

LOCAL GOVERNMENT PENSION SCHEME (LGPS)

BRIEFING NOTES FOR SCHOOLS, ACADEMIES, FREE SCHOOLS AND

UNIVERSITY TECHNICAL COLLEGES CONSIDERING SERVICE OUTSOURCING

The Local Government Pension Scheme (LGPS) is a statutory scheme meaning that it is governed and administered in line with certain legislation and scheme regulations issued by Government. Included in those regulations is the way in which employees' pension rights are to be protected where their employment is transferred to a new employer following a decision by their scheme employer to outsource a service to a private company. In many cases such circumstances arise where a Unitary Authority decides to deliver services differently by 'outsourcing to the private sector' but the same rules apply when a school/academy etc. chooses to transfer, typically, but not necessarily, catering or cleaning services, to an alternative service provider.

Normally staff who transfer employment following an employer decision to 'outsource' will retain the same employment rights under TUPE (The Transfer of Undertakings (Protection of Employment regulations)). Whilst pensions are not covered by TUPE, employers are still required to ensure that their employees either retain membership of the LGPS following transfer through an admission agreement with the Pension Fund or have access to an alternative pension arrangement that provides broadly equivalent pension rights to those offered in the LGPS.

This will usually mean that the chosen independent service provider will seek to become an 'admission body' to the LGPS.

The process of becoming an admission body

Prior to the school/academy deciding to outsource a service, it will be necessary to obtain, from the Pension Fund Actuary, an assessment of the school's pension liabilities in respect of those scheme members and potential scheme members to be transferred to the independent service provider.

It is important that this information is obtained as soon as a school considers its options to outsource as the information supplied by the actuary will be required by any company choosing to bid for the service contract. The Pension Fund will supply the school with a data capture spreadsheet for completion. The details required in respect of each scheme member (and each employee who is eligible to contribute to the LGPS but who has chosen not to), are as follows:

- Full Name
- NI Number
- Sex
- Date of Birth
- Full Time Annual rate of Pensionable Pay
- Contracted Weekly Hours
- Contracted Weeks Per Year
- Employee Pension Contribution Rate
- Whether Contributing to the LGPS or Not

The details supplied will be checked against the pension administration system and any discrepancies will be raised with the school. Once the data is deemed to be accurate it will be submitted to the Actuary who will provide a report setting out the amount of deficit (or surplus) attributable to the 'transferring' scheme members, the expected employer contribution rate required of the 'new' admission body and the level of bond or indemnity required from the new admission body to protect the Pension Fund against the early termination of the service contract. The Actuary will initially charge the Pension Fund for the provision of this report in line with their current fixed fee schedule but the Fund will recharge the cost back to the school upon receipt of the Actuary's quarterly schedule of fees.

Admission Agreement

Before the service contract commences an admission agreement should be prepared and agreed by all three parties to the agreement i.e. the outsourcing employer, the incoming admission body and the Royal Borough of Windsor & Maidenhead as the Administering Authority to the Royal County of Berkshire Pension Fund. Three copies of the agreement must be produced and signed off by all three parties to the agreement (the administering authority signing last).

IMPORTANT NOTE: In the case of an academy (Free School or UTC) it is clear as to who the scheme employer is. In the case of a LEA maintained school it is likely that the employer will be the relevant Unitary Authority (although it could be the Governors of the school) and so that Unitary Authority should be party to the admission agreement and have been involved in discussions with the school from the outset as to the implications of outsourcing a service.

A number of guides concerning admission bodies and agreements can be found on the Berkshire Pension Fund website at [http://www.berkshirepensions.org.uk/info/2/employers/30/admission_agreements - private contractors](http://www.berkshirepensions.org.uk/info/2/employers/30/admission_agreements_-_private_contractors)

Admission Body Status

Once set up as a new admission body within the Pension Fund, the independent service provider will be treated in the same way as any other scheme employer in accordance with the Scheme regulations that govern the LGPS and will have the same responsibilities and duties placed upon it as with all scheme employers.

The correct rate of both employee and employer contributions will need to be deducted from each scheme members' pay bearing in mind that Scheme regulations currently provide for 9 employee contribution rates across 9 salary bands.

The pension contributions must be paid to the Pension Fund each month and by the 19th day of the following month in respect of which the contributions have been deducted. A breakdown between the employee and employer contributions must be provided when each payment is made. The Pension Fund provides a template spreadsheet for this purpose.

The admission body will also be required to provide an annual return for reconciliation purposes setting out the total amount of employee and employer contributions in respect of each scheme member (and each pensionable post held by an employee) for the period 1 April to 31 March each year.

Pension Administration – Employer Responsibilities

An admission body, as a Scheme employer, has to ensure that certain information is supplied to the pension administration team in respect of the Scheme members they employ.

The admission body will be required to sign up to a pension administration service level agreement and provide details of a pension liaison officer responsible for ensuring that the scheme is administered in line with that SLA. Information required includes:

- Details of new employees joining the scheme (if the admission agreement is an open agreement)
- Notification of contract variations
- Details of leavers and retirements including pensionable pay calculations
- Monthly (and annual) returns of contribution data

Employer Decisions

Decisions to be taken by an employer include:

- Policy making in respect of employer discretions available within the LGPS regulations (a template will be provided by the Pension Fund)
- Awards of pension benefits including ill health retirements and the use of an Independent Registered Medical Practitioner (IRMP)
- Dealing with disputes under the Internal Resolution Disputes Procedures (IDRP).

Early retirement costs

In accordance with current LGPS regulations, if a scheme member aged 55 or over is retired early by their employer or is made redundant by their employer, the scheme member becomes entitled to the immediate release of their accrued pension benefits. In many cases this means that benefits are paid out of the Pension Fund in advance of the member's normal retirement date and therefore for a longer period than anticipated. The employer is required to make a payment to the Pension Fund (known as a strain or capital cost) in order to compensate the Pension Fund for having to pay benefits for longer than expected. It is worth noting that an employer should always request estimates for employees being retired early.

This briefing note refers to members of the Local Government Pension Scheme and therefore only covers non-teaching staff at academies/schools etc. The Teachers Pension Scheme is administered separately and is not the responsibility of The Royal County of Berkshire Pension Fund.

Disclaimer

The information contained in this briefing note has been prepared by the Royal County of Berkshire Pension Fund. It should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the Pension Fund for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this briefing note.