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**UNISON (branch or region)**

**Department for Communities and Local Government Consultation**

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

E-mail to: consultationcoordinator@communities.gsi.gov.uk

Dear

We have considered the consultation papers. We would like to make comment about the investment regulation consultation and the investment pooling process.

**Summary of our position**

* **The government is consulting on a new set of investment regulations to support this pooling initiative. These include unprecedented powers of intervention by the Secretary of State into the investment policies of the scheme’s funds.**

Our union as well as the LGPS Scheme Advisory Board (SAB) and the Law Commission have requested that the government apply the Investment Regulations applicable to all other pension funds in the UK and the European Union.

The SAB counsel opinion and the Law Commission believe that the government is in breach of the EU Directive 41/2003 Institutions for Occupational Retirement Provision (IORP). The UK government is denying scheme members their statutory right to have the pension funds invested in their best interests.

**Commentary from the Board:** *“In terms of article 18 (which details how investments should be made in institutions for occupational retirement provision), Counsel makes some suggestions to strengthen regulations to ensure full compliance but reminds Administering Authorities that they should act in accordance with the Directive regardless of the current state of the regulations. The Board will be working with DCLG to ensure that future changes to investment regulations take on board this opinion to ensure that Article 18 is fully adopted, reflecting the legal views provided by the Law Commission and Michael Furness QC."*

**Law Commission Comment on the LGPS Investment Regulations in England and Wales:** *“We think two aspects of the LGPS Regulations could usefully be reviewed. First, in practice administering authorities consider themselves to be quasi-trustees, acting in the best interests of their members. We think that the same rules which apply to pension fund trustees in taking account of wider or non-financial factors will also be taken to apply to LGPS administering authorities. There is an argument that the IORP Directive requires this. However, we think that uncertainty on this point is undesirable and that the matter should be put beyond doubt. It would be helpful if the LGPS Investment Regulations made it clear that administering authorities must act in the best interests of pension scheme members”.*

LGPS pension funds are there to pay benefits. And so all pension funds in the European Union must be run in the interests of those expecting pensions or are being paid pensions.

We have real concerns at the unprecedented powers of intervention being proposed by the government over investment policy of the LGPS funds. Investment policy should be a matter for the scheme members and their decision makers, not for a government to intervene.

This issue is of even more concern to us now that the government is requiring the pooling of our assets into funds over £25bn in size. There are clearly no plans to demand that those investing these giant funds must do so in the interests of scheme members.

* **LGPS pension funds and responsible investing**

We fully support the government’s commitment to ensure that our funds invest our money in a responsible manner. We believe that there is a clear legal requirement for the responsible investing policies along, environmental, social and governance issues but these must be subject to consultation and agreement with scheme members.

This is consistent with the Law Commission which recommends consultation with scheme members over ‘non-financial’ investment issues. Furthermore we support the proposals that our pension funds should be active stewards of our assets.

As there is consolidation of our assets son there should be consolidation of stewardship. We think there is scope for this effort to be undertaken by a reformed Local Authority Pension Fund Forum which must include scheme member representation on its executive committee. Or it could be done at the pool level, but this would still require co-ordination across the pools.

* **The government has instructed the 89 LGPS administering authorities to come up with proposals to create ‘pools’ of assets of no less than £25bn in size. Initial plans must be drawn up by the end of February 2016 and finalised by July 2016.**

In principle we support the pooling process but with qualification. There should scheme member (trade union nominated) representatives appointed to the pool governance structures. The current proposals will concentrate even more investment power in the hands of sponsoring employers, without the balance of scheme member representation, and there is no guarantee that the assets will be invested in their interests.

* **These pools of assets, known as British Wealth funds (or Collective Investment Vehicles) will be expected to be cost transparent, reduce the costs of investing and invest more in infrastructure.**

We welcome the requirement for a full cost analysis of all of the LGPS funds; this is consistent with our union’s consistent call for cost transparency. We welcome this initiative and the inevitable cost reductions and income improvements.

Scheme members should have the full costs for the production of our pensions published and made comparable with other funds. There should be no watering down of this initiative by internal fund accountants.

We are not against pension funds investing in infrastructure. However, there has to be a clear policy that investments should be made in the best interests of scheme members and that where there are potential conflicts of interest in the investment they are resolved in the interests of scheme members.

Our concerns are highlighted by current practices where LGPS funds have already been invested into Private Equity infrastructure funds which have mainly purchased existing Private Finance Initiative (PFI) contracts. However in many cases these PFI contracts are not in scheme member’s interest, particularly where they involve the privatisation of our jobs.

Additionally PFI contracts run through Private Equity funds are very expensive, with many funds charging costly management fees of 2% of asset value and take 20% share of profits, with many other hidden transaction costs, which run counter to the government agenda for cost reduction.

Yours sincerely