By email to LGPensions@communities.gov.uk

Teresa Clay
Local Government Finance Reform and Pensions
Local Government Finance
2/SE
Fry Building
2 Marsham Street
London
SW1P 4DF

27 March 2019

Dear Ms Clay

Consultation on Draft Statutory Guidance on Asset Pooling in the Local Government Pension Scheme

Thank you for the opportunity to comment on this draft guidance. This response is on behalf of the Joint Committee (the 'pool governance body') of Border to Coast Pensions Partnership. Separate responses will also be sent / have already been sent by each of the Administering Authorities that jointly own Border to Coast (the 'pool members') and also by Border to Coast Pensions Partnership Limited ('the pool company').

In general the Joint Committee welcomes the guidance, which provides some clarity on how investment pooling within the Local Government Pension Scheme (LGPS) should operate. The approach set out is generally consistent with the approach to pooling that has been adopted by the pool members within the Border to Coast Pensions Partnership, for example in the following areas:

- Confirming that all Pool members must pool their assets (with some limited exceptions such as some passive investments and local investments);
- Specifying the need for a Financial Conduct Authority (FCA) regulated entity at the heart of the pooling proposition (either owned or procured);
- Confirming that strategic asset allocation remains the responsibility of Pool members, recognising their authority's specific liability and cash-flow forecasts;
- Providing definitions to help all when communicating how each Pool works (although these will need some rewording to work for all Pools);
- Clarifying that decision making on selection, appointment and management of asset managers rests with the Pool company;
- Confirming that internal management can be offered by Pool companies, although Pool members can choose whether or not to invest through internal management;
- Clarifying that the aim is for reduced costs balanced against risk adjusted returns – so value, not cost, is the key metric;
- Highlighting that providing too many asset allocation choices restricts the ability to use scale to drive up value, but recognising there is a need to provide enough choice to provide the diversification needed to meet the Pool members' liability profile and cash flow requirements;

- Requiring demonstration of how these considerations have been balanced and that they be kept under regular review;
- Confirmation that a long-term view of implementation costs should be taken, and that Pool members do not seek just to minimise costs in the short term;
- Outlining that transition of existing assets into the Pool should happen as quickly and cost effectively as possible, with transition of listed assets to be undertaken over a relatively short period;
- Providing Government's view that cost sharing of transition expenses (explicit and implicit) is allowable under the regulations;
- Requiring that Pool members working with the Pool company, should undertake regular reviews (at least every three years) of retained assets and the rationale for keeping these assets outside the Pool;
- Confirming that although no target has been set for infrastructure allocations, MHCLG expects Pool members to "set an ambition on investment in this area". Pool companies are expected to provide access to infrastructure investment in the UK or overseas or both, with the expectation that over time Pools will move towards "levels of infrastructure investment similar to overseas pension funds of comparable aggregate size"

The Joint Committee would like to make specific comments in connection with the views set out in the draft guidance in relation to

- the use of the word 'temporary' in relation to the retention of existing assets;
- the apparent implicit bias towards passive management;
- the implication that administering authorities have a fiduciary duty to beneficiaries who are not part of their fund; and
- the timing of the introduction of new reporting requirements and the extent to which they should be detailed in the guidance.

These are set out in the table on the following pages.

Please contact me if you have any questions or wish to discuss this response.

Yours sincerely

Cllr Doug McMurdo
Joint Committee Chairman
Border to Coast Pensions Partnership

Paragraph in draft guidance	Comment
Regular review of active and passive management 3.6Pool members, working with the pool company, should regularly review the balance between active and passive management in the light of performance net of total costs. They should consider moving from active to passive management where active management has not generated better net performance over a reasonable period. Pool members should also seek to ensure performance by asset class net of total costs is at least comparable with market performance for similar risk profiles.	Evidence was provided to highlight and counter the flaws in the consultant research that supported the views held in some parts of Government that passive management was the way forward for the industry, including the LGPS in the early 2015/16 discussions on pooling, so it is disappointing that this has been reintroduced as a key theme. As such we do not accept the premise behind this paragraph that passive management delivers better net of fees long term risk adjusted returns, but that the only relevant test to the chosen implementation model should be that as set out in the final sentence of this paragraph, "should seek to ensure performance by asset class net of total costs is at least comparable with market performance for similar risk profiles"
4.4 Those who serve on Pension Committees and equivalent governance bodies in pool members should therefore take a long term view of pooling implementation and costs. They should take account of the benefits across the pool and across the scheme as a whole, in the interests of scheme members, employers and local taxpayers, and should not seek simply to minimise costs in the short term.	The Council agrees that administering authorities should take a long-term view in relation to the costs/benefits of pooling, however there is a general issue in regard to how Administering Authorities can possibly "take account of the benefits across the Pool and across the scheme as a whole, in the interests of scheme members, employers and local taxpayers". The clear legal fiduciary duty each Administering Authority has is towards its own beneficiaries, not to those of the "scheme as a whole".
Temporary retention of existing assets 5.4 In exceptional cases, some existing investments may be retained by pool members on a temporary basis. If the cost of moving the existing investment to a pool vehicle exceeds the benefits of doing so, it may be appropriate to continue to hold and manage the existing investment to maturity before reinvesting the funds through a pool vehicle.	Paragraphs 5.4 and 5.5 are on one level common-sense. However, for alternative assets such as private equity the description of these arrangements as temporary is unhelpful. Holding a private equity fund to maturity where the initial commitment was made this financial year may well be a 10 year period which is not really temporary. The ability of Pool companies to manage these assets either within pooled structures or simply on behalf of its Pool members will very much

5.5 In many cases there will be benefits in such retained assets being managed by the pool company in the interim. However pool members may retain the management of existing long term investment contracts where the penalty for early exit or transfer of management would be significant. These may include life insurance contracts ('life funds') accessed by pool members for the purpose of passive equity investment, and some infrastructure investments. Pool members may also retain existing direct property assets where these may be more effectively managed by pool members.	depend on the pooling vehicle proposed and the regulatory permissions in place. Border to Coast will, in due course, be offering the ability to transfer such legacy assets into the pooled structure but this may not suit all circumstances and may not be the case for all Pools. It should be acknowledged that 'temporary' or 'interim' arrangements may in fact last a number of years, until an investment matures.
Section 8 ' Reporting'	Administering Authorities are required to report in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) Guidance on Preparing the Annual Report, the only issue being that this publication is not due to be published until April 2019 when most Funds will already have closed their books and be well on their way to finalising their accounts. Whilst according to the regulations the Annual Report does not need to be finalised until December the audit cannot be signed off without it, which means in reality it has to be available in June. Simply put the guidance is too late for application in this reporting period. Detailed information on reporting requirements should not be included within the draft guidance. It is enough to state that CIPFA guidance should be followed – adding further detail of that guidance just means the overall investment pooling guidance could need amending every time the CIPFA guidance changes in future.