified during the consultation period. Resolving these with the assistance of LAPFF and other Scheme interests will ensure successful and timely implementation of the new arrangements.
7. LAPFF accepts the reasonableness of the Secretary of State having the power to intervene where there is clear evidence of poor governance or significant administrative failings and has some proposals on how this intervention could be clear and operationally practical. However LAPFF is sensitive to the risk involved for both funds' and the Secretary of State in intervention to force administering bodies to pool their investments or invest in particular assets.
8. LAPFF, on behalf of its extensive membership in England and Wales, wishes to continue to play a leading part in the constructive liaison it enjoys with government in the implementation of this important initiative.

Turning to some broader comments which support the detail in the attached annex responding to the consultation questions:

1. LAPFF welcomes the broad thrust of the reforms set out in the draft regulations and the deregulation initiative being followed by the Government. Placing more responsibility with individual fund authorities brings opportunities and challenge in equal measure across a wide variety of elements which govern and steer the assets in local stewardship. The Forum's membership, comprising some two-thirds of all LGPS administering authorities, is engaged in seeking ambitious cost-effective arrangements in order to meet the 19 February deadline by which initial pooling proposals are invited, in advance of the April coming into force date of the 2016 regulations.
2. Critical to the success of the new approach as a whole will be the response of administering authorities to prepare their new investment strategies within the new framework of the regulations. The draft provisions set out a helpful basis on which these should be prepared and, in addition, they make clear also the need for strategies to comply with departmental guidance. The lack of guidance material is unfortunate because LAPFF believes that its form and content are pivotal to the success of the new regime on the one hand, and on the other, the terms themselves will provide the essential baseline against which compliance will be measurable by all parties. The Secretary of State, to ensure that his intervention powers are indeed

no more than a backstop, will need to ensure that the statutory guidance is clearly defined, comprehensive, measurable, and relevant to the operational needs of public service pension management and investment standards. The suggested scope of possible guidance has been handed to officials and LAPFF advisers stand ready to assist in the development of this important material.

3. The proposals set out in draft regulation 8 on intervention will be triggered by non-compliance with extant regulations or guidance. To ensure this is truly an exceptional position, Ministers could affirm that to be the case and clarify in policy terms the balance being struck between deregulation and greater local fund autonomy with the backstop need for a statutory intervention. Clarification is needed also on the likelihood of early stage intervention by Ministers to deal with the poor fund authority performance.

Draft regulation 8(4) contains specific sources of advice to be available to Ministers prior to intervention, together with a generic opportunity in 8(4) (d). LAPFF believes this process could be greatly enhanced if a small reference group of independent, expert investment specialists was available to assist Ministers throughout the intervention process. Experienced, competent and well-qualified elected members and senior officers from best performing funds would be potential candidates, along with similarly recognised fund managers. The ACA could provide a nominated member, as could the Investment Association. The reference group could advise also in the final intervention decision stage itself. The existence of such a group to advise Ministers under the terms of draft regulation 8(5), would greatly reassure all LGPS interests regarding the actual use and decision making within the intervention provisions proposed in draft regulation 8. The format and terms of reference of such a group could be set out in the DCLG guidance.

4. In the preparation of statutory guidance, particularly in terms of the pooling of fund assets, great care is required as proposals are developed given the variability of administering authority characteristics, including size of assets, liability profiles, membership and governance. Clarification needed on the acceptability of the CIV model, the status of an all-Wales pooling structure and the preferred scale of pools and their governance structures. It would be contrary to local democratic principles and status if an investment strategy was ruled to be non-compliant with guidance where there was a justified and clear local preference to vary from it. A prescriptive formula in certain instances would result in challenge. Reassurances on this would be helpful in the guidance material. Clarification on the status and future position of the pooling guidance document would also be helpful, together with more explicit expectations on savings, professional fees and elected members' roles.

My comments are based upon a detailed consideration of government proposals and are intended to be a constructive response which aim to meet our and government objectives

through constructively working together and making best use of the expertise available and established good practices.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ki Q.' with a stylized flourish at the end.

Cllr Kieran Quinn, Chair

cc Alan MacDougall, PIRC Ltd, LAPFF Research & Engagement Partner
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