



**ADMISSION BODIES**

**A GUIDE FOR LETTING EMPLOYERS**

**AND**

**POTENTIAL NEW SCHEME EMPLOYERS**





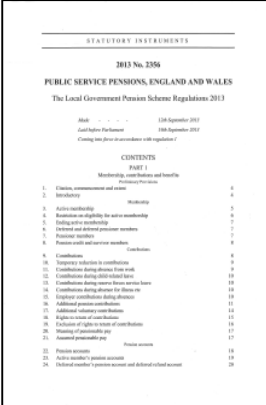
## CONTENTS

<b>INTRODUCTION</b>	<b>4</b>
<b>MATTERS TO BE CONSIDERED</b>	<b>5</b>
IMPACT ON THE TRANSFEROR SCHEME EMPLOYER	5
THE NEW ADMISSION BODY CONTRIBUTIONS AND FINANCIAL IMPLICATIONS	5
PROTECTING THE PENSION FUND	7
PENSION SCHEME ADMINISTRATION	9
COMMUNICATIONS	9
EMPLOYER POLICY STATEMENT	10
CONTRACT / ADMISSION AGREEMENT TERMINATION	10
THE ADMISSION AGREEMENT	11
OPEN OR CLOSED SCHEME	11
<b>PROCESS FOR GAINING ADMISSION BODY STATUS</b>	<b>12</b>
<b>COMPLETING THE ADMISSION AGREEMENT</b>	<b>15</b>
<b>GLOSSARY OF TERMS</b>	<b>17</b>
<b>THE REGULATIONS</b>	<b>18</b>
REGULATION 3 – ACTIVE MEMBERSHIP	18
SCHEDULE 2 PART 3	18
REGULATION 64 – SPECIAL CIRCUMSTANCES WHERE REVISED ACTUARIAL VALUATIONS AND CERTIFICATES MUST BE OBTAINED	20

## INTRODUCTION

The Local Government Pension Scheme (LGPS) is a statutory pension scheme which means that the rules governing the scheme are set out in Acts of Parliament. Whilst the Scheme is a 'national scheme' and the same regulations apply across the whole of England & Wales, the administration is run locally by the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund.

The current regulations, which have been in force since 1 April 2014, are the Local Government Pension Scheme Regulations 2013 referred to hereinafter as 'the Regulations'. For ease of reference, the relevant parts of 'the Regulations' as they relate to admission bodies can be found at the end of this guide.



STATUTORY INSTRUMENTS

2013 No. 2356

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme Regulations 2013

Made . . . . . 10th September 2013

Laid before Parliament . . . . . 10th September 2013

Coming into force in accordance with regulation 1

CONTENTS

PART 1

Membership, age, benefits and benefits

1. Eligibility, contributions and rates	1
2. Membership	2
3. Active membership	2
4. Retirement on disability for active membership	2
5. Entitlement to pension	2
6. Entitlement and amount of pension benefits	2
7. Pension credits	2
8. Pension credits for active members	2
9. Contributions	2
10. Temporary reduction in contributions	2
11. Contributions for non-active members	2
12. Contributions for non-active members who have been active	2
13. Contributions for non-active members who have been active and then inactive	2
14. Contributions for non-active members who have been active and then inactive and then active	2
15. Additional voluntary contributions	2
16. Additional voluntary contributions for non-active members	2
17. Additional voluntary contributions for non-active members who have been active	2
18. Additional voluntary contributions for non-active members who have been active and then inactive	2
19. Additional voluntary contributions for non-active members who have been active and then inactive and then active	2
20. Pension credits for non-active members	2
21. Pension credits for non-active members who have been active	2
22. Pension credits for non-active members who have been active and then inactive	2
23. Pension credits for non-active members who have been active and then inactive and then active	2
24. Pension credits for non-active members who have been active and then inactive and then active and then inactive	2
25. Pension credits for non-active members who have been active and then inactive and then active and then inactive and then active	2

The LGPS is a defined benefit (DB) pension scheme which means that the method by which benefits are calculated are determined by a formula set out in regulations and are not dependent upon the contributions paid by the scheme member and their Scheme Employer, how well those contributions have been invested and the value of the pension 'pot' at retirement as is the case with defined contribution (DC) pension schemes. The rate at which a scheme member pays contributions is set out in 'the Regulations' whereas the rate at which a Scheme Employer pays contributions is not and instead the employer contribution rates are set every three years by the Fund's actuary as part of the triennial (three-yearly) valuation process. A Scheme Employer is required to pay a contribution over and above the members' contribution rate to ensure that member benefits are fully funded and so the financial risk of the Pension Fund's investments falls upon Scheme Employers and not the scheme members.

The LGPS is a funded pension scheme. This means that the Administering Authority maintains a fund of money, kept separate to all other local government finances and into which all employee and employer contributions are paid. The employee and employer contributions paid are set at a rate that is intended to meet the cost of providing member benefits built up in the past and in the future. The Pension Fund then invests these contributions and seeks a return that will be sufficient to ensure that those benefits will be paid.

Where the Pension Fund has more than enough funds to meet its obligations it is deemed to be in surplus. However, where it has insufficient funds to meet its obligations it is deemed to be in deficit and so action has to be taken to bring the fund back to a fully funded position. This is achieved by an adjustment to the employer contribution rate and the Scheme Employer is at risk of having to pay increasing employer contributions at times when the investment returns made by the Pension Fund are not sufficient to meet the 'future' obligations that it is legally required to do.

It is worth noting that pensions are a long-term investment and so there are mechanisms by which pension funds can maintain their assets to ensure that, over time, pensions will be paid to scheme members both in the present and the future. Ultimately, however, there is a 'Government guarantee' to pay pensions due from a statutory scheme such as the LGPS.

A 'Glossary of Terms' used throughout this guide can be found on page 17.

## MATTERS TO BE CONSIDERED

### Impact on the Transferor Scheme Employer

When a group of employees is transferred from a Scheme Employer (the Transferor) to a New Admission Body (the independent service provider contracted by the Transferor Scheme Employer to provide services), the membership profile of the Transferor Scheme Employer may change significantly particularly where the number of employees being transferred is a relatively high percentage of the Transferor Scheme Employer's overall Pension Fund membership. This can have the effect of changing the Transferor Scheme Employer's future contribution rate and past service deficit recovery payments.



For instance, a plan may have been put in place for the Transferor Scheme Employer to pay increased contributions over a 20 year period to recover a pension fund deficit of £500k. If the Transferor Scheme Employer transfers say 10% of its employees to a New Admission Body the profile of the remaining 90% of employees could change significantly. Also, although the New Admission Body is set up as a fully funded body within the Pension Fund at the commencement date of the contract, the deficit that is linked to the transferring employees is retained by the Transferor Scheme Employer. Therefore, the employer contributions required to make good the deficit will need to increase as the overall deficit remains the same but the value of the payroll reduces as a result of the staff transfer.

So at the time of transfer consideration has to be given to both the employer contribution required of the New Admission Body but also the potential impact that the transfer of staff will have on the Transferor Scheme Employer and it may be that the 20 year recovery period mentioned earlier has to be amended or the rate at which the Transferor Scheme Employer pays employer contributions, increased to ensure that the deficit recovery payments are met.

Subject to obtaining the appropriate legal advice and as part of the main service contract negotiations between the Transferor Scheme Employer and their chosen independent service provider (wishing to become a New Admission Body to the Pension Fund), it is possible for alternative arrangements to be considered and agreed between the two parties. For example 'pass through' is where the cost of providing a defined benefit contribution scheme such as the LGPS is shared between the Transferor Scheme Employer and the New Admission Body. The Transferor Scheme Employer may consider a fixed employer contribution rate for the New Admission Body for the duration of the contract with any excess being paid by the Transferor Scheme Employer. Or the Transferor Scheme Employer and the New Admission Body may agree an upper or lower employer contribution rate and providing the rate calculated by the actuary falls within the range agreed, the New Admission Body pays all of the contributions. However, where the actuarial rate is either side of the range an adjustment is made to the cost of the service provided by the New Admission Body to the Transferor Scheme Employer. This is known as 'cap and collar'.

It must be noted that any arrangement made between the Transferor Scheme Employer and the New Admission Body will not impact upon the Pension Fund liabilities identified by the actuary and that such arrangements must be included in the **main service contract**. The Pension Fund will not be a party to the arrangements and so they will not be included as any part of the pension admission agreement.

### The New Admission Body Contributions and Financial Implications

Upon admission to the Pension Fund the independent service provider, as chosen by the Transferor Scheme Employer, will become an 'Admission Body' and must commit to a number of significant obligations in the same way as any other Scheme Employer including:

- Making payment of all contributions to the Pension Fund as determined by the Administering Authority including deficit recovery amounts when required;
- Administering the LGPS in accordance with ‘the Regulations’ and any guidance issued by the Administering Authority;
- Meeting the cost of all liabilities building up in the Pension Fund both whilst as a contributing Scheme Employer and at the point of exit from the Scheme (where relevant);
- Ensuring that all Scheme members in their employ are kept up to date with matters pertaining to their membership of the Scheme.

The amount that an Admission Body will pay by way of employer pension contributions is determined by an actuarial assessment prior to the start of the service contract but calculated as at the contract start date. The actuary will look at the profile of the eligible employees transferring from the Transferor Scheme Employer to the Admission Body and take account of each employee’s age, gender, contractual hours of work, full time equivalent salary, scheme membership accrued to date, life expectancy and expected retirement age.

Whilst employee contributions are set in accordance with Regulation 9 of ‘the Regulations’, employer contributions are likely to vary. It is important that any new Admission Body is aware of this and that there is potential for employer rates to increase as well as decrease. In fact, every three years the Pension Fund undergoes a full actuarial valuation when employer contribution rates are set for the next valuation period. The actuary will determine a ‘common’ rate required across the Fund in general and then make an adjustment to that rate for each Scheme Employer based on the specific membership profile of each Scheme Employer separately. Whilst the actuary can and does ‘pool’ certain groups of Scheme Employer together this is not the case for Admission Bodies.

The actuary will adopt a certain funding method and uses a set of assumptions, as agreed with the Administering Authority, to determine what the employer contribution rates should be. In setting the rates the actuary has to consider the cost of providing pension benefits in the future as well as ensuring the Pension Fund meets the liabilities built up in the past. These are known as the ‘future service rate’ and the ‘past adjustment rate’.

Any new Scheme Employer therefore needs to be fully aware of and in a position to accept the ongoing financial responsibility that becoming an Admission Body entails. An Admission Body will usually start with a funding level of 100% i.e. their assets will be equivalent to the liabilities notionally transferred to the Admission Body from the Transferor Scheme Employer in respect of the eligible employees transferring to their employment. The initial employer contribution rate, set as a percentage of pensionable payroll, will be determined by reference to the pension benefits that will be built up during the contract period. This will be kept under review as part of the 3-yearly actuarial valuation process or such shorter period as may be required. Ultimately, any surplus or deficit arising will be spread over a period agreed by the Administering Authority.



Any new Admission Body needs to understand that upon admission to the Pension Fund it will become financially liable for:

- The future pension benefits built up for each of the contributing Scheme members transferred to the Admission Body from the Transferor Scheme Employer at the admission agreement commencement date;
- The increase in the value of the past pension benefits built up for each of the contributing Scheme members transferred to the Admission Body from the Transferor Scheme Employer at the admission agreement commencement date;
- The future pension benefits built up for each of the non-contributing Scheme members transferred to the Admission Body from the Transferor Scheme Employer at the admission

agreement commencement date from the date that they may elect to join the Scheme (or be automatically enrolled into it);

- The pension benefits built up for any future new employee admitted to the LGPS by the Admission Body (if the admission agreement is open to new joiners);
- Additional pension benefits arising from the transfer in of former pension rights from other pension schemes on behalf of any Scheme member that the Admission Body employs;
- The ongoing deferred and retired member benefits payable to former active members in their employ until those members die or their surviving dependants die. If a Scheme member dies before their spouse, civil partner or nominated co-habiting partner, a proportion of the pension becomes payable for the lifetime of the dependant. In addition, pensions can also be paid to eligible children of the deceased up to the age of 18 or to the age of 23 if still in full time education or training.

Consideration also has to be given to the impact that a closed admission agreement, including where a previously open agreement becomes closed to future new entrants, has on future costs.

Whilst it may seem that savings are to be made by closing the Scheme to new entrants, certain implications need to be considered that can actually increase Pension Fund costs. Consider the following where no future employees are permitted to join the Scheme:

- **The average age profile of the employer's scheme members.** As time goes on the average Scheme member age will increase and this will have an impact on the cost of future benefits. The future service rate would therefore increase as the average age of the scheme members increases.
- **Scheme members leave the employer.** As Scheme members leave the employer the total value of their pension payroll decreases. This means in monetary terms that the contributions to be paid to the Pension Fund decreases but the amount being paid toward any deficit also becomes smaller meaning that the past adjustment rate has to increase to meet the benefit liability previously built up. Whilst any deficit is likely to be paid over a period equal to the lifetime of the contributing Scheme members, where no new 'younger' employees are being admitted, that period contracts resulting in higher payments having to be made over a shorter period of time.
- **Termination of admission agreement.** A closed admission agreement may have the impact of bringing forward the date that the admission agreement ends, the point at which a cessation valuation is undertaken by the Pension Fund actuary and therefore the date at which any termination cost may be due from the Admission Body.

Any Admission Body considering closing an existing open agreement should contact the Pension Fund immediately so that the actuary can carry out an assessment of the funding position of that Admission Body and any adjustment that may be required to the employer contribution rate.

### Protecting the Pension Fund

When a Scheme Employer decides to outsource a service to an independent service provider and that provider seeks to become an Admission Body within the Royal County of Berkshire Pension Fund, the Fund has a responsibility to ensure that such a decision made by one Scheme Employer does not have a detrimental impact on the funding level of the Scheme benefits attributable to the employees involved in the transfer of their employment to the Admission Body nor that the decision impacts unfavourably on the other Scheme Employers participating in the Pension Fund.



As previously mentioned throughout this guide, it is a requirement of 'the Regulations' for an Admission Body to carry out an assessment, to the satisfaction of the Transferor Scheme Employer and the Royal Borough of Windsor & Maidenhead, having taken account of actuarial advice, of the level of risk arising on the premature termination of the provision of the contract services by reason of insolvency, winding up or liquidation of the Admission Body.

In order to protect the Pension Fund against the identified risk, the Admission Body is required to provide a bond or indemnity to the value as actuarially assessed or to provide details of a guarantor (usually the Transferor Scheme Employer or perhaps a Parent Company guarantee). Both the Transferor Scheme Employer and the Admission Body will therefore need to consider and determine whether or not a bond should be provided or if the Transferor Scheme Employer (or some alternative) is prepared to act as a guarantor to the Pension Fund. Depending on the amount of the bond this could have an impact on the contract price negotiated between the Transferor Scheme Employer and the independent service provider seeking to become an Admission Body so it is important for this information to be available early on in the tendering process.



It is worth noting that in accordance with Regulation 64(3)(a) where an Admission Body is not able to pay for the liabilities it has accrued at the date of termination of the admission agreement, the shortfall attributable to that Admission Body will revert back to the Transferor Scheme Employer. This includes the commitment to maintain all liabilities relating to deferred and retired members whose pension payments will continue to be received long after the termination of the admission agreement.

In addition to assessing the risk of premature termination of the admission agreement, the value of the bond or indemnity as actuarially assessed also takes account of:

- The risk to the Pension Fund of the Admission Body retiring their Scheme members earlier than their expected or normal retirement date. This may be due to redundancy (compulsory or voluntary), business efficiency, flexible retirement, early retirement with employer consent or possibly even ill health retirement. 'The Regulations' state that where a scheme member who is aged 55 or over is made redundant (including retirement on the grounds of business efficiency), the member is entitled to the immediate release of their accrued benefits without the application of an actuarial reduction otherwise applied to reflect their early payment. This generates a strain cost for the Pension Fund as, due to an employer's decision to make a Scheme member redundant, benefits are paid earlier than anticipated and therefore over a longer period of time. As those benefits cannot be actuarially reduced to compensate for their early release, a shortfall in funding arises and the Scheme Employer is required to make a capital payment to the Pension Fund to ensure that there are sufficient funds available to pay those benefits over a longer period than anticipated. It is important that before taking any decision that may lead to the early release of a Scheme member's benefits the Admission Body contacts the pension scheme administrators to discuss the potential costs involved.
- Discretionary awards of additional benefits in line with the Scheme Employer's policy statement. Further details as to what these discretions are can be found on the Berkshire Pension Fund website ([https://www3.rbwm.gov.uk/bpf/info/2/employers/43/policy\\_statements](https://www3.rbwm.gov.uk/bpf/info/2/employers/43/policy_statements)).
- Funding shortfall as a result of a difference between actuarial assumptions and actual experience. For example the investment returns of the Pension Fund were less than anticipated, or a change in regulations increased the cost of providing benefits under the Scheme.

Where the decision is taken to provide a bond, paragraph 7 of Part 3 to Schedule 2 of 'the Regulations' sets out the conditions under which a bond must be provided. The value of the bond must be kept under review by both the Transferor Scheme Employer and the Pension Fund and the Admission Body is responsible for all costs associated in procuring and maintaining the bond (subject to any alternative agreement that may have been negotiated between the Transferor Scheme Employer and the Admission Body).



## Pension Scheme Administration

The role of Scheme Employers in administering the LGPS cannot be under-estimated. Much of the information held by the Administering Authority on their pension administration systems is obtained from data supplied to them by the Scheme Employer, normally by one or other or a combination of both the payroll and personnel sections.

The Royal County of Berkshire Pension Fund has developed a Pension Administration Strategy ([https://www3.rbwm.gov.uk/bpf/downloads/file/112/pension\\_administration\\_strategy](https://www3.rbwm.gov.uk/bpf/downloads/file/112/pension_administration_strategy)) in accordance with 'the Regulations', its purpose being to outline the role of the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund and the role of the Scheme Employer in ensuring that certain performance standards are maintained and that Scheme members receive an efficient and effective service.

In addition to the Pension Administration Strategy each Scheme Employer is also required to sign up to a Pensions Administration Service Level Agreement which sets out in detail the responsibilities required of a Scheme Employer, includes timescales for completion of many administrative tasks (which are reported quarterly to the Pension Board) and details the charges that may be applied where those responsibilities are not maintained in line with the Pension Administration Strategy.

Every Scheme Employer, including an Admission Body, is required to supply information to the Scheme administrators in a prescribed format and in accordance with the standards set out in the Service Level Agreement. This includes (but is not limited to):

- Notifications of employees joining the LGPS;
- Notifications of contract changes throughout an employee's employment;
- Notifications of employees leaving the LGPS;
- Making payment of employee and employer contributions by the 19<sup>th</sup> day of the month following deduction;
- Providing year end data by the 30<sup>th</sup> of April each year;
- Responding to enquiries made by the pension administration team within specified deadlines;
- Providing details of pensionable pay and assumed pensionable pay;
- Administering and enforcing auto-enrolment legislation as it applies to the LGPS.

This is by no means an exhaustive list but highlights many of the responsibilities that a new Admission Body will need to adopt upon completion of the admission agreement.

## Communications

The Berkshire Pension Fund has produced and keeps under review a 'Communications Policy' ([https://www3.rbwm.gov.uk/bpf/downloads/file/113/communications\\_policy\\_statement](https://www3.rbwm.gov.uk/bpf/downloads/file/113/communications_policy_statement)). As part of the admission process a new Admission Body will be required to complete, as part of the Service Level Agreement, details of their Pension Liaison Officer who will be the Pension Fund's first point of contact for all pension related issues. Additional contacts can also be supplied at this time if thought appropriate but it is important that the Pension Fund is supplied with a postal address, a telephone number and an email address for the named Pension Liaison Officer.



In addition, the new Admission Body will be required to specify a person to deal with complaints that may arise under stage one of the Internal Dispute Resolution Procedure (IDRP). The IDRP is a three-stage complaints procedure and can be used by a Scheme member where they feel a decision that has been taken in respect of their pension rights is wrong. Stage one of the process is undertaken by the Scheme member's employer, stage two by the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund and stage three by The Pension Advisory Service (TPAS) and the Pensions Ombudsman.

A Scheme Employer is required to specify or nominate an officer who will hear stage one cases as part of their 'Employer Policy Statement' (see below).

### **Employer Policy Statement**

The LGPS is a statutory pension scheme governed by Regulation and as such the pension benefits that it provides for its members are set out in law. However, within the Scheme regulations there are a number of Scheme Employer discretions as to how the Scheme rules might be applied and each Scheme Employer is required to formulate, produce, publish and keep under review a policy statement as to how it intends to use those discretions.

As part of the admission process a new Admission Body will be required to produce a policy statement a template of which is available, and can be downloaded from, the Pension Fund website ([https://www3.rbwm.gov.uk/bpf/info/2/employers/43/policy\\_statements](https://www3.rbwm.gov.uk/bpf/info/2/employers/43/policy_statements)). A guide to completing the policy statement is also available from the Pension Fund website to assist Scheme Employers ([https://www3.rbwm.gov.uk/bpf/downloads/file/110/employers\\_guide\\_to\\_completing\\_a\\_statement\\_of\\_policy](https://www3.rbwm.gov.uk/bpf/downloads/file/110/employers_guide_to_completing_a_statement_of_policy)). It may be that a new Admission Body is happy to adopt the policies of the Transferor Scheme Employer but irrespective of this the Admission Body will be required to produce its own policy document.

### **Contract / Admission Agreement Termination**

In most cases the date on which a service contract and the associated admission agreement is expected to end is known. So long as the Admission Agreement is kept under review and notification of any pending termination is given to the Pension Fund within a reasonable period in advance of the termination date, the cessation valuation required under the Regulations should not be cause for too much concern.

However, where an Admission Body becomes insolvent, is wound up or goes into liquidation it is highly important that the Pension Fund acts as soon as possible to safeguard itself and the other Scheme Employers contributing to the Fund. A Scheme Employer should always make every effort to notify the Pension Fund as soon as it knows that the admission agreement is likely to be terminated early for the reasons given previously. In this way the Pension Fund can act quickly to obtain an actuarial valuation of the liabilities pertaining to the employer and for a revised rates and adjustment certificate to be issued setting out the amended employer contribution rate required.



The assets and liabilities of each Scheme Employer are monitored by the actuary and it is the policy of the Royal County of Berkshire Pension Fund to ensure that each employer is held accountable for its own funding experience. Therefore, providing that the Pension Fund is made aware as early as possible that a Scheme Employer will be ceasing membership of the LGPS, an assessment can be made as to the level of employer contribution required of the Scheme Employer to extinguish any identified liability before the Scheme Employer leaves the Pension Fund.

Where a shortfall exists at the termination date the Pension Fund will pursue the Scheme Employer, any insurer providing a bond or any guarantor as appropriate but ultimately, if unsuccessful, the Transferor Scheme Employer will become liable for any outstanding costs in accordance with Regulation 64(3)(a) of 'the Regulations'.

It is therefore very important that a Transferor Scheme Employer is clear about their potential risk exposure from the outset and put in place whatever mechanisms they deem appropriate to protect themselves against those potential risks.

## The Admission Agreement

Scheme regulations require an admission agreement to be in place between the Transferor Scheme Employer, the Admission Body and the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund before the contract start date. As a minimum the admission agreement must contain references to all the matters contained within paragraphs 3 to 12 of Schedule 2 of Part 3 of 'the Regulations'.

The key requirements to be contained within the agreement are:

- The date from which the admission agreement takes effect;
- Details of the service contract to which the agreement relates;
- Details of eligibility for membership of the LGPS including confirmation of those individuals at the effective date who are either contributing to the LGPS or who are eligible to contribute to the LGPS but are, for whatever reason, not contributing to the Scheme at the effective date;
- A declaration that the eligible employees are employed by the Admission Body in connection with the provision of the service contract (Clause 1.2 of the admission agreement defines this as meaning for at least 50% of normal contracted working hours);
- Details of the employer contribution rate as actuarially assessed and how the rate may be varied subject to actuarial re-evaluation;
- Details of the Admission Body's liability to meet additional costs that may arise as a result of its decision to award the early release of benefits to its Scheme members and any liabilities arising from the termination of the admission agreement;
- Details of a bond or indemnity to the value as actuarially assessed to the satisfaction of both the Transferor Scheme Employer and the Royal Borough of Windsor & Maidenhead or if such an indemnity is not required confirmation of a guarantor;
- To keep under review the value of the bond or indemnity where required and as actuarially assessed;
- The Admission Body's obligations to administer the Scheme in accordance with 'the Regulations' and in line with the Service Level Agreement and guidance issued by the Administering Authority;
- The Admission Body's obligation to produce and keep under review a policy statement with regard to the discretions available to it under 'the Regulations';
- Provisions required on termination of the admission agreement including the premature termination of the agreement due to insolvency, winding up or liquidation of the Admission Body;
- Three copies of the final admission agreement must be produced each one of which must be signed and sealed by the three parties to the agreement, one copy of which is to be retained by each of the parties to the agreement.



## Open or Closed Agreement

The new Admission Body and the Transferor Scheme Employer will need to consider whether or not the admission agreement will be open or closed.

An **open agreement** means that any future employee of the Admission Body appointed after the admission agreement commencement date who is employed in connection with the provision of the service contract will have access to the LGPS subject to the normal eligibility provisions set out in 'the Regulations'.

A **closed agreement** means that the eligible employees detailed within the admission agreement continue to have access to the LGPS whilst employed in connection with the provision of the service contract and subject to the normal eligibility provisions set out in 'the Regulations'. However, no future employees of the Admission Body will be granted access to the LGPS even if they are so employed and the independent service provider will need to offer an alternative pension scheme for those individuals it employs on that basis.

## PROCESS FOR GAINING ADMISSION BODY STATUS

This section of the guide sets out the various steps that need to be taken to ensure the successful admission of a new employer into the Pension Fund. It is important that the Transferor Scheme Employer involves the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Pension Fund as early as possible as any potential new Admission Body will need to know the implications of seeking admission body status to the Pension Fund when bidding for the service.



### Step 1 – Transferor Scheme Employer takes a decision to outsource one of its services

The Transferor Scheme Employer must notify the Pension Fund immediately of its decision prior to commencing a full procurement exercise.

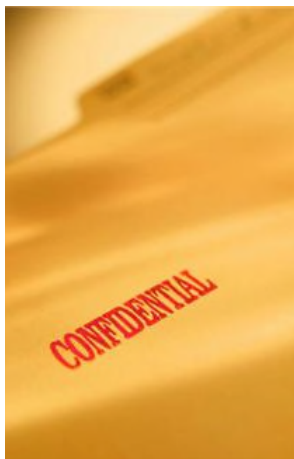
### Step 2 – Request for information

The Pension Fund will request from the Transferor Scheme Employer details of the employees who are likely to be involved in the TUPE transfer. The Administering Authority will provide a spreadsheet to the Transferor Scheme Employer requesting details, in a prescribed format, of all Scheme members currently contributing to the LGPS along with details of employees not currently contributing to the Scheme for whatever reason but who are eligible for membership of the Scheme. The Pension Fund will also need to know the expected contract start date and the anticipated length of the contract to be awarded.

### Step 3 – Data check

Upon receipt of the employee details from the Transferor Scheme Employer the Pension Fund will check the data against its database and raise any queries with the Transferor Scheme Employer to ensure that all records are accurate and up to date.

### Step 4 – Submission of data to the Pension Fund actuary



Once it has been confirmed that all data is up to date the Pension Fund will submit a file to the Pension Fund actuary requesting a report setting out a valuation of the liabilities relating to the employees concerned, the proposed employer pension contribution rate required of any new Admission Body (for both an open and closed agreement\*) and an assessment of the risk that accepting a new Admission Body into the Pension Fund will have for the Pension Fund and its other associated employers. This will be expressed as a bond or indemnity the value of which must be considered as part of the admission agreement process. A period of 6 weeks should be allowed for the actuary to provide this information. **NOTE:** There will be an actuarial fee for the provision of the actuary's report which will be recharged by the Pension Fund to the Transferor Scheme Employer.

\* Both open and closed admission agreements allow employees at the date of transfer to retain their membership of the LGPS (or eligibility for membership of the scheme if not currently contributing) so long as they are employed in connection with the provision of the service that has been outsourced. A closed agreement restricts membership of the LGPS specifically to those individuals employed at the contract start date whereas an open agreement allows access to the LGPS for all future individuals that become employed in connection with the provision of the service.

## Step 5 – Provision of actuarial report

The Pension Fund will immediately provide a copy of the actuary's report upon receipt to the Transferor Scheme Employer for inclusion in their tender specification. It should be noted that without this information any prospective bidder will find it difficult to decide whether or not to proceed with the tender.

## Step 6 – Determination of pension liabilities

The Transferor Scheme Employer will need to make a decision as to how the pension liabilities identified in the actuary's report will be funded. This may be by requiring the successful contract bidder to provide a bond or indemnity to the value set out in the actuary's report or by the Transferor Scheme Employer choosing to act as a guarantor to the Pension Fund. In either case, the decision taken will need to be clearly set out in the final admission agreement and in the service contract between the Transferor Scheme Employer and their chosen independent service provider (the Admission Body). It may be that the Transferor Scheme Employer negotiates with their chosen independent service provider an alternative way to meet the identified pension liabilities (see page 5 – references to 'pass-through' and 'cap and collar') but any agreement between the two parties must be reflected in the service contract and not the pension admission agreement. The Transferor Scheme Employer and new Admission Body will also need to decide whether the admission agreement will be on an open or closed basis.



## Step 7 – Award of contract

The Transferor Scheme Employer awards the contract to their preferred bidder and must, therefore, immediately notify the Pension Fund. As part of this process the Transferor Scheme Employer must confirm the name of the successful bidder, their contact details, the date that the contract will start, the length of the contract and updated details, in the format previously specified at Step 2 by the Pension Fund, of the employees (if different from the previous submission) involved in the TUPE transfer.

## Step 8 – Revision of scheme liabilities

Where the Transferor Scheme Employer provides an updated staff TUPE list to the Pension Fund, the Pension Fund will, following the completion of the checks set out at Step 3, request a revised report from the Pension Fund actuary setting out the revised liabilities and updated risk assessment. **NOTE:** Any additional actuarial cost that arises will be recharged by the Pension Fund to the Transferor Scheme Employer.

## Step 9 – Provision of actuarial report

Where the actuary has been required to provide a revised report to the Pension Fund a copy will immediately be sent to the Transferor Scheme Employer upon receipt by the Pension Fund.

## Step 10 – Template admission agreement

A template admission agreement (which is available from the Berkshire Pension Fund website [https://www3.rbwm.gov.uk/bpf/downloads/file/92/county\\_of\\_berkshire\\_pension\\_funds\\_pro\\_forma\\_admission\\_agreement](https://www3.rbwm.gov.uk/bpf/downloads/file/92/county_of_berkshire_pension_funds_pro_forma_admission_agreement)) will be sent to the Transferor Scheme Employer and the Admission Body by the Pension Fund. It should be noted that the admission agreement **MUST** be completed in advance of the service contract commencement date i.e. it must be signed (and sealed where appropriate) by the three parties to the agreement before day one of the contract, the three parties being the Transferor Scheme Employer, the chosen independent service provider as the new Admission Body and the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund. A copy of the template admission agreement must be provided to the legal representatives of each party for

their input but it is worth noting that it is in a format acceptable to the Pension Fund and in order for the agreement to be completed in a timely manner amendments should be kept to a minimum.

### **Step 11 – Completion of admission agreement and administrative issues**



Once the admission agreement has been accepted by the three parties steps will be taken by the Pension Fund to create a new employer and for the records of the Scheme members involved in the TUPE transfer to be moved from the existing Transferor Scheme Employer to a newly created employer within the pension administration software. Details of how to make contribution payments to the Pension Fund will also be supplied along with guidance as to how the Pension Scheme should be administered by the new Admission Body on behalf of their scheme members.

As explained earlier in this guide the newly created Admission Body will be required to complete and comply with a Pension Administration Service Level Agreement, to prepare, produce and publish an Employer Policy Statement with regard to certain employer discretions available and to ensure that the correct employee and employer contributions are deducted from their Scheme members' pay from the date that the employer becomes an Admission Body to the Pension Fund.

## COMPLETING THE ADMISSION AGREEMENT

As explained throughout this guide, there are 3 parties to any admission agreement:

1. The Transferor Scheme Employer;
2. The Incoming Admission Body (i.e. the independent service provider as chosen by the Transferor Scheme Employer); and
3. The Administering Authority to the Royal County of Berkshire Pension Fund (i.e. The Royal Borough of Windsor & Maidenhead).

The 3 parties need to be in a position to sign off the admission agreement prior to the contract start date with the Royal Borough of Windsor & Maidenhead being the final party to complete the signing (and sealing) process.

In order to complete the document there are a number of fields that need to be input prior to signing:

Page 1	i)	Date of agreement (to be completed by the Royal Borough of Windsor & Maidenhead once all three parties have signed (and sealed))
	ii)	Name of Transferor Scheme Employer at (2)
	iii)	Name of new Admission Body at (3)
Page 5	i)	Date that agreement is made in full (day and month spelt out, year in numbers)
	ii)	Name and address of Transferor Scheme Employer at (2)
	iii)	Name and address of new Admission Body at (3) (including its Companies House registration number)
Page 6	i)	Insert Commencement Date where required
	ii)	Insert Contract (Project) Agreement – details of service being provided
	iii)	Insert Contract length and possible extensions where required
	iv)	Insert Expected Termination Date where required
Page 9		Insert Commencement date at Clause 5
Page 12		At Clause 8.1.1 insert the appropriate employer contribution rate and delete reference to either open or closed agreement as relevant
Page 17		At Clause 10.1, insert the value of the bond/indemnity, as actuarially assessed, in words and in numbers (even where a bond/indemnity may not be required)
Page 18	(i)	At Clause 10.4 confirm whether a bond or indemnity is required by deleting either IS or IS NOT
	(ii)	At Clause 10.5 confirm the name of the guarantor and confirm the sub-clause under which the guarantor has been accepted by deleting references to all other possible sub-clauses
Page 22		Insert the Authorised Officers' signatures and (where appropriate) the authorities seals for each of the 3 parties to the agreement i.e. the Transferor Scheme Employer, the new Admission Body and the Royal Borough of Windsor & Maidenhead (in that order)
Schedule 1		Insert the name of all eligible employees indicating whether or not each employee is an active or a non-active eligible employee
Schedule 2(A)		Complete Schedule 2(A) if a bond/indemnity is required (and deleted Schedule 2(B))
Page 25	(i)	Insert the date that the bond is provided
	(ii)	Insert the name of the Admission Body at (1)
	(iii)	Insert the name of the Guarantor (bond provider) at (2)

- Page 27 (i) Insert the date of the bond agreement in words and details of the Admission Body at (2) and the Guarantor at (3)
- (ii) Insert the value of the 'Bond Amount' and the 'Expiry Date' where required

Page 32 Insert the Authorised Officers' signatures and (where appropriate) the authorities seals for each of the 3 parties to the bond agreement i.e. the New Admission Body, the Guarantor and the Royal Borough of Windsor & Maidenhead

Pages 33 and 35 provide sample extension and payment notices and should be used as appropriate when such circumstances arise.

Schedule 2(B) Complete Schedule 2(B) where a guarantor has been found and a bond/indemnity is not required (and deleted Schedule 2(A))

Page 37 Insert date of guarantee and at (2) insert the name of the Guarantor

- Page 38 (i) Insert the date of the guarantee in words and details of the Transferor Scheme Employer at (2) and the Admission Body at (3)
- (ii) Insert admission agreement date where required

Page 41 Insert the Authorised Officers' signatures and (where appropriate) the authorities seals for each of the parties to the guarantor agreement i.e. the New Admission Body, the Guarantor and the Royal Borough of Windsor & Maidenhead

Page 43 provides a sample payment notice which should be used as appropriate when such a circumstance arises.



## GLOSSARY OF TERMS

Actuary	A professionally qualified independent person appointed by the Administering Authority in order to value the Pension Fund and therefore set contribution rates.
Administering Authority	The local authority responsible for running a Local Government Pension Fund. For the County of Berkshire the Administering Authority is the Royal Borough of Windsor & Maidenhead. The Administering Authority invests and manages the assets of the Royal Country of Berkshire Pension Fund, sets employer contribution rates, collects those contributions and pays the benefits to the Scheme members. It also manages the full administrative processes in line with Scheme regulations.
Bond or Indemnity	The actuarially assessed value of the level of risk to the Pension Fund associated with an Admission Body prematurely terminating the admission agreement. See paragraph 6 and paragraph 7 of Part 3 of Schedule 2 of 'the Regulations'.
Closed agreement	An admission agreement that only provides access to the LGPS for those employees of the Admission Body, who were contributing to the Scheme, or who were eligible to contribute to the Scheme but for whatever reasons were not, at the date of transfer from the Transferor Scheme Employer.
Employed in connection with the provision of the service or assets	Employees of the Admission Body must be working on the service contract outsourced by the Transferor Scheme Employer for at least 50% of their normal contracted working hours at any given time.
Employer policy statement	A statement of policy about the exercise of certain discretions available to Scheme Employers (including Admission Bodies under Regulation 60 of the LGPS Regulations 2013.
LGPS	Local Government Pension Scheme.
(New) Admission Body	the independent service provider appointed by the Transferor Scheme Employer to provide the services being outsourced and which is seeking admission to the Pension Fund.
Open agreement	An admission agreement that provides access to the LGPS for not only those employees of the Admission Body who were contributing to the Scheme, or who were eligible to contribute to the Scheme but for whatever reasons were not, at the date of transfer from the Transferor Scheme Employer, but also to new future employees appointed by the Admission Body to work in connection with the provision of the service contract.
Pension Administration Strategy	A policy statement prepared by the Administering Authority in accordance with Regulation 59 of the LGPS Regulations 2013, which sets out standards required of Scheme Employers (and the Administering Authority) in order to properly manage and administer the requirements of 'the Regulations' and all related matters.
'the Regulations'	The Local Government Pension Scheme Regulations 2013 (and any amendments thereto).
Transferor Scheme Employer	The Scheme Employer letting a service under a full procurement exercise with the aim of appointing an independent service provider.

## **THE REGULATIONS**

### **Regulation 3 – Active membership**

#### **Paragraph 5**

Where an Administering Authority enters into an admission agreement with an admission body:

- (a) the admission body must comply with the requirements specified in paragraphs 3 to 12 of Part 3 of Schedule 2; and
- (b) these Regulations apply to the admission body and to employment with the admission body in the same way as if the admission body were a Scheme Employer listed in Part 2 of Schedule 2.

#### **Schedule 2 Part 3**

##### **Paragraph 1**

The following bodies are admission bodies with whom an Administering Authority may make an admission agreement:

- (a) a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and has sufficient links with a Scheme Employer for the body and the Scheme Employer to be regarded as having a community of interest (whether because the operations of the body are dependent on the operations of the Scheme Employer or otherwise);
- (b) a body, to the funds of which a Scheme Employer contributes;
- (c) a body representative of:
  - (i) any Scheme Employers, or
  - (ii) local authorities or officers of local authorities;
- (d) a body that is providing or will provide a service or assets in connection with the exercise of a function of a Scheme Employer as a result of:
  - (i) the transfer of the service or assets by means of a contract or other arrangement,
  - (ii) a direction made under section 15 of the Local Government Act 1999 (Secretary of State's powers),
  - (iii) directions made under section 497A of the Education Act 1996;
- (e) a body which provides a public service in the United Kingdom and is approved in writing by the Secretary of State for the purpose of admission to the Scheme.

##### **Paragraph 2**

An approval under paragraph 1(e) may be subject to such conditions as the Secretary of State thinks fit and the Secretary of State may withdraw an approval at any time if such conditions are not met.

##### **Paragraph 3**

The Scheme Employer, if not the Administering Authority, must be a party to the admission agreement with a body falling within the description in paragraph 1(d).

##### **Paragraph 4**

In the case of an admission body falling within the description in paragraph 1(b), where at the date of the admission agreement the contributions paid to the body by one or more of the Scheme Employers equal in total 50% or less of the total amount it receives from all sources, the Scheme Employer paying contributions (or, if more than one pays contributions, all of them) must guarantee the liability of the body to pay all amounts due from it under these Regulations.

## **Paragraph 5**

*If the admission body is exercising the functions of the Scheme Employer in connection with more than one contract or other arrangement under paragraph 1(d)(i), the Administering Authority and the admission body shall enter into separate admission agreements in respect of each contract or arrangement.*

## **Paragraph 6**

*An admission agreement must require the admission body to carry out, to the satisfaction of the Administering Authority, and to the satisfaction of the Scheme Employer in the case of a body falling within paragraph 1(d)(i), an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up, or liquidation of the admission body.*

## **Paragraph 7**

*Notwithstanding paragraph 6, and subject to paragraph 8, the admission agreement must further provide that where the level of risk identified by the assessment is such as to require it, the admission body shall enter into an indemnity or bond in a form approved by the Administering Authority with:*

- (a) a person who has permission under part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance;*
- (b) a firm in an EEA state of the kind mentioned in Paragraph 5(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule to accept deposits or to effect and carry out contracts of general insurance); or*
- (c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.*

## **Paragraph 8**

*Where, for any reason, it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement must provide that the admission body secures a guarantee in a form satisfactory to the Administering Authority from:*

- (a) a person who funds the admission body in whole or in part;*
- (b) in the case of an admission body falling within the description in paragraph 1(d), the Scheme Employer referred to in that paragraph;*
- (c) a person who:
  - (i) owns, or*
  - (ii) controls the exercise of the functions of, the admission body; or**
- (d) the Secretary of State in the case of an admission body:
  - (i) which is established by or under any enactment, and*
  - (ii) where that enactment enables the Secretary of State to make financial provision for the admission body.**

## **Paragraph 9**

*An admission agreement must include:*

- (a) provision for it to terminate if the admission body ceases to be such a body;*
- (b) a requirement that the admission body notify the Administering Authority of any matter which may affect its participation in the Scheme;*
- (c) a requirement that the admission body notify the Administering Authority of any actual or proposed change in its status, including a take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the body's business or constitution;*
- (d) a right for the Administering Authority to terminate the agreement in the event of:
  - (i) the insolvency, winding up or liquidation of the admission body;**

- (ii) a material breach by the admission body of any of its obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time;
- (iii) a failure by the admission body to pay any sums due to the fund within a reasonable period after receipt of a notice from the Administering Authority requiring it to do so.

#### **Paragraph 10**

An admission agreement must include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered pension scheme.

#### **Paragraph 11**

When an Administering Authority makes an admission agreement it must make a copy of the agreement available for public inspection at its offices and must promptly inform the Secretary of State of:

- (a) the date the agreement takes effect;
- (b) the admission body's name; and
- (c) the name of the Scheme Employer that is party to the agreement.

#### **Paragraph 12**

Where an admission body is such a body by virtue of paragraph 1(d), an admission agreement must include:

- (a) a requirement that only employees of the body who are employed in connection with the provision of the service or assets referred to in that sub-paragraph may be members of the Scheme;
- (b) details of the contract, other arrangement or direction by which the body met the requirements of that sub-paragraph;
- (c) a provision whereby the Scheme Employer referred to in that sub-paragraph may set off against any payments due to the body, an amount equal to any overdue employer and employee contributions and other payment (including interest) due from the body under these Regulations;
- (d) a provision requiring the admission body to keep under assessment, to the satisfaction of the bodies mentioned in paragraph 6, the level of risk arising as a result of the matters mentioned in that paragraph;
- (e) a provision requiring copies of notifications due to the Administering Authority under paragraph 9(b) or (c) to be given to the Scheme Employer referred to in that sub-paragraph; and
- (f) a provision requiring the Scheme Employer referred to in that sub-paragraph to make a copy of the admission agreement available for public inspection at its offices.

#### **Paragraph 13**

Where an admission body of the description in paragraph 1(d) undertakes to meet the requirement of these Regulations, the appropriate Administering Authority must admit to the Scheme the eligible employees of that body.

#### **Regulation 64 – Special circumstances where revised actuarial valuations and certificates must be obtained**

##### **Paragraph 1**

If a person:

- (a) ceases to be a Scheme Employer (including ceasing to be an admission body participating in the Scheme), or
- (b) was a Scheme Employer, but no longer has an active member contributing to a fund,

that person becomes “an exiting employer” for the purposes of this regulation and is liable to pay an exit payment.

### **Paragraph 2**

When a person becomes an exiting employer, the appropriate Administering Authority must obtain:

- (a) an actuarial valuation as at the exit date of the liabilities of the fund in respect of benefits in respect of the exiting employer’s current and former employees; and
- (b) a revised rates and adjustment certificate showing the exit payment due from the exiting employer in respect of those benefits.

### **Paragraph 3**

Where for any reason it is not possible to obtain all or part of the exit payment due from the exiting employer, or from an insurer, or any person providing an indemnity, bond or guarantee on behalf of the exiting employer, the Administering Authority must obtain a further revision to any rates and adjustment certificate for the fund showing:

- (a) in the case where a body is an admission body falling within paragraph 1(d) of Part 3 of Schedule 2 to these Regulations (Scheme Employers: bodies providing services as a result of transfer of a service), the revised contribution due from the body which is the related employer in relation to that admission body; and
- (b) in any other case, the revised contributions due from each Scheme Employer which contributes to the fund,

with a view to providing that assets equivalent to the exit payment due from the exiting employer are provided to the fund over such period of time as the Administering Authority considers reasonable.

### **Paragraph 4**

Where in the opinion of an Administering Authority there are circumstances which make it likely that a Scheme Employer (including an admission body) will become an exiting employer, the Administering Authority may obtain from an actuary a certificate specifying the percentage or amount by which, in the actuary’s opinion:

- (a) the contribution at the primary rate should be adjusted; or
- (b) any prior secondary rate adjustment should be increased or reduced,

with a view to providing that assets equivalent to the exit payment that will be due from the Scheme Employer are provided to the fund by the likely exit date or, where the Scheme Employer is unable to meet that liability by that date, over such period of time thereafter as the Administering Authority considers reasonable.

### **Paragraph 5**

When an exiting employer has paid an exit payment into the appropriate fund, no further payments are due from that employer in respect of any liabilities relating to the benefits in respect of any current or former employees of that employer as a result of these Regulations.

### **Paragraph 6**

Paragraph (7) applies where:

- (a) a Scheme Employer agrees to pay increased contributions to meet the cost of an award of additional pension under regulation 31 (award of additional pension); or
- (b) it appears likely to an Administering Authority that the amount of the liabilities arising or likely to arise in respect of members in employment with a Scheme Employer exceeds the amount specified, or likely as a result of assumptions stated, for that authority, in a rates

*and adjustment certificate by virtue of regulation 62(8) (actuarial valuations of Pension Funds: assumptions).*

**Paragraph 7**

*The Administering Authority must obtain a revision of the rates and adjustments certificate concerned, showing the resulting changes as respects that Scheme Employer.*

**Paragraph 8**

*For the purposes of this regulation:*

*“existing employer” means an employer of any of the descriptions specified in paragraph (1);  
“exit payment” means the assets required to be paid by the exiting employer over such period of time as the Administering Authority considers reasonable, to meet the liabilities specified in paragraph (2);  
“exit date” means the date on which the employer becomes an exiting employer; and  
“related employer” means any Scheme Employer or other such contracting body which is a party to the admission agreement (other than an Administering Authority in its role as an Administering Authority).*