



Department for
Communities and
Local Government

Local Government Pension Scheme: Investment in Partnerships

Consultation

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If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

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November 2012

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The consultation process and how to respond

Scope of the consultation

Topic of this consultation:	Local Government Pension Scheme - Investment in Partnerships
Scope of this consultation:	This consultation seeks views on whether any amendment is necessary to remove specific barriers preventing Scheme funds from being invested in infrastructure investment vehicles designed to control risk exposure and provide both future income stream to funds and necessary capital input into projects intended to stimulate growth.
Geographical scope:	England and Wales.
Impact Assessment:	Not required as no impact on business or individuals

Basic information

To:	This consultation is aimed principally at local government.
Body responsible for the consultation:	The Department for Communities and Local Government is responsible leading on the policy and the consultation exercise.
Duration:	6 weeks, with a further consultation period if it is then necessary to introduce amending statutory provisions
Enquiries and how to respond	<p>For enquiries and to respond to this consultation. Please e-mail sandra.layne@communities.gsi.gov.uk</p> <p>When responding, please ensure you have the words "Investment in Partnerships" in the email subject line.</p> <p>Alternatively you can write to: Local Government Pension Scheme - Investments Department of Communities and Local Government 5/F6 Eland House Bressenden Place London SW1E 5DU</p> <p>For more information, please see www.communities.gov.uk</p>

Compliance with the Code of Practice on Consultation:

This consultation complies with the Code and it will be for 6 weeks. We are seeking views from the following parties with an interest in the Local Government Pension Scheme:

The Welsh Assembly

The Chief Executives of:

- County Councils (England)
- District Councils (England)
- Metropolitan Borough Councils (England)
- Unitary Councils (England)
- County and County Borough Councils in Wales
- London Borough Councils
- South Yorkshire Pension Authority
- Tameside Metropolitan Borough Council
- Wirral Metropolitan Borough Council
- Bradford Metropolitan City Council
- South Tyneside Metropolitan Borough Council
- Wolverhampton Metropolitan Borough Council
- London Pension Fund Authority
- Environment Agency

- Town Clerk, City of London Corporation
- Clerk, South Yorkshire PTA
- Clerk, West Midlands PTA
- Fire and Rescue Authorities in England and Wales
- Police Authorities in England and Wales
- National Probation Service for England and Wales
- Local Government Association (LGA)
- Employers' Organisation
- LGPC

- ALACE
- PPMA
- SOLACE
- CIPFA
- ALAMA

Association of Colleges

- Association of Consulting Actuaries
- Association of District Treasurers
- Society of County Treasurers
- Society of Welsh Treasurers
- Society of Metropolitan Treasurers
- Society of London Treasurers
- Association of Educational Psychologists

- NAPF
- NALC

	<p>Society of Local Council Clerks</p> <p>Trades Union Congress GMB UCATT UNISON Unite</p> <p>NAEIAC NAPO</p> <p>MOCOP Members Equal Opportunities Commission</p>
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Background

Getting to this stage:	Subsequent to the publication of the Government's <i>Blueprint for Technology</i> and the signing of a memorandum of understanding between pension industry representatives and the Government on examining ways pension funds could invest in infrastructure projects, concern has been expressed that extant provisions of the LGPS (Investment and Management of Funds) Regulations 2009 may be placing an unintended bar on authorities seeking to invest in this particular area.
Previous engagement:	See above

How to respond

1. Responses to this consultation must be received by **18 December 2012**.
2. You can respond by email to sandra.layne@communities.gsi.gov.uk or write to:

Local Government Pension Scheme - Investments
Department of Communities and Local Government
5/G6 Eland House
Bressenden Place
London SW1E 5DU

3. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.

Additional copies

4. This consultation paper is available on the Department for Communities and Local Government website at www.communities.gov.uk

Confidentiality and data protection

6. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

7. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.

8. DCLG will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Help with queries

10. Questions about the policy issues raised in the document can be sent to the address given at paragraph 2 above.

11. A copy of the consultation criteria from the Code of Practice on Consultation is at www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please email: consultationcoordinator@communities.qsi.gov.uk

or write to:

DCLG Consultation Co-ordinator,
Zone 8/J6,
Eland House,
Bressenden Place
London SW1E 5DU

Contents

The consultation process and how to respond	3
Chapter 1 - Introduction	8
Chapter 2 - Setting the context	9
Chapter 3 - Proposals for consultation	12

Chapter 1 - Introduction

- 1.1 The primary responsibilities of local authority pension funds are to deliver the returns needed to pay Scheme members the pensions they have worked hard to earn, and to protect local taxpayers and employers from high pension costs. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (the Investment Regulations) are designed to enable local fund managers to pursue effective investment strategies that meet these goals. By requiring that funds and risks are spread across a number of different types of investment, and setting limits on the proportion of funds that can be invested in each type of investment, the Investment Regulations help to minimise risk and protect the interest of taxpayers.
- 1.2 Within this framework, it is important that local fund managers have appropriate levels of flexibility to maximise their investment opportunities. In this context, concerns have been expressed that local authority pension funds have not been in a position to diversify their investments into vehicles established to take advantage of potential returns from investment in infrastructure. It has been suggested that this is as a result of certain investment category limits within the Investment Regulations, particularly where investments which use Limited Liability Partnerships have to be considered under the overall restriction applying to partnerships. This consultation, therefore, seeks views on whether there is merit in amending the Investment Regulations to provide further flexibility in the area relating to partnerships.
- 1.3 The consultation will close on 18 December 2012 and details of how to respond are set out at the beginning of the document. Importantly, this consultation should not be seen as an endorsement by Government of any particular investment vehicle. Those decisions remain properly as ones for individual local pension authorities, in the light of their own analysis. Rather, this consultation is seeking to identify and remove any unnecessary barriers to investments which can form an integral part of a local investment portfolio and can also assist in stimulating growth.

Chapter 2 - Setting the context

Framework for local investment decisions

- 2.1 Local pension authorities must ensure that their funds will provide a consistent and known income stream over the long term. This will help minimise the impact of managing pension costs, stabilise the level of employer contribution rates and limit local taxpayers' exposure over the medium to long term. In developing their investment strategies, local fund managers must operate within the framework set by the Investment Regulations. These require funds to be invested across a spread of different types of investment to minimise risk, and limit the proportion of funds that can be invested in each type of investment. A copy of the Investment Regulations can be found at: www.legislation.gov.uk/ukxi/2009/3093/contents/made .
- 2.2 All local authority pension funds are required to have in place a Statement of Investment Principles which will describe the Fund's investment objectives, the types of investments held and the Fund's attitude to risk. Any local investment decision must comply with the Fund's Statement of Investment Principles, must be supported by a clear business case and must have been made in the light of appropriate and proper advice. Final investment decisions rest, in the main with locally elected councillor members of investment committees, although such committees may include other co-opted representative, and the committee will have given due regard to the available professional advice and the appropriate use of public funds.

Investing in infrastructure

- 2.3 In November 2010, the Government published its *Blueprint for Technology*¹ which set out the Government's aim to make the UK the most attractive place in the world to start and invest in innovative technology companies. The blueprint highlighted the role that pension funds, both in the private and public sector, can play in filling gaps in the provision of growth finance and equity funding for small businesses. Whilst recognising that decisions whether or not to invest in any particular product or sector will remain entirely a matter for individual pension funds, the blueprint encouraged local authorities to consider doing more to match the investment strategies of local authority pension funds with the needs of UK start-ups.
- 2.4 In November 2011, HM Treasury, the National Association of Pension Funds and the Pension Protection Fund signed a Memorandum of Understanding². All parties agreed that there is the potential for mutual

¹ www.bis.gov.uk/assets/biscore/innovation/docs/b/10-1234-blueprint-for-technology.pdf

² www.hm-treasury.gov.uk/d/foi_memorandum_of_understanding.pdf

benefit for the Government and pension funds to facilitate investment in infrastructure. The parties agreed to work together to help establish the arrangements necessary for efficient and appropriate investment in UK infrastructure assets. This work has included the development of the Pension Investment Platform, which will seek to raise funds from both public and private sector pension schemes.

- 2.5 More recently, in July 2012, Professor John Kay published his independent review of UK Equity Markets and Long Term Decision Making³. The review posed several challenges to the relationship between pension funds and markets. Overall, the report recommends that there should be a shift in the culture of the stock market, with the intention of promoting more long term decision making both with a view to improving cash flow returns for pension funds and to provide a source of long term capital investment in businesses to enable them to grow.

The case for change

- 2.6 Within this context of debate about the role of pension schemes within infrastructure investment, some - including the National Association of Pension Funds - have expressed concern that local authority pension funds have not been in a position to diversify their investments into vehicles established to take advantage of potential returns from investment in infrastructure. In particular, it has been suggested that difficulty is caused by the 15% limit set by the Investment Regulations on investment in partnerships.
- 2.7 Commentators argue that, in common with other types of investment with a similar degree of risk, infrastructure investment vehicles are usually organised as limited partnerships. This means that any investment in vehicles such as the Pension Investment Platform (see paragraph 2.4) must be taken together with existing investments in other limited partnerships, including limited partnerships and the use of private equity via a partnership, in considering whether a fund's investment strategy fits within the permitted limits. It has been suggested that, in view of this, the current 15% limit is too low and would put some local authority pension funds at risk of exceeding this limit, and so unable to pursue infrastructure opportunities. It has been argued that this, in effect, limits diversification by constraining access to an asset class that may be well suited to a local authority pension fund's long term needs.

³ www.bis.gov.uk/assets/biscore/business-law/docs/k/12-917-kay-review-of-equity-markets-final-report

2.8 In September 2012, the Smith Institute published a report on local authority pension funds and investing for growth⁴, which arrived at similar conclusions. Among its proposals it recommended that Government should consider reviewing and exploring potential changes to the restrictions on investments as currently set out in the Investment Regulations. In particular questions were posed in relation to limits for investment in limited liability partnerships which fall under the general definition of partnerships.

⁴ www.smith-institute.org.uk/file/local%20authority%20pension%20funds%20-%20investing%20for%20growth.pdf

Chapter 3 - Proposals for consultation

- 3.1 As indicated, by virtue of this consultation, Government is not endorsing any particular type of investment or investment vehicle. Those decisions remain properly as ones for individual local pension authorities, in the light of their own analysis, with final decisions resting with locally elected councillors. Similarly, the Government is not proposing to fundamentally change the framework for investment provided by the Investment Regulations. Those regulations provide necessary and effective protections for local council tax payers, the principle of which must remain.
- 3.2 However, in light of the context described in the previous chapter, this consultation seeks views on whether action is necessary to amend those regulations to remove any unnecessary barriers to investments in infrastructure. If action is considered necessary, the Government would welcome views on what steps it should take.
- 3.3 The Government considers that there are two clear options for change:

A) Increase the limit on investments in partnerships from 15% of a local authority pension fund to 30%.

Such an increase could facilitate investment in infrastructure investment vehicles along side other existing arrangements organised as limited partnerships. However, there would be no direction for funds to spread investment in limited liability partnerships between different classes of investment. For example, a fund could use this higher limit to increase the proportion of funds that could be invested in other investment opportunities such as private equities. In addition, any increase to the proportion of funds invested in partnerships must be considered within the increased risk potentially involved in such vehicles.

B) Create a new investment class for investment in infrastructure (including via limited liability partnerships), with an appropriate investment limit of 15% of an overall fund.

Again, this approach would need to be considered in the context of increases in risk associated with investment in limited liability partnerships. However, it may help to protect against concentration of investment in a particular type of investment. In considering this option, respondents are asked in particular to offer views on how this might best be defined in regulation.

- 3.4 In the light of the options set out above, the Government would welcome views on the following questions:
- Q1. How best could the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 be amended to enable local authority pension funds to invest more easily in infrastructure vehicles?
 - Q2. What would be the most appropriate limit on investments in partnerships contained within the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009?
 - Q3. Should a new investment class for investment in infrastructure (including via partnerships or limited liability partnerships) be created and be inserted into the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009? If so, what would be an appropriate limit for such a class? How might this be best defined in regulation?⁵
 - Q4. Are there other ways, not specifically raised in this consultation document, that the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 could be amended to increase flexibility for local authority pension funds to invest in infrastructure projects?
 - Q5. Are there ways in which the Regulations could be amended to facilitate investment in infrastructure specifically in the United Kingdom, where local funds believe that appropriate rates of return can be achieved?

⁵ By way of illustration consultees may wish to look at s.2(3) of the Housing and Regeneration Act 2008