



PENSIONS COMMITTEE

8 November 2022

Subject Heading:

**FUNDING STRATEGY STATEMENT –
updated November 2023**

CLT Lead:

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Policy context:

Administration Authority must prepare, maintain & publish a statement setting out their Funding Strategy Statement in accordance with regulations

Financial summary:

None directly

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

SUMMARY

The Funding Strategy Statement (FSS) is a Statement of the Havering Pension Fund's ("the Fund") approach to funding its liabilities, focusing on how employer liabilities are measured, the pace at which these liabilities are funded and how employers pay for their own liabilities.

The FSS has been updated to simplify outsourcing/admissions for academies and Local Education Authorities (LEAs) and to achieve additional employer guarantees for academy outsourcing (via the newly extended Department for Education (DfE) guarantee).

The FSS applies to **all** employers participating in the Fund

Appendices A and B to this report are exempt from publication by virtue of paragraph 3 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended, as it commercially sensitive until such time the committee approves the draft for consultation.

RECOMMENDATIONS

That the Committee:

1. Agree the draft updated Funding Strategy Statement attached as **Appendix A (EXEMPT)**.
2. Agree the associated draft Policy on pass-through, attached as **Appendix B (EXEMPT)**
3. Agree the draft versions as stated above be issued for consultation.
4. If as a result of the consultation, any representations are made, the Committee is asked to delegate to the Statutory Section 151 officer in consultation with the Chair to approve the final version of the FSS.

REPORT DETAIL

1. Background

- a. The Local Government Pension Scheme (LGPS) Regulations 2013 section 58 require Pension Funds to maintain and publish a Funding Strategy Statement (FSS). The Authority must keep the statement under review and, after consultation with such persons as it considers appropriate, make such revisions as are appropriate.
- b. The FSS should be completed and approved by the Pensions Committee prior to the completion of each valuation, this was agreed at the 8 November 2022 meeting.
- c. The FSS is a high-level statement of an administering authority's approach to its funding strategy and has been prepared in conjunction with the Pension Fund's ("The Fund's") Actuary, having regard to guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) "*Preparing and Maintaining a Funding Strategy Statement (2016)*" and statutory guidance from the Department for Levelling Up, Housing and Communities (DLUHC) on preparing and maintaining policies relating to employer exit.

- d. Its purpose is to document the processes the administering authority uses to:
 - *establish a **clear and transparent fund-specific strategy** identifying how employers' pension liabilities are best met going forward*
 - *support the regulatory framework to maintain **as nearly constant employer contribution rates as possible***
 - *ensure the fund meets its **solvency and long-term cost efficiency objectives***
 - *take a **prudent longer-term view** of funding those liabilities.*
- e. The FSS is for all employers participating in the fund, because it sets out how money will be collected from them to meet the fund's obligations to pay members' benefits.

2. Changes to the current FSS

- a. The FSS requires updating to simplify outsourcing/admissions for academies and Local Education Authorities (LEAs) and to achieve additional employer guarantees for academy outsourcing (via the newly extended Department for Education (DfE) guarantee).
- b. The updated draft FSS can be found attached as Appendix A (includes existing appendices A to F). Track changes version is included to show where changes have been made.
- c. A policy paper "*DfE local government pension scheme guarantee for academy trusts: pensions policy for outsourcing arrangements*" issued by the Department for Education & Skills Funding Agency (DfES), was updated 17 May 2023. The new DfE guarantee will now apply to all academy outsourcings as long as they are done on a pass through basis and are closed to new entrants.
- d. A pass through arrangement is a risk sharing mechanism, in which the risks of participating in the LGPS are shared between the new employer and the letting authority, this could be the council or an academy, typically with the majority of the pensions risk being borne by the letting authority rather than the new employer.
- e. The new employer would still be expected to pay for the costs which are mainly within their control, this being any enhancements to members' benefits, including those payable via early retirement redundancies as well as meeting the contributions payable.
- f. The letting authority would retain and meet the actual cost of all the investment risk and essentially meet the actual cost of pensions, those costs outside of the employers control. The risks to be shared are set out within Appendix B, section 3.3.

- f. The additional Policy for the Funds pass through arrangements will become Appendix G to the FSS and is attached as Appendix B.
- g. All existing admission agreements are unaffected by this policy. Applies to new entries from the effective date of the revised FSS

3. Consultation and publication

- a. Regulation 58(3) of the LGPS Regulations 2013 states that following a material change in its policy the authority should consult with such persons it considers appropriate.
- b. The changes made to the FSS and the introduction of a Policy on pass through is deemed material enough for further consultation. The updated DRAFT version of the FSS will be distributed to all participating employers in the Fund following agreement of the draft at this meeting. The consultation will be open for at least six weeks and the final version agreed no later the **31 December 2023. The effective date of the new revised FSS being 1 January 2024.**
- c. All responses will be considered but ultimately, responsibility for finalisation and publication of the FSS lies with the administering authority. This Report recommends delegation of the consideration of any responses to the Statutory Section 151 officer in consultation with the Chair. Once those representations have been considered and any changes considered necessary have been made the final version will be published accordingly.
- d. Once the updated FSS has been approved it will be published on the administering authority websites and employers will be notified of where to access the FSS online.

IMPLICATIONS AND RISKS

Financial implications and risks:

The DfE Academy Trust LGPS Guarantee policy achieves additional employer guarantees for academy outsourcing (via the newly extended Department for Education (DfE) guarantee) providing greater protection for the Fund. The guarantee covers three distinct groups:

- Employees eligible for LGPS who are working for the academy trust, who are transferred to a contractor or on future re-tenders as part of an outsourcing contract.

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- Employees eligible for LGPS who were working for the local authority in a maintained school, then transferred to a contractor under Transfer of Undertakings Protection of Employment (TUPE), prior to the school becoming an academy, and where the outsourcing contract has passed to the academy trust following conversion to an academy.
- Employees eligible for LGPS who are working for the local authority, which is providing services to the academy trust under a contract, and the trust decides to outsource this contract to a third-party provider. Therefore, the employees transfer from the local authority to the new contractor.

The Guarantee ensures that in the event of the closure of an academy trust, any outstanding LGPS liabilities will not revert to the fund. The assets of the academy trust must be used to pay-off any liabilities, with any shortfall paid for through the DfE LGPS guarantee.

Where an academy is the letting employer, the fund will expect academies to ensure and confirm that any outsourcing complies with the requirements set out in the 'DfE Academy Trust LGPS Guarantee policy' before permitting an admission body in the fund. Where this requirement is met, no additional risk assessment or security will typically be required for the admitted body as the pension liabilities will be covered by the DfE Academy Guarantee.

The pass-through policy also means that a pension fund should no longer require a bond for pension liabilities. However, if the pension fund insists on a bond, then that would be for the external contractor to provide, as an academy trust cannot provide a bond for LGPS pension liabilities.

Where the Council or an LEA school is the letting authority, the fund expects the pass through to be the preferred approach for the admission of all new contractors to the fund.

The benefit to pass-through being that the letting authority does not have to meet the cost of a contract potentially inflated by over-cautious risk assumptions, provides added certainty amongst contractors and letting authorities. Contractors put off by pension issues might enter the market, particularly smaller companies. If much of the pension risks were retained by letting authorities this may result in greater competition, realistic prices and better value for money.

The potential disadvantages of pass through arrangements include a higher level of risk being retained by the letting authorities, which may lead to additional costs if an outsourced contractor goes into admission.

The cost of producing the FSS and associated policies are met by the Pension Fund.

Legal implications and risks:

The changes to the FSS and the introduction of a pass-through policy sets out the Fund requirements for admitting new bodies into the Fund. The detail is contained within the body of the FSS and the new policy on pass through.

The Fund will need to ensure that the processes set out within Appendix B (Appendix G - section 3.6) are adhered to and the procurement departments within the letting authorities are aware of the need to publicise the pass through policy as part of its tender process to bidders.

The Fund should consider reviewing its Admission policy, template Admission Agreements and any other associated documents to ensure the new entry requirements into the Fund are incorporated.

The requirements of a fair consultation include that the consultation proceeds at a formative stage before final decisions have been taken, that consultees are given sufficient time and information in order to comment meaningfully, and that any responses are conscientiously taken into consideration before a final decision is made.

These principles appear to have been applied so long as the final decision makers take the consultation responses into account before finalising the Funding Strategy Statement.

Human Resources implications and risks:

None directly arising from this report.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment/identity.

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The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA is not considered necessary regarding this matter as the protected groups are not directly or indirectly affected

BACKGROUND PAPERS

Background Papers List

None