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Havering
LONDON BOROUGH

PENSIONS COMMITTEE AGENDA

7.30 pm	Tuesday 17 December 2013	Town Hall, Main Road, Romford

Members 7: Quorum 3

COUNCILLORS:

Conservative (4)	**Residents' (1)**	**Labour (1)**	**UKIP (1)**
Rebbecca Bennett (Chairman) Melvin Wallace (Vice-Chair) Steven Kelly Roger Ramsey	Ron Ower	Pat Murray	Fred Osborne

Trade Union Observers

(No Voting Rights) (2)

John Giles, (Unison)
Andy Hampshire, GMB

Admitted/Scheduled Bodies Representative

(Voting Rights) (1)

Heather Foster-Byron

For information about the meeting please contact:
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james.goodwin@havering.gov.uk

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) - receive

3 DISCLOSURE OF PECUNIARY INTERESTS

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any pecuniary interest in any item at any time prior to the consideration of the matter.

4 MINUTES OF THE MEETING (Pages 1 - 4)

To approve as correct the minutes of the meeting held on 30 October, 2013 and authorise the Chairman to sign them.

5 PENSION FUND PERFORMANCE MONITORING FOR THE QUARTER ENDED 30 SEPTEMBER, 2013. (Pages 5 - 18)

To consider the attached report.

6 THE ADMISSION OF THREE TRANSFEREE ADMISSION BODIES TO THE LONDON BOROUGH OF HAVERING PENSION FUND (Pages 19 - 28)

To consider the attached report.

7 MINISTERIAL STATEMENT REGARDING ACADEMIES AND ACADEMY POOLING (Pages 29 - 52)

To consider the attached report.

8 HM TREASURY NEW FAIR DEAL GUIDANCE (Pages 53 - 60)

To consider the attached report.

9 THE LOCAL GOVERNMENT PENSION SCHEME (MISCELLANEOUS) REGULATIONS 2012 (Pages 61 - 74)

To consider the attached report.

10 THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2014

Report to follow.

11 URGENT BUSINESS

To consider any other item in respect of which the Chairman is of the opinion, by reason of special circumstances which shall be specific in the minutes that the item should be considered at the meeting as a matter of urgency.

12 EXCLUSION OF THE PUBLIC

To consider whether the public should now be excluded from the remainder of the meeting on the grounds that it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public were present during those items there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972; and, if it is decided to exclude the public on those grounds, the Committee to resolve accordingly on the motion of the Chairman.

13 REVIEW OF INVESTMENT MANAGERS' PERFORMANCE FOR THE 3RD QUARTER, 2013 - HYMANS ROBERTSON

14 UBS TRITON PROPERTY FUND

15 BAILLIE GIFFORD

16 PENSION FUND ILL HEALTH LIABILITY INSURANCE

Andrew Beesley
Committee Administration Manager

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MINUTES OF A MEETING OF THE
PENSIONS COMMITTEE
Committee Room 3A - Town Hall
30 October 2013 (7.30 - 8.00 pm)

Present:

COUNCILLORS

Conservative Group	Rebbecca Bennett (Chairman), Melvin Wallace (Vice-Chair), Steven Kelly and Roger Ramsey
Residents' Group	Ron Ower
Labour Group	Pat Murray
UKIP Group	Fred Osborne
Trade Union Observer	John Giles (Unison)

Apologies were received for the absence of Andy Hampshire (GMB).

The Chairman reminded Members of the action to be taken in an emergency.

19 **MINUTES OF THE MEETING**

The minutes of the special meetings of the Committee held on 24 July and 12 September, 2013 and the meeting of the Committee held on 24 September, 2013, and the exempt minutes of the special meetings of the Committee held on 24 July and 12 September, 2013 were agreed as a correct record and signed by the Chairman.

20 **REVIEW OF THE PENSION FUND ACTUARY SERVICES 1ST APRIL 2012 - 31ST MARCH 2013**

Officers advised that Hymans Robertson had been appointed as the Pension Fund Actuaries for the period 1 April, 2010 to 31 March 2014, with an option for a further one year extension. Officers had commenced exploration of whether to re-tender the contract or take up the option to extend by one year to 31 March, 2015.

Officers indicated that they were very satisfied with the service that Hymans Robertson was providing. However, we felt that consideration should be given as to how they reach their conclusions when undertaking the triennial valuation. A recent surveyed showed that the Havering Pension Fund valuations were amongst the lowest in London. This could have a significant

effect on the level of contributions the Council needed to make to the Pension Fund.

Officers felt that Hymans Robertson offered excellent value for money. The results of the current valuation exercise will be available early in the New Year.

We have **noted** the report and **asked** officers to pull together some comparative data from other local authorities to see how Hymans Robertson compare with other Actuaries which will be carried out once all the valuation data has been released.

21 REVIEW OF INVESTMENT ADVISOR

Officers reminded the Committee that Hymans Robertson had been reappointed as the pension Fund Investment Advisor following a competitive tender process in 2011/12. The new contract runs from 1 April, 2012 to 31 March, 2017.

Officers indicated that they were satisfied with the service provided by Hymans Robertson and had continued confidence in the advice being given.

We have **noted** the report.

22 REVIEW OF PENSION FUND CUSTODIAN

We were advised that State Street had been appointed to provide custodial services from 31 December, 2004. State Street provides two specific services:

- Safe Keeping and Custody;
- Investment Accounting and Reporting.

The services were reviewed periodically to ensure the Pension Fund was receiving best value for money and as a result a new fee structure was agreed, coming in to effect from 1 August, 2011.

Officers indicated that they were satisfied with both the safe keeping and custody functions and the investment accounting and reporting functions carried out by State Street.

We have **noted** the report.

23 REVIEW OF GOVERNANCE COMPLIANCE

In accordance with the Local Government Pension Scheme Regulations (LGPS) 2008 the authority as administrating authority has a duty to undertake a review of the Pension Fund’s Governance Compliance Statement.

Few changes had been made to the Statement other than amendments to reflect the change in Committee membership.

Officers drew our attention to Principle B Representation Item (a) (iii). Under this to meet the required standards all stakeholders are afforded the opportunity to be represented by, where appropriate, appointing independent observers.

Previously we have considered whether or not to employ the services of an independent professional observer to participate in the governance arrangements and decided against it on the basis that the current monitoring arrangements were sufficient for the size of the fund. We have reaffirmed this decision.

We have **approved** the revised Governance Compliance Statement.

24 WHISTLEBLOWING REQUIREMENTS OF THE PENSIONS ACT

On 6 April 2005 the Whistle blowing requirements of the Pensions Act 2004 came into force. The Pensions regulator issued a Code of Practice that set out guidance on how to comply.

Since the requirement came in to force no possible breaches have been reported to the Group Director, Resources. Consequently no reports have been made to the Regulator.

We have **noted** the results of the Annual review and that no breaches have been reported.

25 PENSION FUND ANNUAL REPORT - YEAR ENDED 31 MARCH 2013

Each year, in accordance with Regulation 34 of the Local Government pension Scheme (Administration) Regulations 2008 we need to produce an Annual report on the performance of the Pension Fund. Under the Regulations the Annual Report must contain the following:

a) Management and Financial Report
b) Investment Policy and Performance Report
c) Scheme Administration Report
d) Actuarial Report
e) Governance Compliance Statement
f) Fund Account and Net Asset Statement (including Audit opinion)
g) Benchmarking Report
h) Funding strategy Statement
i) Statement of Investment Principles
j) Communication Strategy
k) Any Other Material

We have **agreed** the 2012-2013 Pension Fund Annual Report and **authorised** the Chairman and Group Director, resources to formally sign off the Annual report.

We have further **agreed** that the Pension Fund Annual Report would be published electronically.

26 PENSION FUND CONSOLIDATION

Officers advised that the Local Government Minister, Brandon Lewis had announced that the Government would be commissioning an external organisation, such as a bank, actuarial firm or think tank, to develop specific advice on the potential for new savings and greater public accountability through increased pension fund collaboration. The work would also consider whether other funded public service pension schemes could benefit from a more collaborative approach.

The commissioned work would focus on 3 possible options:

- A single national investment fund vehicle;
- A small number of closely aligned combined investment vehicles;
- Or merging the 89 funds into a few larger funds.

We have **noted** this oral report.

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Chairman

PENSIONS COMMITTEE **17 December 2013**	**REPORT**

Subject Heading:	**PENSION FUND PERFORMANCE MONITORING FOR THE QUARTER ENDED 30 SEPTEMBER 2013**
CMT Lead:	**Andrew Blake Herbert**
Report Author and contact details:	Debbie Ford Pension Fund Accountant (01708) 432569 debbie.ford@havering.gov.uk
Policy context:	Pension Fund Managers' performances are regularly monitored in order to ensure that the investment objectives are being met.
Financial summary:	This report comments upon the performance of the Fund for the period ended 30 September 2013

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[]

SUMMARY

This report provides the Committee with an overview of the performance of the Havering Pension Fund investments for the quarterly period to 30 September 2013. The performance information is taken from the Quarterly Performance Report supplied by each Investment Manager, the WM Company Quarterly Performance Review Report and Hymans Monitoring Report.

The net return on the Fund's investments for the **quarter** to 30 September 2013 was **3.3%.** This represents an out performance of **1.1%**

against the combined tactical benchmark and an out performance of **1.2%** against the strategic benchmark.

The overall net return of the Fund's investments for the **year** to 30 September 2013 was **16.1%.** This represents an out performance of **3.7%** against the annual tactical combined benchmark and an out performance of **17.9%** against the annual strategic benchmark.

It is now possible to measure the individual managers' annual return for the new tactical combined benchmark since they became active on the 14th February 2005. These results are shown later in the report.

RECOMMENDATIONS

That the Committee:

1) Considers Hymans performance monitoring report and presentation (Appendix A).
2) Receive a presentation from the Funds Property Manager (UBS), the Funds UK/Global Equities Passive Manager (State Street Global Assets) and the Funds' Global Equity Manager (Baillie Gifford).
3) Notes the summary of the performance of the Pension Fund within this report.
4) Considers the quarterly reports provided by each investment manager.
5) Considers and notes any Corporate Governance issues arising from voting as detailed by each manager.
6) Considers any points arising from officer monitoring meetings (section 4 refers.
7) Notes the analysis of the cash balances (paragraphs 2.2 and 2.3 refers).

REPORT DETAIL

1. Background

1.1 The Fund undertook a full review of the Statement of Investment Principles (SIP) during 2012/13 and whilst this was on-going members agreed an interim change to the strategy in December 2012 which increased the asset allocation to the Absolute Return Manager from 10% to 15%. The final SIP was agreed in July 2013 and the portfolio is currently being restructured to reflect those decisions.

1.2 A strategic benchmark has been adopted for the overall Fund of Gilts + 1.8% (net of fees) per annum. This is the expected return in excess of the fund's

liabilities over the longer term. **The main factor in meeting the strategic benchmark is market performance.**

1.3 Individual manager performance and asset allocation will determine the out performance against the strategic benchmark. Each manager has been set a specific (tactical) benchmark as well as an outperformance target against which their performance will be measured. This benchmark is determined according to the type of investments being managed. This is not directly comparable to the strategic benchmark as the majority of the mandate benchmarks are different but contributes to the overall performance.

1.4 Changes to the Asset Allocation targets were agreed by members at the Pensions Committee meeting on the 26 March 2013 and 24 July 2013. The long term strategy of the fund adopted at the meeting is to reduce exposure to equities and invest in multi asset strategies. Pending appointment of the providers of the multi-asset mandates members had agreed to adopt an interim strategy which rebalanced the fund's overweight position in equities and during May 2013, 5% of the fund was switched from SSgA's UK/Global Equities Manager to an SSgA cash fund. In September 2013 two multi asset mandates were awarded to the Baillie Gifford Diversified Growth Fund and Barings Dynamic Asset Allocation Fund. A transition manager (Nomura) have been appointed to manage the transfer of assets from Standard Life to Barings and assets are in the process of being transferred. A verbal update to the progress made will be given at the meeting. Once the fund managers have commenced trading the following table will be updated.

Manager and % of target fund allocation	Mandate	Tactical Benchmark	Out performance Target
Standard Life 17%	UK Equities -Active	FTSE All Share Index	2%
State Street (SSgA) 21%	UK/Global Equities - passive	UK- FTSE All Share Index Global (Ex UK) – FTSE All World ex UK Index	To track the benchmark
Baillie Gifford Street 17%	Global Equities - Active	MSCI AC World Index	1.5 – 2.5% over rolling 5 year period
Royal London Asset Management 20%	Investment Grade Bonds	➢ 50% iBoxx Sterling Non Gilt Over 10 Year Index ➢ 16.7% FTSE Actuaries UK Gilt Over 15 Years Index ➢ 33.3% FTSE Actuaries Index-Linked Over 5 Year Index	0.75%
UBS 10%	Property	IPD (previously called HSBC/AREF) All Balanced Funds Median Index	To outperform the benchmark
Ruffer 10%	Multi Asset	Not measured against any market index – for illustrative purposes LIBOR (3 months) + 4%.	To outperform the benchmark

Manager and % of target fund allocation	Mandate	Tactical Benchmark	Out performance Target
State Street (SSgA) 5%	Sterling Liquidity Cash Fund	7-day LIBID	To outperform the benchmark

1.5 UBS, SSgA and Baillie Gifford manage the assets on a pooled basis. Standard Life, Royal London and Ruffer manage the assets on a segregated basis. Performance is monitored by reference to the benchmark and out performance target. Each manager's individual performance is shown in this report with a summary of any key information relevant to their performance.

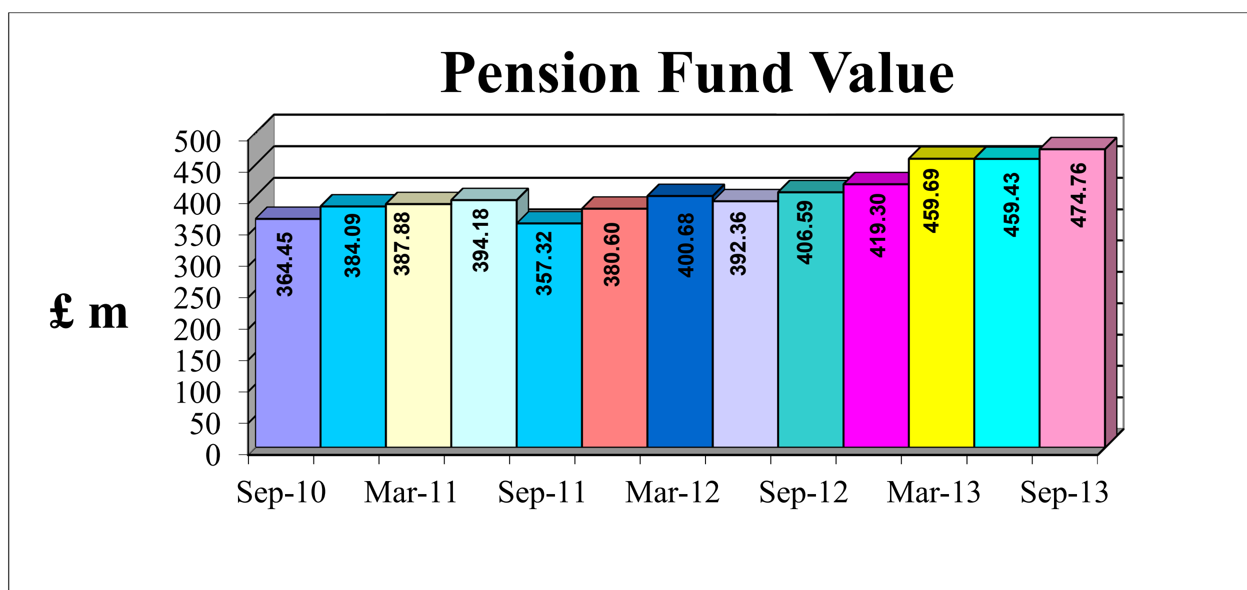
1.6 Since 2006, to ensure consistency with reports received from our Performance Measurers, Investments Advisors and Fund Managers, the 'relative returns' (under/over performance) calculations has been changed from the previously used arithmetical method to the industry standard geometric method (please note that this will sometimes produce figures that arithmetically do not add up).

1.7 Existing Managers are invited to present at the Pensions Committee Meeting every six months. On alternate dates, they meet with officers for a formal monitoring meeting. The exception to this procedure is the Multi Asset (Ruffer) and the Passive Equity (SSgA) Managers who will attend two meetings per year, one with Officers and one with the Pensions Committee. However if there are any specific matters of concern to the Committee relating to the Managers performance, arrangements can be made for additional presentations.

1.8 Hyman's performance monitoring report is attached at **Appendix A.**

2. Fund Size

2.1 Based on information supplied by our performance measurers the total combined fund value at the close of business on 30 September 2013 was **£474.75m**. This valuation differs from the basis of valuation used by our Fund Managers and our Investment Advisor in that it excludes income. This compares with a fund value of £459.43m at the 30 June 2013; an **increase** of £15.32m. The movement in the fund value is attributable to an increase in assets of £15.50m and a decrease in cash of (£0.18m). The internally managed cash level stands at **£3.72m** of which an analysis follows in this report.



Source: WM Company (Performance Measurers)

2.2 An analysis of the internally managed cash balance of **£3.72m** follows:

CASH ANALYSIS	**2011/12**	**2012/13 Updated**	**2013/14 30 Sep 13**
	£000's	£000's	£000's
Balance B/F	**-8495**	**-1194**	**-3474**
Benefits Paid	31123	31272	16391
Management costs	1606	1779	758
Net Transfer Values	-58	-1284	-585
Employee/Employer Contributions	-30194	-30222	-16738
Cash from/to Managers/Other Adj.	4869	-3780	0
Internal Interest	-45	-45	-74
Movement in Year	**7301**	**-2280**	**-248**
Balance C/F	**-1194**	**-3474**	**-3722**

2.3 As agreed by members on the 27June 2012 a cash management policy has now been adopted. The policy sets out that should the cash level fall below the de-minimus amount of £2m this should be topped up to £4m. This policy includes drawing down income from the bond and property manager.

3. Performance Figures against Benchmarks

3.1.1 The overall net performance of the Fund against the new **Combined Tactical Benchmark** (the combination of each of the individual manager benchmarks) follows:

	Quarter to 30.09.13	12 Months to 30.09.13	3 Years to 30.09.13	5 years to 30.09.13
Fund	3.3%	16.1%	9.1%	9.0%
Benchmark return	2.2%	12.0%	8.2%	9.1%
*Difference in return	1.1%	3.7%	0.8%	0.1%

Source: WM Company

**Totals may not sum due to geometric basis of calculation and rounding.*

3.1.2 The overall net performance of the Fund against the **Strategic Benchmark** (i.e. the strategy adopted of Gilts over 15 years + 2.6%) is shown below:

	Quarter to 30.09.13	12 Months to 30.09.13	3 Years to 30.09.13	5 years to 30.09.13
Fund	3.3%	16.1%	9.1%	9.0%
Benchmark return	2.1%	-1.5%	9.2%	11.0%
*Difference in return	1.2%	17.9%	-0.2%	-1.7%

Source: WM Company

**Totals may not sum due to geometric basis of calculation and rounding.*

3.1.3 The following tables compare each manager's performance against their **specific (tactical) benchmark** and their **performance target** (benchmark plus the agreed mandated out performance target) for the current quarter and the last 12 months.

QUARTERLY PERFORMANCE (AS AT 30 SEPTEMBER 2013)

QUARTER	Standard Life	Royal London	UBS	Ruffer	SSgA	Baillie Gifford[1]
Return (performance)	10.2	2.5	2.7	0.1	0.9	2.8
Benchmark	5.6	1.9	2.4	0.1	1.2	1.2
***Over/(Under) Performance vs. Benchmark**	**4.4**	**0.6**	**0.3**	**0.0**	**-0.2**	**1.6**
TARGET	6.1	2.0	n/a	n/a	n/a	n/a
*** Over/(Under) Performance vs. Target**	**3.9**	**0.4**	**n/a**	**n/a**	**n/a**	**n/a**

Source: WM Company, Fund Managers and Hymans

- Totals may not sum due to geometric basis of calculation and rounding.

ANNUAL PERFORMANCE (LAST 12 MONTHS)

ANNUAL	Standard Life	Royal London	UBS	Ruffer	SSgA	Baillie Gifford
Return (performance)	30.8	4.6	-7.4	11.3	17.7	24.5
Benchmark	18.9	2.4	4.2	0.5	18.2	18.0
***Over/(Under) Performance vs. Benchmark**	**10.0**	**2.2**	**-11.6**	**10.8**	**-0.4**	**5.5**
TARGET	20.9	3.1	n/a	n/a	n/a	n/a
*** Over/(Under) Performance vs. Target**	**8.2**	**1.5**	**n/a**	**n/a**	**n/a**	**n/a**

Source: WM Company, Fund Managers and Hymans

- Totals may not sum due to geometric basis of calculation and rounding.

4. Fund Manager Reports

4.1. UK Equities (Standard Life)

a) In accordance with agreed procedures officers met with representatives from Standard Life on the 5 November 2013 at which a review of their performance as at 30 September 13 was discussed.

b) The value of the fund as at 30 September saw an increase in value of 10.31% on the previous quarter.

c) Standard Life outperformed the benchmark in the quarter by 4.4% and outperformed the target in the quarter by 3.9%. Since inception they outperformed the benchmark by 0.1% and underperformed by -1.9% against the target.

d) Due to the pending termination of the mandate with Standard Life the meeting focussed on covering events during the quarter ending 30 September 13 and discussed likely issues that may impact the mandate during termination.

e) Standard Life reported that equity markets continued to make progress, up over 5% during the quarter, with the UK economy moving towards modest growth. Europe has stabilised although risks still remain with Croatia struggling under the weight of austerity programmes. Global economic trends are improving, being driven by the US.

f) Standard Life’s positive performance was largely down to its exposure to International Consolidated Airlines Group following strong traffic and yield growth on North Atlantic routes and holdings in GKN, which had positive automotive growth data from the US and Asia.

g) Negative performance mainly came from an underweight position in ARM holdings as shares rose in the quarter due to an unexpected announcement from Apple that it would use ARM's processors in its new smartphone

h) The portfolio activity during the quarter were as follows :
- Added to holdings in **Anglo-American** – increased holding following a positive meeting with new management.
- Purchased **Burberry** (specialises in luxury goods) as the brand is consistently taking market share and has a strong online presence.
- Increased holdings in **Barclays** – as they expected the rating of shares to change in response to the Regulators shift from risk-weighting to leverage ratios.
- Purchased **UBM** (United Business Media) – attracted by the modest value, strong dividend yield and attractive growth profile of it events business.
- Reduced holdings in **Dixons**, following strong run in shares, to the point where the valuation seems to be over optimistically applying a premium multiple to a blue sky earnings number that depends on a complete recovery across their markets.
- Reduced holdings in **Lloyds** following in a strong rise in the share values.
- Further reduced holdings in **Tesco** due to on-going weak trading and loss of market share in core UK market.
- Reduced holdings in **Phoenix** share price rose considerably in response to leaks of a merger with Swiss Re.

i) Standard Life were asked to identify any issues that may impact on the termination of the mandate and they stated that there were no main issues but will need to unravel the portfolio and a Transition Manager to be appointed to liquidate holdings. There may be a need for a Care and Maintenance provision.

j) The planned transfer of assets from Standard Life to the Barings Dynamic Asset Allocation Fund is due for completion on the 10 December 2013.

k) No governance or whistle blowing issues were reported.

l) On behalf of the Committee Standard Life were thanked for the management of the portfolio over the last eight years.

4.2. UK Investment Grade Bonds (Bonds Gilts, UK Corporates, UK Index Linked, UK Other) – (Royal London Asset Management)

a) In accordance with agreed procedures officers met with representatives from Royal London on the 5 November 2013 at which a review of their performance as at 30 September 13 was discussed.

b) The value of the fund as at 30 September 13 saw an increase in value of 2.98% on the previous quarter.

c) Royal London achieved a net return of 2.47% during the quarter and outperformed the benchmark by 0.62% and the target by 0.43%. Since inception they outperformed the benchmark by 0.69% and the target by 0.06%.

d) Royal London reported on market events during the quarter which saw the base rate kept low at 0.5% and believes that this will remain low for the next couple of years.UK growth remained weak and UK inflation was above target partly due to upward pressure from energy prices. Eurozone risks reduced after the Eurozone moved out of recession. Despite widespread speculation that the US Federal Reserve would begin reducing the pace of its monetary support, the expected change was not introduced.

e) Asset allocation of the fund during the quarter was 56.5% in Sterling Credit (corporate) Bonds, 27.6% in Index Linked Bonds, 12.7% in Government Bonds, 3.5% in Overseas Bonds and -0.3% cash.

f) Credit sector and stock selection was one of the major drivers of performance over the quarter, the off-benchmark positions in overseas bonds also added value, particularly US inflation linked bonds which performed strongly on the announcement by the US Federal Reserve of a delay to 'tapering' of their monthly asset purchase programme. The portfolio's short duration position was also beneficial, as real and nominated yields rose early in the quarter.

g) Portfolio activity and opportunities during the quarter were as follows:
   - Government Bonds - Activity remained high within government bonds, reflecting volatile market positions. An underweight position in duration was increased during the quarter to a neutral position and then reduced again by the end of the quarter. Tactically purchased off benchmark positions in index linked overseas government bonds.
   - Corporate bonds – there was a subdued flow of new issues early in the quarter but this picked up in September and some of the new deals they bought were from Leeds Communities (structured bonds), America Movil (telecoms) and Poplar Housing (social housing). After strong performance they reduced exposure to covered bonds through sales of Yorkshire, Leeds and Coventry building societies. Royal London's bias towards secured bonds was maintained; this represents almost 30% of fund assets and remains the best performing sector outside of financials.

h) The first ever 55 year index-linked gilt was issued during the quarter, Royal London was asked how the portfolio structured in anticipation of this issue, and if there was an impact on performance. Royal London said that because the investment banking syndicate managed the issue very well, there was no movement of yield curve, no impact on performance.

i) Royal London was asked what impact did the announcement of the US federal reserve of a delay to “tapering” of their monthly assets purchase programme have on the portfolios strategy and performance. Royal London said that although this made the markets volatile there was barely any change in real yield in Q3.

j) Royal London were asked what their rationale was for increasing the allocation of overseas bonds and whether this would continue in the future and they explained that they were getting better returns for overseas bonds, offering good relative value versus gilts with real yields between 1% and 1.5% higher. UK inflation linked bonds were sold at breakeven to fund this. Their preference for overseas bonds expected to continue in the future but they did not give an indication as to whether this would be increased.

k) No governance or whistle blowing issues were reported

4.3. Property (UBS)

a) Representatives from UBS are due to make a presentation at this committee therefore a brief overview of their performance as at 30 September 2013 follows.

b) The value of the UBS portfolio fund saw an increase of 1.97% in value since the previous quarter.

c) UBS delivered a return of 2.7% and outperformed the benchmark by 0.3% over the quarter. The portfolio is behind the benchmark over the year by – 11.6%.

4.4. Multi Asset Manager (Ruffer)

a) In accordance with agreed procedures officers will only meet with representatives from Ruffer once in the year with the other meeting to be held with members. Ruffer attended their last meeting with members at the 26 June 13 Pensions Committee meeting. Officers met with representatives from Ruffer on the 13 February 2013.

b) Since the additional investment with Ruffer in January 2013, the value of the portfolio has increased by 7.96%.

c) Ruffer was broadly flat against the benchmark in the quarter and outperformed the benchmark in the year by 10.7%.

d) Any positive gain to performance was negated by the strengthening pound against a weakened US dollar.

4.5. Passive Equities Manager (SSgA)

a) In accordance with agreed procedures officers will only meet with representatives from SSgA once in the year with the other meeting to be

held with members. Officers last met with representatives from SSgA on the 20 May 2013, at which a review of their performance as at 31 March 13 was discussed. Representatives from SSgA are due to make a presentation at this committee therefore a brief overview of their performance as at 30 September 2013 follows.

b) The value of the portfolio has increased in value by 0.95% since the last quarter.

c) As expected the portfolio performed in line with the benchmark over the quarter.

d) Members agreed at the Pensions Committee on the 26 March 2013 to transfer £20m into an SSgA cash fund on a short term basis pending the implementation of the strategy to reduce exposure to equities and increase exposure to multi assets. This decision was driven by risk diversification and preservation of capital. On advice received from Hymans £20m was transferred from the MPF passive equity portfolio to the MPF Sterling Liquidity Fund during May 2013. Since inception the Sterling Liquidity Fund has increased in value by 0.15%.

e) Following the award of a multi asset mandate to the Baillie Gifford Diversified Growth Fund the Sterling Liquidity account will be closed and the cash transferred to the new Baillie Gifford mandate on the 9 December 2103.

f) Members also agreed to fund the new Baillie Gifford Diversified Growth Fund from disinvesting £50m of the SSgA mandate. Holdings with SSgA will be sold and the cash will be transferred in three tranches in late November and early December.

4.6. Global Equities Manager (Baillie Gifford)

a) Representatives from Baillie Gifford are due to make a presentation at this committee therefore a brief overview of their performance as at 30 September 2013 follows.

b) The value of the Baillie Gifford portfolio saw an increase in value of 2.82% since the previous quarter.

c) Baillie Gifford have outperformed the benchmark over the quarter by 1.6% (net of fees) and outperformed the benchmark by 6.5% (net of fees) over the last year. Since inception they have outperformed the benchmark by 3.9%.

5. Corporate Governance Issues

The Committee, previously, agreed that it would:

1. Receive quarterly information from each relevant Investment Manager, detailing the voting history of the Investment Managers on

contentious issues. This information is included in the Managers' Quarterly Reports, which is available for scrutiny in the Members Lounge.

2. Consider a sample of all votes cast to ensure they are in accordance with the policy and determine any Corporate Governance issues arising.

3. Receive quarterly information from the Investment Managers, detailing new Investments made.

- Points 1 and 3 are contained in the Managers' reports.

- With regard to point 2, Members should select a sample of the votes cast from the voting list supplied by the managers placed in the Member's room which is included within the quarterly report and question the Fund Managers regarding how Corporate Governance issues were considered in arriving at these decisions.

This report is being presented in order that:

- The general position of the Fund is considered plus other matters including any general issues as advised by Hymans.

- Hymans will discuss the managers' performance after which the particular manager will be invited to join the meeting and make their presentation. The managers attending the meeting will be from:

  UBS, State Street Global Assets (SSgA) and Baillie Gifford

- Hymans and Officers will discuss with Members any issues arising from the monitoring of the other managers.

IMPLICATIONS AND RISKS

Financial Implications and risks:

Pension Fund Managers' performances are regularly monitored in order to ensure that the investment objectives are being met and consequently minimise any cost to the General Fund.

Legal Implications and risks:

None arising directly

Human Resources Implications and risks:

There are no immediate HR implications. However longer term, shortfalls may need to be addressed depending upon performance of the fund.

Equalities and Social Inclusion Implications and risks:

None arising directly

BACKGROUND PAPERS

Standard Life Quarterly report to 30 Sept 2013
Royal London Quarterly report to 30 Sept 2013
UBS Quarterly report to 30 Sept 2013
Ruffer Quarterly reports 30 Sept 2013
State Street Global Assets reports to 30 Sept 2013
The WM Company Performance Review Report to 30 Sept 2013
Hyman's Monitoring Report to 30 Sept 2013

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Havering
LONDON BOROUGH

PENSIONS COMMITTEE 17 December 2013	REPORT

Subject Heading:	The admission of three Transferee Admission Bodies to the London Borough of Havering's pension Fund
CMT Lead	Andrew Blake-Herbert
Report Author and contact details:	Contact: Karen Balam Designation: Transactional Manager Telephone: (01708) 432271 E-mail Address: Karen.balam@havering.gov.uk
Policy context:	LGPS Regulation 6
Financial summary:	The Pension Fund's actuary has assessed the level of Indemnity bonds required.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[X]

SUMMARY

The purpose of this report is to inform the London Borough of Havering Pension Fund Committee of the proposed admission of three transferee admission bodies (as detailed on the attached appendices) into the London Borough of Havering Pension Fund under the provisions of The Local Government Pension Scheme (Administration) Regulations 2008, Regulation 6.

RECOMMENDATIONS

1) That the admission of Sodexo UK and Ireland Ltd, Breyer Group PLC and Mulalley and Company Limited as transferee admission bodies into the London Borough of Havering Pension Fund be noted subject to:

   (a) All parties signing up to an Admission agreement, and
   (b) An Indemnity or Insurance bond in an approved form with an authorised insurer or relevant institution, being put in place to protect the letting authority/pension fund.

REPORT DETAIL

1. The Pension Regulations require the Local Government Pension Scheme (LGPS) Pension Funds to allow an admission to its scheme if the organisation is one that provides or which will provide a service or assets in connection with the exercise of a function of a scheme employer, as a result of the transfer of the service or assets by means of a contract or other arrangement.

2. Where a transferee admission body and the scheme employer undertake to meet the relevant requirements of Regulation 6, an administering authority **must** admit to the LGPS the eligible employees of the transferee admission body, and where it does so, the terms on which it does are noted in the admission agreement for the purposes of these Regulations.

3. Investigations have been made to ensure that each body named in the attached appendices falls within the definition contained in Regulation 6 (2)(a)(i) of the Local Government Pension Scheme (Administration) Regulations 2008 and as such will be eligible to become a transferee admission body. Under Regulation 6 (10) & (11), the administering authority must admit to the scheme the eligible designated employees of the transferee admission body, provided the transferee admission body and the scheme employer undertakes to meet the relevant requirements of the regulations through an admission agreement. Legal engrossment of the admission agreement is subject to the service transfer taking place.

4. The London Borough of Havering will seek to sign appropriate transferee admission agreements to allow the bodies listed in Appendix A to C to be admitted to the London Borough of Havering Pension Fund. When the admission agreements are formed the admitted bodies will be required to pay contribution rates as determined by the Fund Actuary.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial implications arising directly from this report as continued membership in the LGPS means there is no loss to contributions into the fund. As noted in the report, employer contributions to be paid by admitted bodies are determined by the Fund's actuary.

There are no immediate financial implications to the Fund arising from the Fair Deal arrangements. However, it is likely that an increasing number of organisations will seek membership of the Fund which will give rise to a potential increase in administration costs. These costs may be mitigated through improved systems and processes or by raising charges on newly admitted bodies.

A bond or indemnity covers the level of risk arising on premature termination of the provision of service or assets provided by the body by reason of insolvency, winding up or liquidation.

There are risks to the letting authority if the bond levels are not reviewed in line with employee and legislative changes, this risk is being managed by putting in place a timescale for bond reviews and ensure this is included in the admission agreements.

The letting authority also faces risk if the admitted body is unable to meet any fund deficit's at the end of a contract. This risk is going to be managed by putting in place regular reviews of admitted body risks and their employer rates. Any deficit's not met from the bond at the end of the contract will be met by the letting authority.

The risk of non payment of contributions, which would have a cashflow impact, is actively managed by the Pension Administration team on a monthly basis with appropriate escalation for non compliance. This risk is reported in the Pension Fund Annual Report.

The risk of a contractor failing to secure a bond is managed by ensuring all employers are aware of their responsibility to notify the Pension Team at the outset of a contracting exercise. The risk to the fund is managed by deferring the pension benefits of any transferring employees where admission agreement and bond agreements are not complied with. This does result in a cashflow loss to the fund which cannot be managed.

Legal implications and risks:

Appendix A

Academies are scheme employers for the purposes of the local government pension scheme. Where they let contracts for the provision of services, their contractors are eligible to become admission bodies, subject to the completion of an admission body agreement and the provisions of a bond or indemnity, if required, to cover the risks to the pension fund arising from premature termination of the provision of service by reason of insolvency, winding up or liquidation of the admission body.

Academies are public sector bodies required to have regard to the Government's policy guidance "Fair Deal for staff pensions: staff transfer from central government" when outsourcing services. Previously this required public sector bodies to ensure pension protection by including provisions in contracts requiring contractors to offer transferring employees pension protection by offering the right to acquire pension benefits which are the same as, or broadly comparable to or better than those which the employees currently enjoy. In the case of the council employees transferring to the Oasis Academy's new catering contractor this can be achieved by means of an admission body agreement, allowing the transferring employees to remain members of the Local Government Pension Scheme.

In agreeing the recommendation, the Pension Fund Committee will ensure that its current employees enjoy pension protection when transferring to their new employer and will reduce the risk of any complaints to the Pension Ombudsman which might result from a failure to ensure pension protection for its employees when they transfer.

Appendix B and Appendix C

The Council is required to comply with the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (the Direction) when entering into initial and subsequent contracts for the provision of services which were previously provided by the authority's employees. The services to be provided by the proposed admission bodies are services to the Council which fall within the scope of the Direction. Paragraph 8 of the Direction requires the Council to ensure that the contract provides pension protection for transferring original employees: pension protection is the right to acquire pension benefits which are the same as, or broadly comparable to or better than those which the employees currently enjoy. By allowing the contractors to enter into admission body agreements the Council can ensure that it meets its obligations under the Direction.
The Local Government Pension Scheme (Administration) Regulations 2008 enable the proposed admission bodies to apply for admitted body status, subject to compliance

with the requirements of the Regulations concerning the terms of the admission body agreement and the provision of an indemnity or bond, if required, to cover the risks to the fund arising from premature termination of the provision of service by reason of insolvency, winding up or liquidation of the admission body.

In agreeing the recommendations, the Pension Fund Committee will ensure that the financial risks to the pension fund are mitigated and that the Council complies with its obligations under the Direction.

Human Resources implications and risks:

Admitted body status will allow transferring staff continued membership eligibility of the LGPS.

Where the service transfer relates to employees of the London Borough of Havering, full consultation is undertaken with affected staff and the recognised trade unions in line with TUPE requirements. In respect of other service transfers the current employing body is responsible for undertaking the equivalent consultation.

Equalities implications and risks:

The proposed admission of three transferee admission bodies (as detailed on the attached appendices) into the London Borough of Havering Pension Fund will not only ensure that Council's compliance with the Best Value Authorities Staff Transfers (Pensions) Direction 2007, but will also enable its current employees to continue to enjoy pension protection when transferred to their new employer.

While the Council is in position to admit the transferee admissions bodies into LGPS scheme, the decision to allow an open or closed scheme is made by the transferee admission bodies, and the Council cannot influence their decision should they decide to opt in for a closed scheme.

If the transferee admission bodies decide to opt in for a closed scheme, staff members employed directly by them to deliver the outsourced function, will not be able to access the public service pension scheme, and will be potentially disadvantaged in terms of pension rights when compared with their colleagues employed by the private contractor as a result of compulsory transfer from the letting authority.

Currently, it is not possible to fully consider the impact on staff members who will benefit or be disadvantaged by the above arrangements.

BACKGROUND PAPERS

The Local Government Pension Scheme Regulations (various) and the Guidance notes issued with them.

Appendix A

Proposed admission of Sodexo UK and Ireland Ltd into the London Borough of Havering Pension Fund, as a transferee admission body under the provisions of the Regulation 6 of the Pension Regulations.

Sodexo UK and Ireland Ltd are to be the appointed Catering services contractor for Oasis Academy Pinewood (proof to be provided by Oasis Academy Pinewood to the Pension Administration Team). The contract is due to commence on 1 January 2014 to 31 August 2015, replacing the previous contract which was provided by LBH Catering Services. There is an option to renew for up to another five years (ie up to 31 August 2020).

When the Catering Service transfers from LBHs Catering Services to Sodexo UK and Ireland Ltd, which is due to commence in January 2014, the contracts of employment for the two employees are to be transferred from the London Borough of Havering to Sodexo UK and Ireland Ltd. The Transfer of Undertakings (Protection of Employment) Regulations ('TUPE') applied to the employment terms and conditions of the relevant employees.

Sodexo UK and Ireland Ltd intends to allow continuity of LGPS membership for the employees through a transferee admission agreements with the London Borough of Havering Pension Fund. The agreement will be a closed agreement. A closed agreement allows continued pension scheme access for the current LGPS members and other current employees transferring under TUPE from the Council only. An open agreement allows new employees to Sodexo UK and Ireland Ltd providing the catering service to Oasis Academy Pinewood to also have contractual membership of the LGPS. The decision to allow an open or closed scheme is made the scheme employer and reflected in the admission agreement, bond rates and employer rate. The option to join the LGPS will not be available to existing employees of the company who are not already members of the LGPS.

This contract award is impacted by the New Fair Deal policy, published by HM Treasury on 4 October 2013 and effective immediately, subject to specific provisions and the ability of public service schemes being in a position to allow continued access to its scheme. The LBH Pension Fund and LGPS is in the position to comply immediately with the New Fair Deal through the use of the existing Transferee Admission Agreements.

Contracting authorities are responsible for ensuring compliance with the new Fair Deal policy, and these rights will ultimately by enforceable by staff. Independent providers, as scheme employers, will also be subject to the requirements of the scheme regulations and the jurisdiction of the Pensions Regulator and the Pensions Ombudsman.

A scheme employer offering a 'broadly comparable' pension scheme to the LGPS would normally be an alternative to a Transferee Admission Agreement. Following advice from the Government Actuaries Department (GAD) and the Fund Actuary, who certify 'broadly comparable' schemes, this would not be an option currently due to the new LGPS Regulations being laid before Parliament and due to come into statute.

Appendix B

Proposed admission of Breyer Group PLC into the London Borough of Havering Pension Fund, as a transferee admission body under the provisions of the Regulation 6 of the Pension Regulations.

Breyer Group PLC is entering a contractual agreement with the London Borough of Havering for the provision of responsive repairs and maintenance services to Council owned and managed housing stock. The service transfer will take place from 6 January 2014. The contract period is for 5 years, with the option to extend for a further 2 years.

This arrangement will involve a second wave TUPE transfer of 30 employees of Morrison Facilities Services, owned by Mears Group PLC, of which 16 are currently members of the LGPS and currently engaged in the delivery of the service following the first wave TUPE transfer to Anglian Water Group (AWG) in August 2004.

Breyer Group PLC intends to allow continuity of LGPS membership for the employees through a transferee admission agreement with the London Borough of Havering Pension Fund. The agreement will be a closed agreement. A closed agreement allows continued pension scheme access for the current LGPS members and other current employees transferring under TUPE from the Council only. An open agreement allows new employees to Breyer Group PLC providing the provision of responsive repairs and maintenance services to Council owned and managed housing stock under the contract with the London Borough of Havering to also have contractual membership of the LGPS. The decision to allow an open or closed scheme is made by the scheme employer and reflected in the admission agreement, bond rates and employer rate. Hymans the fund actuary have calculated the employer's rate at 23.8% of pensionable pay and a bond value of £1,494,000.

It should also be noted that the employer's rates apply until 31/03/2014 and will be reassessed as part of the formal valuation of the fund as at 31/03/2013.

The option to join the LGPS will not be available to existing employees of the company who are not already members of the LGPS.

Appendix C

Proposed admission of Mulalley and Company Limited into the London Borough of Havering Pension Fund, as a transferee admission body under the provisions of the Regulation 6 of the Pension Regulations.

Mulalley and Company Limited is entering a contractual agreement with the London Borough of Havering to provide repairs to empty properties (Voids) in Council owned and managed stock. The service transfer will take place from 6 January 2014. The contract period is for 5 years, with the option to extend for a further 2 years.

This arrangement will involve a second wave TUPE transfer of 5 employees of Morrison Facilities Services, owned by Mears Group PLC, of which 3 are currently members of the LGPS and currently engaged in the delivery of the service following the first wave TUPE transfer to Anglian Water Group (AWG) in August 2004.

Mulalley and Company Limited intend to allow continuity of LGPS membership for the employees through a transferee admission agreement with the London Borough of Havering Pension Fund. The agreement will be a closed agreement. A closed agreement allows continued pension scheme access for the current LGPS members and other current employees transferring under TUPE from the Council only. An open agreement allows new employees to Mulalley and Company Limited providing the repairs to empty properties (Voids) under the contract with the London Borough of Havering to also have contractual membership of the LGPS. The decision to allow an open or closed scheme is made by the scheme employer and reflected in the admission agreement, bond rates and employer rate. Hymans the fund actuary have calculated the employer's rate at 20.1% of pensionable pay and a bond value of £384,000.

It should also be noted that the employer's rates apply until 31/03/2014 and will be reassessed as part of the formal valuation of the fund as at 31/03/2013.

The option to join the LGPS will not be available to existing employees of the company who are not already members of the LGPS.

Havering
LONDON BOROUGH

PENSIONS COMMITTEE **17 December 2013**	**REPORT**

Subject Heading:	Ministerial Statement Regarding Academies and Academy Pooling
CMT Lead	Andrew Blake-Herbert
Report Author and contact details:	Contact: Karen Balam Designation: Transactional Manager Telephone: (01708) 432271 E-mail Address: Karen.balam@havering.gov.uk
Policy context:	LGPS Regulations
Financial summary:	No direct costs to the Pension Fund

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[X]

SUMMARY

This report is to inform the London Borough of Havering Pension Fund Committee of the ministerial statement regarding academies' pensions deficits released on 2 July 2013. The report also reviews the current arrangements for setting Academy employer contribution rates and whether the Pension Fund should consider any pooling arrangements.

RECOMMENDATIONS

1) That the London Borough of Havering Pension Fund note the ministerial statement and the positive impact it has for other employers in the Fund.

2) That the London Borough of Havering Pension Fund agree that there should be no changes to the current Academy arrangements for assessing the employer contribution rates.

REPORT DETAIL

Department for Education Academy Guarantee

1. On 2 July 2013 the Secretary of State for Education, Michael Gove, presented a Written Ministerial Statement and laid a Parliamentary Minute in the House of Commons and Lords setting out details of a guarantee that any outstanding Local Government Pension Scheme liabilities on an Academy's closure would be met by the Department for Education. This guarantee, in the event of an Academy failure, would have a positive impact on other employers in the Fund as it would mean that there was a method for recovering liabilities rather than passing costs on to other fund employers.

2. Non teaching staff of Academies are eligible for membership of the Local Government Pension Scheme, whilst teachers remain members of the Teachers Pension Scheme.

3. The need for the guarantee has arisen as many Academies employer contribution rates are significantly higher than the rate which they were previously paying when under Local Education Authority (LEA) control. Factors that may account for this increase are mainly due to the age and other profile factors of each Academy's membership, but could also be impacted by variations in salary scales.

4. Some LGPS funds have introduced shorter deficit recovery periods for Academies to reflect that funding from the Department of Educations is only guaranteed for 7 years.

5. The objective of the Department of Education's guarantee is to ensure that Academies will only pay the same employer's contribution rate as they would if they had remained under LEA control. How this would be achieved would be an area of discussion with the Fund Actuary as new contribution rates will need to be set from 1 April 2014 following the triennial valuation of the Fund.

6. The guarantee is welcome to an extent and removes some of the possibility that remaining employers within the Fund would have to assume responsibility for deficits arising from an Academy ceasing business. The guarantee, although, does not remove all the risk to other employers within the Fund.

7. The Department of Education and HM Treasury reserve the right to '*withdraw the guarantee at any time*'. Instances when the guarantee may be withdrawn include;
   - Estimated contingent liability (CL) ceilings are exceeded (which could mean the withdrawal of the guarantee when it is most needed).
   - Projected costs are no longer affordable from within DfE's existing budget.
   - Projected costs are not approved by HM Treasury.
   - HM Treasury reserve the right to remove the guarantee due to spending considerations or policy developments.

8. The Parliamentary Minute sets out the Contingent Liability ceiling and although the failure rate of Academies is likely to be low (DfE assertion), reviews of the protection offered by the Contingent Liability levels indicate that a failure rate of over 2% would possibly exceed the ceiling levels.

9. HM Treasury and the DfE would like to reduce the costs falling upon Academies, but at the same time Administering Authorities also aim to reduce risk and protect other participating employers in the Funds.

10. Should risk arise from a financially failing Academy and the guarantee did not cover the risk, for whatever reason, the Fund would become an unsecured creditor of the Academy along with other creditors.

Havering Current Academy Arrangements

11. Havering Academies have been granted the same pooled assumptions and deficit repayment terms as the Council (over 20 years), the impact of this is to reduce the employer contribution rate for the Academies. If the Council moved to a 7 year past service deficit recover period for Academies, as many authorities have, the impact would be to significantly increase the employer contribution rate due to the shorter period over which the deficit would be recovered.

12. When a school converts to an academy the past service is passed to the Academy based on the active members at time of transfer. What the Academies don't pay for is the liabilities (benefits) that belong to ex-employees who have deferred or pensioner status - that stays with the ceding employer (the pool).

13. They are also given an asset share that is calculated using market conditions (values) as at transfer – this may be different for each academy conversion as market conditions vary daily.

14. At the moment the past service amount is invoiced to the school for a cash sum rather than a % that is included within the overall rate (this protects the fund from falling payroll numbers). Within the three year valuation cycle this has to be paid in full but we currently allow schools to pay this monthly, semi-annually or yearly.

15. The current full calculated employer rates (including % for past deficits) range from 15.6% to 26.1%. Exempt Appendix B provides further detail.

16. The table clearly demonstrates that the current assumption pooling and extended deficit period policy benefits some Academies and not others. However, the main reason for the variations is purely due to the individual membership profile of the Academy.

17. It should also be noted that Admitted Body contractors do have to pay for past service in the same way that Academies do but the difference is that this is offset by being given an equal amount of the asset share (known as fully funded). The admitted bodies have to pay their contributions over the term of the contract so are likely to have shorter deficit repayment terms (leading to higher contribution rated depending upon the membership profile). To compensate for the fact that they were fully funded at the start they also have to be fully funded at the end which is why they may have unexpected cessation costs at the end of the contract if the liabilities and assets grow at different rates during the life of the contract. Past service costs are collected the same way as Academies if applicable.

Pressure to pool with former Local Authorities within the LGPS

18. In December 2011 a joint letter was issued by the Department for Communities and Local Government and DfE recommending that Academies should be pooled with their former local authority within the LGPS. Pooling, and the inevitable cross-subsidy that comes with it would normally be avoided within Local Government and there should be no difference with the Pension fund.

19. In October 2013 a further consultation on ‘Pooling arrangements for Academies within the LGPS was launched, with a final date for submission of 15th November. A response has not been submitted to the Committee in response to this consultation, but the Fund Actuary has shared their consultation response, which is attached at Appendix A.

20. This report proposes that there be no change to the current Havering Pension Fund policy following a review of the:

    - current variation in Academy employer rates;

- current partial pooling method already used by the Havering Pension Fund;
- impact of cross subsidisation on other scheme employers in the Fund; and
- response to the consultation proposed by the Fund Actuary.

Should the outcome of the consultation lead to legislative changes that impact upon the current Fund 'pooling' policy a full assessment of the Fund cashflow and employers contribution rates would be established, options would be presented to Members and all options would be consulted upon with the Academies.

IMPLICATIONS AND RISKS

Financial implications and risks:

Should an Academy be financially failing the Fund would call upon the Academy Guarantee. If the guarantee was unable to meet the Academy obligations to the Havering Pension Fund, the Fund would become an unsecured creditor of the Academy along with other creditors.

In the event that Government introduce legislation to impose pooling arrangements it would be necessary to review the contribution rates for all employers in the fund.

Legal implications and risks:

There are no direct legal implications from this report. If legislative changes do result from the consultation on pooling the legal implications will be assessed.

Human Resources implications and risks:

No HR implications or risk arising directly as a result of this report.

Equalities implications and risks:

This report relates to the financial stability and actuarial funding assumptions for Academies as scheme employers. There is no direct impact on the pension or pension entitlement for individuals or groups with protected characteristics arising from this report.

BACKGROUND PAPERS

The Local Government Pension Scheme Regulations (various) and the Guidance notes issued with them

The Ministerial Statement.

Appendix A

Hymans Academies ‘Pooling’ Consultation Response

HYMANS ROBERTSON

Formal response to DCLG Consultation on Pooling Arrangements for Academies within the Local Government Pension Scheme

November 2013

John Wright and Douglas Green

Fellows of the Institute and Faculty of Actuaries

For and on behalf of Hymans Robertson LLP

Contents

Formal response to DCLG Consultation on Pooling Arrangements for Academies within the Local Government Pension Scheme

PAGE

1	Executive Summary	1
2	General comments	3
3	Question 1	5
4	Question 2	9
5	Question 3	10
6	Question 4	11
7	Question 5	12
8	Question 6	13

Appendices

Appendix – Reliances and Limitations 14

1 Executive Summary

1) The government remains concerned about the "stability" of employer contribution rates for Academies in the LGPS. The cause of this concern is that in some cases Academies have found that they are paying higher contribution rates than they were as LEA schools.

2) Administering authorities have local policies for initial asset allocation for all new employers, including Academies on formation and for setting employer contribution rates. These policies take account of a number of factors including financial strength, membership profile and fairness and consistency of treatment between different employer groups in the Fund.

3) The funding approach for Academies in the LGPS has been a problematic issue for administering authorities due to the gradually evolving guidance and government policy (in relation to guarantees for example).

4) However, thanks to the recent Department for Education (DfE) guarantee that came into force on 18 July 2013, and further guidance from the Department for Communities and Local Government (DCLG), we believe that LGPS administering authorities are generally moving towards a more settled position and using contribution setting policies which should meet DfE and DCLG objectives without the need for regulation.

5) We do not believe that imposing pooling is the only way to meet the DCLG and DfE objective of "stability" of employer contributions and comparability with LEA schools.

6) In fact, pooling Academies with local authorities, or with each other in Academy or "school" only pools, whether voluntarily or through regulation, could cause problems in future for Academies and other employers in LGPS Funds. Potential drawbacks include, for example, unfair cross-subsidies between employers.

7) Any pooling arrangement should be a local decision after consultation on the pros and cons of such arrangements. Where pooling is used, additional safeguards might be desirable to mitigate against some of the potential problems (e.g. a requirement for individual Academies to pay additional contributions in the event of excessive salary awards).

8) One example of an alternative approach that can meet the DCLG objective of "stability" in an equitable way is as follows:

   - to set standalone rates for individual Academies;
   - to use assumptions and valuation methods consistent with those for LEA schools in the same fund (e.g. the same deficit repair period and the same approach to long term stabilisation of contributions).

   The outcome of this type of approach will be employer contribution rates that should, at the current time, be broadly similar to those for LEA schools and can be stabilised in the longer term in a similar way to those for LEA schools so long as the guarantee stands. It is possible that in future there could be some divergence between the local authority contribution rates and rates for individual Academies, but only to the extent justified by their different actions and experience (e.g. higher or lower pay awards). In cases where the local authority contribution rates rise significantly as a percentage of pay because of falling payrolls, the alternative approach described could have significant benefits for Academies since their contribution rates will not be tied to those of the local authority.

9) We already see evidence of administering authorities taking positive steps to make suitable funding arrangements for Academies in the LGPS with the aim of broadly meeting DfE and DCLG objectives. These are progressing without the need for further regulation. The approaches used do not always involve pooling; most maintain the point of principle that an Academy, like any other employer in the LGPS, should ultimately "pay its own way". Arguably this principle is entirely in line with the principle underlying the formation of Academies in the first place.

10) In summary, our conclusions are:

- pooling is not the only way of achieving DCLG's objective of "stability" in Academy contribution rates – in fact it has a number of potential drawbacks;
- pooling arrangements for Academies should not be imposed on LGPS Funds;
- local flexibility in setting employer contributions is preferable to centralised prescription and regulation.

2 General comments

2.1 Hymans Robertson is currently the actuarial advisor to 37 LGPS Funds in England, and is involved in advising administering authorities on funding arrangements for approximately 45% of all Academies.

2.2 The Government continues to be concerned that there has been insufficient progress to ensure the long term stability of Academy contribution rates with too many Academies paying contribution rates significantly higher than those payable by Local Education Authority (LEA) schools in the same Fund. However, there are various reasons for this divergence between Academy contribution rates and LEA school rates, including;

- The lower strength of covenant for Academies compared to local authorities and LEA schools, leading to higher contribution rates all other things being equal (for instance, due to shorter deficit recovery periods);
- The need to treat Academies in a consistent manner with other employers in the Fund, who in turn are paying contribution rates typically higher than those of the local authority;
- The initial asset allocation, market conditions and local authority's funding position at the time the Academy was established;
- The Academy's own membership profile as compared to that of the local authority.

2.3 The DfE guarantee that came into force on 18 July 2013, together with further guidance from DCLG, have resulted in most Funds reconsidering their policy in respect of contribution rate setting for Academies. This has coincided with the review of funding strategies as part of the 2013 actuarial valuations. At the time of writing, all LGPS Funds in England are currently reconsidering the funding strategy for Academies in the light of recent developments.

2.4 Each LGPS Fund must establish a suitable funding strategy for all employers, which is reviewed at the time of each triennial actuarial valuation. The funding strategy appropriate for Academies must therefore be consistent with that adopted for other employers in the Fund, as well as being appropriate to the Fund's broader circumstances.

2.5 Other than the requirements to stabilise employer contributions insofar as that is possible and to make adjustments appropriate to individual employers, the LGPS Regulations are not prescriptive about methods and assumptions used to set contribution rates for any type of employer. Instead, each Fund will determine an appropriate funding strategy based on a number of factors including perceived risks or strengths of covenant of each type of employer.

2.6 It is fair to say that the evolving situation since 2010 has led administering authorities to materially reconsider their view of Academies. In many cases we are seeing this being reflected in the revised funding strategy statements for the 2013 valuation. In particular, the improved perception of strength of covenant for Academies due to the DfE guarantee is allowing administering authorities to consider funding strategies that will result in long term stabilisation of contributions similar to that currently enjoyed by local authorities and LEA schools due to their strong covenant.

2.7 As a result, we believe that Academy contribution rates after the 2013 valuation will generally be closer to those of local authorities and LEA schools than might otherwise have been the case. This is happening due to proper consideration of the risks and strength of covenant, and has not required any change in Regulations.

2.8 We therefore do not believe that new Regulations are required in order to achieve the DCLG objective of "stability" of Academy contribution rates (which we take to mean contribution rates similar to those of local authorities and LEA schools). The absence of enforced pooling is not the problem. Administering authorities are already implementing funding strategies that are appropriate to local circumstances, consistent with policies in respect of other employer groups and meet the objectives both of DCLG and of the Funds themselves. Rather than regulation or prescription of approach, some appropriate additional guidance on principles and objectives (e.g. the aim of "stability" of Academy contributions) could be introduced if necessary.

3 Question 1

"The proposal for this consultation is that stability of a converted Academy's scheme employer contributions will be best achieved by pooling the scheme arrangements of Academies and the ceding local authority. Is this the best way to achieve the stability needed? And, if not, what are the other solutions?"

3.1 We do not agree that the best way of achieving the stated objective is by pooling Academies with their ceding local authority. The reason for this is that pooling a) involves potentially unfair cross-subsidies; and b) may not achieve the objective of "stability" for employers (e.g. if the Council contribution rate increases because of falling payroll).

3.2 However, this is not to say that status quo is the best way the LGPS can achieve the required contribution stability for Academies. We believe that Funds now have sufficient assurance on the covenant of Academies in the form of the DfE guarantee to enable them to introduce policies that meet the DCLG objectives in ways that avoid the potential drawbacks of enforced pooling or prescriptive legislation.

3.3 Options available to Funds in setting a funding policy for Academies (with varying impacts on the main parties) include the following:

Option	Academies	Councils	Administering authority
A1 Pooling with Council	Same contribution rate as Council and LEA schools Could gain or lose from cross-subsidies	Council could gain or lose from cross-subsidies	So long as total contributions sufficient and parties involved accept potential cross-subsidies then administering authority could agree to pooling. Potential practical problems if try to apply retrospectively to existing academies.
A2 Academies only pool	Contribution rate could be similar to Council and LEA schools pool although not necessarily identical (similar method, assumptions, long term stabilisation). Could win or lose from cross-subsidies.	Transfer of share of deficit from Council pool to Academies only pool at same time as transfer of payroll from LEA school to Academy. After initial asset transfer, Council contribution rates not affected by Academies in the pool and no cross-subsidies.	So long as total contributions sufficient and Academies involved accept potential cross-subsidies then administering authority could agree to pooling. Can set long term "stabilised" contributions similar to Council pool. Potential practical problems if try to apply retrospectively to existing Academies.

Option	Academies	Councils	Administering authority
B Individual contribution rates for Academies (using similar assumptions to Councils/LEA schools or different)	Contribution rate could be similar to or different from Council rate depending on method and assumptions. Retain responsibility for own long term funding.	Transfer of share of deficit from Council pool to individual Academy at same time as transfer of payroll from LEA school to Academy.	Avoids cross-subsidies. Can reflect DfE guarantee & DCLG guidance in approach to setting individual Academy contribution rates.

3.4 It is possible to track individual Academy asset shares in any pool based on their own actions and experience but no effect in practice if pooling arrangement continues. There are of course other variations on the broad types of arrangement above and the considerations are similar. For example, a pool for LEA schools and Academies would potentially cause cross-subsidies between these employers.

3.5 Option B (individual Academy contribution rates) could in theory, include the status quo which for some Funds has until now meant using different assumptions for setting contribution rates for Academies (e.g. shorter deficit recovery periods for Academies compared to the Council). However, in practice, we would anticipate that the same principles applicable to setting the Council contribution rate could be applied to setting each Academy's contribution rate. Option B would still give rise to a variety of rates for different Academies, reflecting their different membership profiles, different experience and different market conditions at the time each converted; however, this would still be consistent with the way in which the Council contribution rate is set.

3.6 **It is important to appreciate that pooling is by no means the only way in which the DCLG objective of "stability" of Academy contribution rates can be met.** In fact, pooling has various disadvantages attaching to it as shown below:

Option	A1 Pool with Council	A2 Academies' only pool	B Set Academy's own individual contribution rates
1 – Council costs rise	Academy's contribution rises too, regardless of own position	Academies' pool rate needn't change	No impact on Academies
2 – Academy costs rise	Absorbed by pool, cross-subsidised	Absorbed by Academies in pool	Impact on Academy's own position only
3 – Academy outsources	Absorbed by pool, cross-subsidised	Absorbed by Academies in pool	Impact on Academy's own position only
4 – Academy awards pay rise	Absorbed by pool, cross-subsidised	Absorbed by pool	Impact on Academy's own position only

Option	A1 Pool with Council	A2 Academies' only pool	B Set Academy's own individual contribution rates
5 – Council pays deficit via monetary contributions	May be difficult to set appropriate Academy rates	No impact on Academies in pool	No impact on Academies' contribution rates
6 – More than one ceding LEA / Council in same Fund	Separate pools for each ceding LEA/Council in Fund	May or may not require separate pools for each LEA/Council	Academy's initial contribution rate could be set by reference to LEA/Council
7 – Other employers / staff join Council pool or transfer out	Academy's contributions affected too	Academy's contributions unaffected (provided not linked to Council pool rate)	No impact on Academies
8 – Removal of DfE guarantee	Would need to break-up the pool and revert to another approach	May review contribution policy for Academies only pool (e.g. shorter deficit recovery period)	Change approach to contribution rates (e.g. reduce deficit recovery period due to weakened covenant), but no change in principle versus other employers

3.7 **Pooling Academies (particularly with the Council) has three major inherent potential problems:**

a) It involves potentially unfair cross-subsidies between employers. Examples would include higher than average pay awards made by an individual Academy which would effectively be funded by other employers in the same pool.

b) An Academy's contribution rate would be subject to the vagaries of the Council contribution rate, so that Academy rates may rise substantially if and when substantial headcount reductions and/or restructuring at the Council causes its own rate to rise. Clearly Academies would prefer to avoid such a situation. There are also differences in maturity between Councils and Academies; there may be benefits for Academies in not being pooled with Councils due to the greater maturity of Councils. c) Some Academies are currently paying contribution rates below that of the Council. Whilst these may be a minority, they are a sizeable one. Therefore, any move to pooling would immediately increase these Academies' LGPS costs as a direct result of prescribed regulations.

3.8 **It is not necessary to establish pools, in order to achieve the stated objective.** We believe the LGPS Funds are already well-placed, and in most cases have already taken various steps, to achieve greater stability of Academy contribution rates by comparison to the Council. Examples of approaches adopted by Funds to achieve this objective include:

1) Setting a common contribution rate for all Academies which is similar (or identical) to the Council rate, usually following appropriate risk management analysis to justify this approach (although this common rate could be too much for some academies and too little for others); or

2) Using a similar method and assumptions to those underlying the Council contribution rate calculation, to arrive at a different contribution rate for each Academy which will normally be fairly similar to the local authority rate. In the few cases where this is not the case, there are usually very good reasons, for instance a very different membership profile of the Academy.

3.9 The principle underlying the establishment of Academies is that they are independent of their former Council. Pooling arrangements involving cross-subsidies between Academies and local authorities is not consistent with this principle. Instead, the objectives can be similarly met but in a manner which is consistent with the Funds' treatment of their other employers. We believe that the existing local flexibility is sufficient to achieve the stated objective already, without the need for specific regulation.

3.10 **What a non-pooled solution might look like:**

- Standalone employer contribution rates (Option B above) to avoid pooling cross-subsidies;
- Set initial contribution rates (and short-term increases) as per the Council;
- Set future contribution rates using the similar approach and methodology used for setting contributions for the Council thus ensuring similar contributions to LEA schools (all else being equal);
- Investigate any outliers to minimise the risk of underfunding in those cases.

3.11 Finally, we acknowledge that in some cases an Academy may have a contribution rate which is still relatively high compared to their former Council. We do not believe that prescription in approach or regulation is necessary to deal with such cases. Instead, some additional guidance on principles and objectives could be introduced if needed. Any such guidance should recognise that there may be some cases where contribution rates will - now or in future - differ from those of LEA schools with justification due to differences in membership and experience (e.g. different practice in relation to pay awards).

4 Question 2

“What bodies should be included in the pool – Academies and Local Authority maintained schools, or only Academies? Please say what other arrangements would achieve this aim.”

4.1 Our proposed approach in reply to Question 1 (no enforced pooling) would avoid the need to consider this issue.

4.2 If pooling was to be introduced, then our recommendation would be that this is among Academies only. This is to ensure a risk management approach consistent with the Funds’ treatment of other employers. LGPS Funds generally apply similar assumptions and method to setting contributions for a group of broadly homogenous employers. This would also avoid the situation where Academy contribution rates increase because of falling payroll for the Council they are pooled with. Furthermore we would suggest that in the unlikely event of the withdrawal of the DfE guarantee, any shortfall on the failure of an individual Academy should be paid for by other Academies in the same pool.

5 Question 3

"If pooling regulations are introduced, should an organisation have a choice about membership of the pool, and should this choice be permanent?"

5.1 Our proposed approach in reply to Question 1 (no enforced pooling) would avoid the need to consider this issue.

5.2 If pooling was to be introduced then we believe it would be most appropriate for the Administering Authority (not the organisations themselves) to determine the membership of the various pools in its Fund. In general, we would expect the choice of pooled membership to be permanent, to avoid anti-selection (e.g. individual employers opting in or out depending on whether their contribution rates would be higher in or out of the pool), or else to permit only one opportunity to opt-out of the pool (or at least very restricted opportunities). If pooling arrangements are optional rather than prescribed under regulation, we would expect administering authorities to consult Academies before pooling is introduced. Any such consultation should set out the pros and cons of any proposed pooling arrangements.

6 Question 4

"Should actuarial assumptions used for all employers in the pool be agreed at local level with expert advice from the Fund actuary? Or should expert guidance be developed for use by each Fund?"

6.1 Our proposed approach in our reply to Question 1 above (no enforced pooling) would avoid the need to consider this issue.

6.2 We are not entirely clear on the meaning of the second part of this question. However, in principle, we would prefer to avoid centrally prescribed assumptions or approaches. This is for reasons of consistency with other employers in the Fund (including the LEA schools), and to reflect the Fund's own particular circumstances. For instance, different assumptions may be appropriate due to different demographics, different investment strategies, etc. It is more important that consistency is achieved **within** a given Fund, than **across** a number of different Funds.

7 Question 5

"What provisions might be needed to avoid any additional costs where transfers of assets and liabilities have already been made as a result of Academy conversions?"

7.1 We are not entirely clear what the "additional costs" is intended to refer to. There are different interpretations of this but, in any event, they all point to the same principle: if pools were to be established by prescribed regulation, then this will inevitably lead to questions regarding retrospection, which are not readily solved and could result in added delays, uncertainty and cost.

7.2 It should be noted that some Funds have different policies applying to different tranches of Academy conversions due to the evolving view on Academies in the LGPS. Therefore, retrospection would be even more difficult in such Funds.

7.3 An Academy which has paid a higher historic rate than its peers may ask the Fund for a refund of these contributions. It is not clear what the response to such a request would be, since:

1) The Fund might argue that policy decisions were made from time to time for good reasons, based on the information available at that time;
2) An Academy may ask for equality relative to its peers, but such retrospective equalisation will be complicated, time-consuming and costly (refunds of contributions from the Fund are not permitted).

7.4 Academies existing at the time of setting up any new pool may or may not be forcibly entered into the new pool. Enforced retrospection, i.e. bringing the historic Academies into the pool, might achieve the advantage of future consistency with their more recently converted peers; however, there are a number of disadvantages such as the enforced increase to some Academies' contribution rates, the reallocation of asset shares between the Academies and the Council, and the increased costs and timescales.

7.5 In summary, our proposed approach as per our reply to Question 1 above (no enforced pooling) would avoid the need for this issue. However, any degree of retrospection is bound to give rise to added delays, costs and disagreement.

8 Question 6

"If any administering authority has satisfactory arrangements already in place, or is in the process of implementing solutions that satisfy all parties, please could you provide a brief description of them? It is not the intention to disrupt successful local solutions, but rather to encourage the sharing of best practice which might best meet Ministers' aims of similar and stable employer rates when a maintained school converts to academy arrangements."

8.1 In our experience, broadly half of LGPS Funds have already put in place arrangements to ensure that Academy contribution rates are not too dissimilar from those of their former Council. Following review of Funding Strategy Statements as part of the 2013 valuation, we expect more administering authorities to move in this direction. Examples of approaches that achieve this without pooling with the Council include:

1) **Same initial contribution rate as the Council**

   Simply set the Academy's initial contribution rate to be identical to, or similar to, the Council rate (possibly following suitable analysis to ensure this is an appropriate contribution rate for the long term since a potential drawback is that this could be too much or too little for an individual Academy);

2) **Standalone rates using similar assumptions and method as used for Council**

   Apply the same assumptions, principles and method to calculate the Academy contribution rate as would apply to setting the Council rate;

3) **Academies' only pool**

   Establish an Academies' only pool which, with the associated increased strength of covenant and appropriate valuation method and assumptions, results in a contribution rate similar to that of the Council.

8.2 Furthermore, as part of the 2013 actuarial valuation, we are aware of many Funds that are considering adopting one of the above approaches, or another approach which arrives at broadly the same position. Therefore, in our experience, most LGPS Funds are already well along the road to achieving the DCLG's objective of 'stable' Academy contribution rates without the need for prescription or regulation.

Appendix – Reliances and Limitations

1. This is the formal response of Hymans Robertson LLP to the Department for Communities and Local Government Consultation on Pooling Arrangements for Academies within the Local Government Pension Scheme.

2. This response is not intended as advice to any LGPS Fund or other party.

3. Hymans Robertson LLP makes no representation or warranties to any third party as to the appropriateness or completeness of this information.

Havering
LONDON BOROUGH

PENSIONS COMMITTEE

17 December 2013

REPORT

Subject Heading:	HM Treasury New Fair Deal guidance
CMT Lead	Andrew Blake-Herbert
Report Author and contact details:	Contact: Karen Balam Designation: Transactional Manager Telephone: (01708) 432271 E-mail Address: Karen.balam@havering.gov.uk
Policy context:	Local Government Pension Scheme
Financial summary:	No direct costs to the Pension Fund

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[]

SUMMARY

This report is to inform the London Borough of Havering Pension Fund Committee of the HM Treasury published new guidance setting out a reformed Fair Deal policy published on 4 October 2013 and how this may impact the London Borough of Havering pension fund

RECOMMENDATIONS

1) That the London Borough of Havering Pension Fund note the new guidance setting out a reformed Fair Deal Policy published on 4 October 2013 by HM Treasury.

REPORT DETAIL

New Fair Deal Guidance

1. On 4 October 2013 HM Treasury published new guidance setting out a reformed Fair Deal policy. Fair Deal is a non-statutory policy which sets out how pensions' issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services (see Appendix A).

Prior to New Fair Deal

2. Where Best Value and Fair Deal obligations exist - the outsourcing Employer should ensure that staff who are either current members of the LGPS, or who have an entitlement to become a member of the LGPS, on being transferred under TUPE have access to either:

   - Continuing Membership of the LGPS; or
   - A GAD-certified Broadly Comparable Pension Scheme (the outsourcing contract would normally be expected to include a bulk transfer arrangement for accrued LGPS Membership).
   - Where Fair Deal only was applied the provisions allowed for:

     - Membership of the LGPS through an admission agreement;
     - A Final Salary Defined Benefit pension scheme; or
     - A Defined Contribution/Stakeholder pension scheme where member contributions were matched by the employer up to 6%.

Impact of New Fair Deal

1. Staff whose employment is compulsorily transferred from the public sector to independent providers of public services will generally have a right to continued access to relevant public service pension arrangements. These continued access arrangements will replace the current broad comparability and bulk transfer approach under the existing Fair Deal policy.

2. The new guidance also confirms that where contracts involving staff covered by the existing Fair Deal policy are retendered there will be a presumption that staff should be offered access to the appropriate public service pension scheme.
3. The new Fair Deal policy covers staff transfers from central government, so applies to central government departments, agencies, the NHS, certain maintained schools (including academies) and any other parts of the public sector under the control of government ministers, where staff are eligible to be members of a public service pension scheme.

Impact of the New Fair Deal

4. Two Academies in the Borough have outsourced public sector employees to private sector contractors.

   - One of the Academies did not seek to tender with the provision of providing the LGPS for transferred public sector employees and it is unknown what pension provision has been put in place for the staff who were TUPE'd from the Council The former council employees were moved to deferred status in the pension fund, which means that the fund liabilities for the former scheme employer are growing, although without increased years, but there is a cashflow impact on the fund due to the loss of the employee and employer contributions. Due to pension increases being greater than salary increases deferred benefits could potentially be greater than continued earned benefits.
   - The other Academy sought an Admission Agreement, which was approved by the Pension Committee, but has not been fulfilled by the admission body to date.

   The guidance now underpins the general right to continued access to the relevant public service pension scheme.

5. The future impact of the New Fair Deal guidance, which was with immediate effect, will be to increase the volume of smaller admission bodies to the fund. Managing admission bodies is resource intensive, together with managing the admission process to ensure correct compliance by contracting authorities. Any potential increase in smaller admitted bodies will impact on the costs of administering the fund, although recent system improvements and future plans to move to self service should release resources to mitigate any additional resource requirements arising from the guidance.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial implications arising directly from this report.

There is a risk with the increasing number of admitted bodies to the fund that the costs of administration will increase. However, it is expected that this will be mitigated through increased efficiencies and the levying of charges on new employers wherever possible.

Legal implications and risks:

None other than set out in this report.

Human Resources implications and risks:

The guidance now underpins the general right to continued access to the relevant public service pension scheme

Equalities implications and risks:

TUPE transfers relating to Best Value and Fair Deal authorities ensure continued access to the Local Government Pension Scheme or a broadly comparable scheme. Local Government employees providing services under contract to Academies who were transferred under TUPE to private contractors did not transfer under Best Value with continued access to the LGPS or a broadly comparable scheme unless the new employer opted to seek admission to the scheme. This was an anomaly because Academies were not considered to be Best Value authorities.

In October 2013 the HM Treasury set out the revised Fair Deal guidance which widened access to the LGPS for Local Government employees providing services under contract to Academies who were subsequently TUPE transferred to private sector contractors. The Fair Deal is a non-statutory policy setting out how pensions issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services.

The Council welcomes the new Fair Deal guidance because it will provide an appropriate level of protection to public sector employees' pension provision when the services they deliver are outsourced and will enable its current employees to continue to enjoy pension protection when transferred to a new employer.

It should be noted, however, that he Fair Deal policy does not apply to staff members of the independent contractor, including any staff employed to deliver the outsourced service or function who were not compulsorily transferred from the public sector. Any proposals to allow these staff access to a public service pension scheme are out of the

scope of this guidance, regardless of whether or not TUPE applies. Such staff will remain members of the public service pension scheme they were in immediately prior to the transfer, subject to the eligibility criteria of the relevant scheme. This means that those staff members will be potentially disadvantaged in terms of pension rights when compared with their colleagues employed by the private contractor as a result of compulsory transfer from the Council.

BACKGROUND PAPERS

The Local Government Pension Scheme Regulations (various) and the Guidance notes issued with them

Government Actuary's Department Technical Bulletin – New Fair Deal Guidance

Appendix A

Government Actuary's Department Technical Bulletin
New Fair Deal Guidance

Technical Bulletin

New Fair Deal guidance

9 October 2013

On 4 October 2013, HM Treasury (HMT) published new guidance setting out a reformed Fair Deal policy. Fair Deal is a non-statutory policy which sets out how pensions' issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services. This Bulletin provides an overview of some of the measures announced.

New Fair Deal guidance
Following two consultation exercises (see GAD's November 2012 Technical Bulletin) HMT has now published guidance setting out a reformed Fair Deal policy, as well as the government's response to its November 2012 consultation.

The November 2012 consultation announced that, under the reformed policy, staff whose employment is compulsorily transferred from the public sector to independent providers of public services will generally have a right to continued access to relevant public service pension arrangements. These continued access arrangements will replace the current broad comparability and bulk transfer approach under the existing Fair Deal policy.

The new guidance also confirms that where contracts involving staff covered by the existing Fair Deal policy are retendered there will be a presumption that staff should be offered access to the appropriate public service pension scheme.

Coverage
The new Fair Deal policy covers staff transfers from central government, so applies to central government departments, agencies, the NHS, certain maintained schools (including academies) and any other parts of the public sector under the control of government ministers, where staff are eligible to be members of a public service pension scheme. The new policy applies when such staff move from the public sector to an independent contractor by way of a transfer to which TUPE[1] applies or when such staff move by way of a non-voluntary transfer to a public service mutual or to other new models of public service delivery.

The new Fair Deal policy does not apply to staff transfers within the public sector ('machinery of government' transfers) which are covered under a Cabinet Office Statement of Practice[2]. The reformed policy also generally does not apply to staff transfers from local authorities and other best value authorities (as listed in section 1 of the Local Government Act 1999). The guidance states that the Department for Communities and Local Government (DCLG) will be considering what is needed to achieve the principles of new Fair Deal in local government.

[1] The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246)
[2] *Cabinet Office: Staff Transfers in the public sector - Statement of Practice*

Terms of access to public service schemes
Contractors will generally be required to obtain a Participation Agreement with the relevant public service pension scheme in respect of each transfer of employment, before any transfer of staff takes place.

The employer contribution rate for contractors participating in public service pension schemes will normally be set at the same level as for other employers in the scheme, although scheme regulations may provide for differential rates to be charged - for example to take account of a higher risk of default associated with that employer.

Scheme regulations may also include provisions to charge an exit payment if a contractor ceases to be a scheme employer and the liabilities attributable to their participation in the scheme have not been met by the contributions paid up to that point. The policy also enables schemes to make provisions to protect themselves from the risks and associated costs arising from contractors' participation.

Employees will generally be granted access to the public service schemes on the same terms as employees who remain in the public sector.

Second and subsequent generation transfers
The new guidance confirms that when contracts are retendered, staff covered by the existing Fair Deal policy should now generally be offered access to the appropriate public service pension scheme for future accrual, returning to the section of the scheme that they would have been in had they remained in the public sector and not been transferred out. In these circumstances, staff will have the option to transfer accrued rights into the public service scheme via a bulk transfer. Special arrangements apply where exceptional circumstances, such as requirements under procurement law, would prevent the application of the new Fair Deal policy.

Timing
The new Fair Deal policy comes into effect immediately, although the new guidance contains specific provisions to allow:

> contracting authorities that are already at an advanced stage of a procurement exercise to proceed on the basis of the existing Fair Deal policy where following the new guidance would not be practicable

> additional time, where necessary, for departments responsible for the public service pension schemes to implement changes needed to allow continued access for transferred staff

In practice this means that, until the relevant public service scheme is in a position to allow continued access to its scheme, the provisions of the existing Fair Deal policy continue to apply in respect of staff transfers involving that scheme, although the new Fair Deal policy must be followed in all cases from April 2015.

Compliance
Contracting authorities are responsible for ensuring compliance with the new Fair Deal policy, and these rights will ultimately be enforceable by staff. Independent providers, as scheme employers, will also be subject to the requirements of the scheme regulations and the jurisdiction of the Pensions Regulator and the Pensions Ombudsman.

Further information
If you require further information on the Fair Deal policy, the principles of the new Fair Deal policy in local government or machinery of government staff changes, please contact HM Treasury, DCLG or Cabinet Office respectively. For further information on GAD passports and certificates, please get in touch with your usual GAD contact.

Havering
LONDON BOROUGH

PENSIONS COMMITTEE

17 December 2013

REPORT

Subject Heading:	The Local Government Pension Scheme (Miscellaneous) Regulations 2012
CMT Lead	Andrew Blake-Herbert
Report Author and contact details:	Contact: Karen Balam Designation: Transactional Manager Telephone: (01708) 432271 E-mail Address: Karen.balam@havering.gov.uk
Policy context:	LGPS Regulations
Financial summary:	There is no material, direct financial implications for the Fund arising from this report.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	[]
Excellence in education and learning	[]
Opportunities for all through economic, social and cultural activity	[]
Value and enhance the life of every individual	[X]
High customer satisfaction and a stable council tax	[]

SUMMARY

This report advises Members of the changes that have been made to the regulations governing the Local Government Pension Scheme (LGPS) by the Local Government Pension Scheme (Miscellaneous) Regulations 2012.

The Local Government Pension Scheme (Miscellaneous) Regulations 2012 were made on 27 July 2012 and came into force from 1 October 2012.

The Miscellaneous Regulations amended regulations as follows:

- 13 regulations amended the Benefits Regulations
- 4 regulations amended the Transitional Regulations
- 22 regulations amended the Administration Regulations

RECOMMENDATIONS

1. Members note the changes contained in the Miscellaneous Regulations.

2. Members note that a further paper will be brought back to Committee with a draft Administering Authority discretion policy on Early Release of Benefits for deferred scheme members where a scheme employer is no longer an active body and there is no successor.

3. Members agree that an Administering Authority discretion policy for applications from deferred members and suspended Tier 3 ill health members aged between 55 and 60 who are wishing to opt for early payment will be brought to Committee at the next meeting. That the policy should be based upon applications being considered individually and a decision made on the merits of each case, and that normally applications will only be approved where there will be no cost falling upon other employers in the Fund.

4. Members agree that a further paper be brought back to Committee with a draft policy on accepting guarantee agreements, together with a draft ‘Guarantee Admission Agreement’.

5. Members agree a policy that prospective admission bodies must be prepared to meet the actuarial costs and administrative costs incurred by the Fund in assessing the required bond or indemnity, delivering the administration service in processing admission agreements, assessing guarantors, reviewing bond and indemnity levels and triennial valuation.

6. Members agree a policy that a bond or indemnity that is satisfactory to the Fund, or if so agreed by the Pension Committee, a guarantee, must be in place before the admission agreement is made.

7. Members agree a policy that the admission agreement may cease at the discretion of the Committee if:

   - A replacement bond or indemnity that is satisfactory to the Pensions Committee is not in place at the time the existing bond or indemnity expires
   - If a guarantee is not in place at the point when the existing guarantee is reviewed.

8. Members agree a policy of accepting open, nominated or closed admission agreements. Such a policy will ensure compliance with regulations and clarify operational procedures.

REPORT DETAIL

Introduction

1. The Miscellaneous Regulations came into force on 1 October 2012 but there was a provision made in Regulation 1 for various sub-sections within the regulations to have effect from different dates.

   The Miscellaneous Regulations affect the following legislation:
   - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;
   - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007;
   - The Local Government Pension Scheme (Transitional Provisions) Regulations 2008; and
   - The second set of regulations, the Local Government Pensions Scheme (Administration) Regulations 2008.

2. The Miscellaneous Regulations covered a wide range of mainly unrelated amendments to the Local Government Pensions Scheme Regulations. Whilst some amendments were necessary to remove old provisions and align with legislative changes (automatic enrolment), there were some key changes to the provisions relating to admission agreements in particular.

3. The report highlights some key changes which are discussed in the body of the report, with other changes listed in Appendix A. The key changes arising from the Miscellaneous Regulations 2012 that will require policy change decisions are discussed in detail within the report which are:-

   - Early release of benefits;
   - Third tier ill health pension; and
   - Changes to admission agreements.

The proposed changes relating to closed or open admission agreements do not arise from the Miscellaneous Regulations 2012 changes.

4. The Funding Strategy Statement will need to be reviewed in line with the regulatory changes to ensure that any future approved Funding Strategy Statement is fully compliant with the regulations.

5. The proposed policy changes relating to admitted bodies will be set out in a new guidance document to be produced for scheme employers. The guidance document will ensure all policies relating to the process for admission to the London Borough of Havering pension scheme are clearly set out, which will aid regulatory compliance by scheme employers and improve administrative procedures.

6. All Administering Authority discretionary policies will be published on the pension website, http://www.yourpension.org.uk/handr and updated for new discretion policies and policy revisions as they arise.

Early Release of Benefits

7. These regulations require the administering authority to introduce a discretionary policy for instances where a scheme member wishes to apply for the early release of their deferred benefits but their former employer is no longer an active scheme employer, and there is no successor body. A draft policy will be developed and brought back to Members for the next Committee meeting, the policy will be based on the premise that no costs will fall upon other employers in the Fund, unless there are special factors that justify a departure from this policy.

Third-tier ill Health Pensions

8. Previously when someone was awarded a third-tier (temporary) ill-health pension and this pension was stopped, if that individual wanted to bring their benefits back into payment they would suffer full early retirement reductions even if they have enough pensionable service to meet the ‘rule of 85’. The Miscellaneous Regulations corrected this unintended unfairness.

9. Deferred and suspended third-tier ill health retirement members who were aged between 55 and 60 and who wished to opt for early payment were required to obtain the permission of their previous employer. If the employer no longer exists then the member’s request could not be considered. To address this, the regulations will now allow the administering authority to exercise the employer discretion where the member’s former employer has ceased to be a Scheme employer.

10. To facilitate this, employers will be required to publish their policy for dealing with applications from deferred members and suspended third-tier ill health members aged between 55 and 60 who are wishing to opt for early payments. Administering authorities will also need to have a policy, as they will be required to deal with applications where the member’s employer no longer exist.

11. When considering its policy the Committee will need to take into account that the early retirement reductions applying where a member is allowed to access their benefits early may not fully address the cost of allowing early payment. In this case the residual cost will fall back on the other employers in the Fund. Subject to Members approval, a policy will be developed based on the approach that every case will be considered upon its merits but applications will normally only be approved where there is no cost to the employer or other Scheme employers in the Fund.

12. The existing power to bring a deferred benefit into payment where the member is now suffering permanent ill health is extended to cover suspended third-tier ill health cases, providing that the member is permanently incapable of any gainful employment.

Changes to admission agreements

13. The amendments made through the Miscellaneous Regulations will apply to admission agreements entered into after 1 October 2012 and there are a number of changes to regulations 6 and 7 of the Local Government Pension Scheme (Administration) Regulations 008. Admission agreements made before this date are not affected by the amendments.

14. In the case of potential transferee admission bodies, the letting authority has been required to take actuarial guidance on the potential costs that would arise if the transferee body's admission ceased in circumstances where that body could not address those costs. The letting authority is liable for any pension costs that cannot be recovered from the transferee body and so they decide on the level of bond required, this has normally been accepted by the Committee at the highest bond level to minimise risk to the Fund.

15. The Miscellaneous Regulations require that all new transferee and community admissions entered into on or after 1st October 2012 should have an indemnity or bond, which is the normal practice of the Committee.

16. If, however, for any reason it is not desirable that an admission body be required to enter into an indemnity or bond than a guarantee can be provided but only by:
    - A person who funds the admission body in whole or in part,
    - A person who owns or controls the exercise of the functions of the admission body, or
    - The Secretary of State where an admission body is established under an enactment and the enactment empowers the Secretary of State to make financial provisions for the admission body.

17. It is not clear whether the decision on this requirement is made by the admission body or the administering authority. This will need to be specified in the admission agreement but it is presumed to be a decision of the administering authority. The letting authority will clearly have an interest in the proposed transferee admission body using the means of security which adds the least cost to the provision of the services, particularly Academies who tender for catering services. However where

the letting authority is not also the administering authority it may be more difficult for the admission body to persuade the pension fund to accept a guarantee in place of a bond or indemnity.

18. The Pension Committee, as administering authority, will need to consider what their policy and procedure will be in relation to guarantees, particularly what their requirements will be and what methods of assessment will be required to ensure the Committee is satisfied that the guarantors are able to afford the commitment. Further work will be undertaken to come back to Committee with options.

19. In addition, the Miscellaneous Regulations required that the prospective admission body carries out the assessment, taking account of actuarial advice, of the level of risk exposure arising on insolvency, winding up or liquidation. The assessment must, however, be to the satisfaction of the administering authority, and in the case of a transferee admission body, the letting authority.

20. The Miscellaneous Regulations go on to require that "where the level of risk identified by the assessment is sufficient to require it" the admission body will need to enter into an indemnity or bond to the required value. The existing limitations on who can provide an indemnity or bond are retained.

21. The new requirements, which are substantially different from the previous provisions, will cause a significant increase in the work involved in admitting new bodies.

22. The Miscellaneous Regulations do not require that the prospective admission body obtain their actuarial valuation from the Fund Actuary. It is likely that some will use other actuaries whose methodologies and assumptions differ from those of the Fund Actuary.

23. In order to ensure that the assessment is acceptable, the Fund will also still have to obtain advice from the Fund Actuary. It would be an unacceptable loss of cash from the Fund and an impact on existing employers if the costs of obtaining actuarial advice in order to satisfy itself with regards to the assessments were not passed on to the prospective admission body. It is, therefore, recommended that the Committee agrees a policy that prospective admission bodies must be prepared to meet the actuarial costs of the Fund's assessment. In addition to this, the costs of bond and indemnity reviews, assessment of guarantee bodies and additional administrative support should also be passed on to admission bodies rather than met from other employers in the Fund. It should be noted that the triennial valuation is considered to be a fund requirement and not an employer cost. The fund will pick up the cost of the triennial valuation costs.

24. Actuarial assessments carried out by other firms of actuaries, or by the Fund Actuary if the admission body has specified different assumptions, are likely to result in very different outcomes from the figures calculated by the Fund Actuary using the assumptions from the last triennial valuation (or even the current triennial valuation).

25. There is a risk that the potential admission body's assessment is materially different from the assessment calculated by the Fund Actuary. The prospective admission body may not be willing to accept a higher figure calculated by the Fund Actuary and any ensuing dispute could delay admission. Further, the admission body may dispute that the level of risk is sufficient to require them to put in place a bond or indemnity.

26. The Regulations require that the assessment is to be carried out to the satisfaction of the administering authority. It will be necessary for the Committee to ensure that it is satisfied with the value of bond in place and that the position of other employers in the Fund is protected.

27. Issues over bond value could emerge at the stage that bonds are reassessed, even where they were originally successfully agreed. If an issue arises over bond value when the admission is in place the only sanction the Fund will have, if the admission body refuses to renew the bond or indemnity, or is unwilling to put in place a bond or indemnity of adequate value, is to terminate the admission.

28. Letting Authorities may have to review their contract terms and conditions to ensure that this situation is included as a breach of contract, although ceasing contracts during the agreed period of operation would definitely create major service provision continuity issues and Administering Authorities could be placed in conflict with their service provision and Pension Fund responsibilities. If an admission agreement is terminated early there will be additional costs to obtain closing valuations, difficulties may arise in collecting any deficits and administration work and costs for the Fund will increase.

29. A further change in the Regulations also requires a separate admission agreement to be in place where a transferee admission body is performing functions of a scheme employer in more than one contract (for contracts entered into from 1 October 2012). This is so it is clear when separate admission agreements are entered and to make sure that there is an obligation on the contractor to make a cessation payment when one contract ends. The start and end dates of different contracts will not be the same and there may otherwise be no obligation on the contractor to make a cessation payment where the existing admission agreement would continue by virtue of another contract.

Open or closed agreements

Admission agreements may be open, nominated or closed.

30. The status of open, restricted or closed admission agreements has not changed within the 2012 regulation changes, but currently the Pension Committee seeks to agree admission for only closed agreements. A policy of the Pension Committee requiring a closed agreement does not comply with the Pension Administration regulations. An employer guide to aid bodies seeming admitted body status is currently being produced. In order to ensure the guidance document complies with the Regulations this issue is being brought to the attention of the Committee.

An admitted body guidance document will aid overall compliance by all scheme employers with the regulations.

31. An open agreement potentially allows any employee of the contractor involved in the provision of the outsourced services (and only the outsourced services) to become a member of the Scheme i.e. new recruits the contractor employs in the provision of the outsourced service.

32. A nominated agreement allows a specified group of employees, named in the admission agreement, eligibility to become a member of the Scheme at any time.

33. A closed agreement relates only to a fixed group of employees. Only those employees who transferred to the contractor from the outsourcing employer can remain or be members of the Scheme. This would include staff not currently in the Scheme at the contract start date but who would retain the right to join the Scheme once they are transferred.

34. A review of the Administration Regulations indicates that the decision whether an admission agreement is open or closed rests with the admission body and not with the administering authority. This is for the following reasons: -

- Transferee admission bodies are defined in Regulation 6(2)(a) of the Regulations.
- Regulation 6(11) provides that where the admission body agrees to meet the requirements of Regulation 6 and Regulation 7 and the scheme employer agrees to meet the requirements of regulation 6 (i.e. to be a party to the admission agreement) the administering authority must admit to the Scheme the eligible employees of the transferee admission body designated by that body (i.e. designated by the admission body). Regulation 6(12) provides that only employees employed in connection with the provision of a service are eligible to be designated.
- Regulation 7(2) provides that "A person employed by a community admission body or an eligible person employed by a transferee admission body may only be a member if the person, or class of employees to which the person belongs, is designated in the admission agreement by the body as being eligible for membership of the Scheme.
- Paragraph 5 of Schedule 3 (contents of admission agreements requires the admission body to give an undertaking and warranty that all its employees who are members of the scheme are employed in the provision of the service (the warranty will relate to employees admitted at the date of the agreement and the undertaking will relate to employees admitted at a future date.

35. Taking these provisions together it is clear that future employees providing the service are eligible to be designated as members of the pension scheme. Whether they are in fact able to join the scheme will depend on whether their employer designates them, or designates the class of employees to which they belong, for admission to the scheme. The administering authority has no discretion in this matter as it must admit eligible employees designated by the admission body.

36. The consequence of this is that although the Pensions Committee may have a policy only to accept CLOSED admission agreements, this policy cannot be enforced as it does not comply with the obligations of administering authorities under the regulations. There may be financial and other reasons why admission bodies might prefer Closed agreements, but this is entirely a matter for the admission body and not a matter for the council.

37. The impact of the review of the regulations regarding closed or open agreements and the Pension Committee current policy is that Members will be asked to revise the current policy to be in line with regulations. The policy and impact of accepting open admission agreements will need to be included in any future revised Funding Strategy Statement.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial implications arising directly from this report. As noted in the report, employer contributions to be paid by admitted bodies are determined by the Fund's actuary.

A bond or indemnity covers the level of risk arising on premature termination of the provision of service or assets provided by the body by reason of insolvency, winding up or liquidation.

There are risks to the letting authority and the fund if the bond levels are not reviewed in line with employee and legislative changes, this risk is being managed by putting in place a timescale for bond reviews and ensure this is included in the admission agreements.

The fund also faces risk if the admitted body is unable to meet any fund deficit's at the end of a contract. This risk is going to be managed by putting in place regular reviews of admitted body risks and their employer rates. Any costs not met from the bond or indemnity would need to be met from the letting authority.

The risk of non payment of contributions, which would have a cashflow impact, is actively managed by the Pension Administration team on a monthly basis with appropriate escalation for non compliance. This risk is reported in the Pension Fund Annual Report.

The risk of a contractor failing to secure a bond is managed by ensuring all employers are aware of their responsibility to notify the Pension Team at the outset of a contracting exercise. The risk to the fund is managed by deferring the pension benefits of any transferring employees where admission agreement and bond agreements are not complied with. This does result in a cashflow loss to the fund which cannot be managed.

Legal implications and risks:

The legal implications and risks resulting from the implementation of the Local Government Pension Scheme (Miscellaneous) Regulations 2012 are fully set out in the body of this report.

Human Resources implications and risks:

Admitted body status will allow transferring staff continued membership eligibility of the LGPS.

Where the service transfer relates to employees of the London Borough of Havering, full consultation is undertaken with affected staff and the recognised trade unions in line with TUPE requirements. In respect of other service transfers the current employing body is responsible for undertaking the equivalent consultation.

Equalities implications and risks:

The Miscellaneous Regulations cover a wide range of amendments to the Local Government Pensions Scheme Regulations. The key legislative changes are related to the following areas:

Automatic Enrolment

As of October 2012, all eligible employees working for employers in the pension scheme are automatically admitted as a member of the Scheme unless they choose to opt-out.

Since the Amendment Regulations, October 2012, all non teaching employees have the right to join the LGPS. All non teaching employees with a contract of 3 months or more are already automatically enrolled in the LGPS. All non teaching employees with contracts of less than 3 months (including casuals) may now elect to join the LGPS.

This provision has widened up the pool of staff members who are eligible to join the LGPS to include employees on temporary contracts, thereby ensuring a more inclusive and fairer approach to the workforce.

Early Release of Benefits and Third-tier ill Health Pensions

It is envisaged that the above outlined legal changes will ensure a fairer, more consistent and transparent approach to staff members subject to the above provisions. Relevant policies and procedures will need to be put in place to ensure compliance with legislation.

Changes to admission agreements and Open or closed agreements

The Council is required to comply with the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (the Direction) when entering into initial and subsequent contracts for the provision of services which were previously provided by the authority's employees.

While the Council must admit to the LGPS the eligible employees of the transferee admission body, the decision to allow an open or closed scheme is made by the transferee admission body and the Council cannot influence its decision.

If a transferee admission body decides to opt in for a close scheme, staff members employed directly by that body to deliver an outsourced function, will not be able to access the public service pension scheme, and will be potentially be disadvantaged in terms of pension rights when compared with their colleagues employed by the private contractor as a result of compulsory transfer from the Council.

New policies and procedures arising from the Miscellaneous Regulations

When developing relevant policies and procedures to reflect the legal changes and provisions outlined above, due regard must be paid to employee groups with protected characteristics, and the impact from those changes must be fully considered as part of the Council's Equality Analysis process.

BACKGROUND PAPERS

The Local Government Pension Scheme Regulations (various) and the Guidance notes issued with them.

Appendix A

Other Local Government Pension Scheme (Miscellaneous) Regulations 2012 Changes Summary

- Additional Survivor Benefit extended to 31 March 2013
- Flexible Retirement – the regulations make it clear that individuals taking flexible retirement (drawing their pension benefits while continuing to work for their current employer) are not obliged to draw any of their post 31 March 2008 benefits.
- Closure Valuations – Administering authorities have been granted new powers to obtain actuarial valuations and revised rates and adjustment certificates in instances where an employing authority ceases, or the administering authority believes that they will cease, to be a scheme employer. Previously this option only applied to admission bodies.
- Allows employees with a contract of employment that is for less that 3 months the option to join the LGPS.
- Provides that employees cannot complete a form to opt-out of membership of the LGPS before their employment commences.
- Changes the final pay calculation for those members who cease active membership on or after 1 October 2012 to include pensionable pay from membership of the LGPS with a previous employer.
- Amends the definition of an eligible child to cross reference to the Equality Act 2010.
- Provides for children's pensions to take into account any additional contributions made by the deceased member and also ignores any reduction in the deceased's membership that resulted from a reduction in hours due to the member's ill health (as determined by an Independent Registered Medical Practitioner).
- Allows a police and crime commissioner, and a chief constable o become a scheme employer from 22 November 2012.
- Where an employing authority is required to contribute to more than one LGPS fund or merges or amalgamates with another employing authority in a different fund or moves its main place of business to a different geographical area, the Secretary of State can, on or after 1 October 2012 and upon application from the employing authority, decide whether to issue a direction substituting one fund for another.
- Allows LGPS fund to pay the annual allowance tax charge following a request to do so from a member, with a consequential reduction in the member's benefits. This amendment has been backdated to 6 April 2011.
- Requires administering authorities to issue an annual benefit statement to each of its active, deferred and pension credit members by no later than 6 months after the end of the tax year to which the statement relates.
- Clarifies that the LGPS fund for an academy is the one within whose local government area the academy is located except in cases where the London Pension Fund Authority (LPFA) was the administering authority prior to conversion as in such cases the LPFA remains the appropriate fund for the academy.

- A significant further change means that the requirement for a risk assessment and potentially a bond now applies equally to community admission bodies as to transferee admission bodies. This will be a further cost and potential hurdle to third sector providers who wish to provide services to the public sector and offer staff access to the Local Government Pension Scheme (LGPS).
- Regulation 38 of the LGPS Administration Regulations dealing with the special circumstances when revised actuarial valuations and certificates must be obtained is amended so as to apply to all employing authorities, not just admission bodies, who cease to be Scheme employers. A valuation must be undertaken, on the date the employing authority ceases to be a Scheme employer, of the liabilities of the fund in respect of the employing authority's current and former employees and a revised rates and adjustment certificate is to be provided.

In addition there is a further amendment which updates the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. This now requires a local authority’s policy statement (relating to the exercise of their discretion to base redundancy pay on actual pay and/or to award a compensation payment of up to a maximum of 104 weeks pay) to include employees of both technical institutes and federated schools.

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