

## London Borough of Enfield Pension Fund response to the consultation on:

### “Revoking & Replacing LGPS (Management & Investment of Funds) Regulations 2009”.

**Consultation Question 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?*

a) The regulations allow a fund to develop its own control limits which have to be set out in the fund’s Investment’s. Therefore, greater freedoms should be counter balanced by enhanced accountability through the Investment strategy (IS).

b) As currently specified in the new Regulation 7 it is not possible to identify how the establishment of that greater accountability might work in practice because of the lack of detail in the regulation clauses.

c) It will be very important to ensure the new regulations need some definition because of their potential for wide interpretation, which could lead to a lack of accountability and therefore increased risk where fund governance may be weak. It will be important for funds to demonstrate clear investment restrictions.

d) In view of the importance of the IS and the need for enhanced accountability following the new freedoms, it would be reasonable to require a fund to include it’s Annual Report & Accounts. This will be subject to the fund’s appointed auditor with a requirement for the auditor to report to the S of S any concerns, reviewed by the fund’s Local Pension Board, published on the fund website and presented at the fund annual meeting.

e) Given the issues arising from the MIFID II Directive, the IS can be used to demonstrated that LGPS can be regarded as a Professional Investor.

f) Proposed regulation 7 (e) refers to a fund having a policy on how social, environmental and governance matters are taken into account in the investment process. This unfortunately gives a fund the option of not identifying such matters as part of its investment strategy which is against the principles of good stewardship and protection of fund assets. The regulations should be amended to:

1. Require funds to have a policy concerning RI factors and publish how this policy is applied to their investment processes.
2. Require funds to understand and monitor the RI impacts arising from their investment activity.
3. Demonstrate how they have been appropriately advised by relevant RI expertise.
4. Require that all funds adhere to the principles of the UK Stewardship Code.

h) The training of Pension Committee should be made compulsory with auditable attainment levels based on the CIPFA Knowledge & Skills framework or in association with the Pensions Regulator.

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

No

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

Yes

**Consultation Question 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?*

The regulations should specify that derivatives and other complex financial products should only be used where pension committee members have received appropriate technical training to be able to understand the derivative product, has taken independent expert advice and has received a report that indicates the worst case position for the fund.

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

In respect of governance and administrative failings, regulation 8(4) should be clear that the trigger for intervention is based upon evidence of failings as indicated by one or more of the following :

- Adverse auditors report;
- Adverse report from Pension Regulator;
- Adverse report by actuary;
- Adverse reports from pension ombudsman or exceptionally high number of cases where the fund has failed;
- Report from Pensions Board;
- Indication the pension committee members and supporting officers and advisors do not have the relevant skills and knowledge;
- Substantially poorer returns relative to other funds over a rolling three year period;
- Employer contributions substantial higher than other funds; and
- Complaints from whistle blowers.
- A funds fails to respond to the S of S concerns around under-performance or administration failings.

**Consultation Question 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?*

Yes

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

Yes

**Consultation Question 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?*

This should be linked to the response made in question 5.