

## ADMITTED BODIES

### Report of the County Treasurer

Please note that the following recommendations are subject to consideration and determination by the Board before taking effect.

**Recommendation: That the Board notes the process for Admitted Bodies.**

#### 1. Introduction

- 1.1 Admitted body status (ABS) provisions were introduced in the LGPS in 1999 to allow contractors, who take on local authority services or functions with any specific groups of transferring employees, to offer transferring staff continued eligibility for the LGPS during the contract.
- 1.2 ABS provisions enable members of the LGPS to remain in the scheme and continue to accumulate benefits under their existing LGPS arrangements whilst their employment is transferred between different contractors and as long as they remain employed in connection with the delivery of the outsourced service.
- 1.3 The administering authority will make the decision to admit a body (contractor) to the LGPS, having established that it is possible to do so in accordance with the LGPS regulations and in consultation with the relevant letting authority and contractor.

#### 2. Admitted Bodies

- 2.1 The Devon Pension Fund requires an Admission Body to have a binding Admission Agreement in place that sets out the conditions of participation. A number of key decisions will need to be made through negotiation between the letting authority and the Admission Body in order to finalise the inclusion of the Admission Body into the Fund.
- 2.2 The key decisions that need to be considered are:
  - Who is eligible to join the LGPS;
  - Whether new recruits, as well as transferring employees can join;
  - How pension costs will be funded and by whom;
  - If the organisation generates significant additional costs through its own activities, are these costs eligible pay for pension purposes, and if they are who will pay these additional costs;
  - It is important for both the Admission Body and letting authority to specify clearly what will happen at the end of the Admission Agreement, specifically in respect of pension liabilities upon exiting the fund;
  - Any indemnity or bond requirements.

- 2.3 In addition to the above, consideration will need to be given to whether the admission agreement will be a closed or open agreement. 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.

### **3. Understanding the Risk for the Fund**

- 3.1 An Admission Body in the Devon Pension Fund will normally start at a funding level of 100%. This means that where the delivery of a service is being outsourced, the Fund Actuary will notionally transfer pension fund assets equal to the value of the liabilities from the letting authority to the Admission Body on the date of transfer.
- 3.2 Admission Body employers will pay contributions to the LGPS in respect of the transferred employees, and the employees are able to continue to accrue benefits in the LGPS whilst they remain employed in connection with the delivery of the outsourced service.
- 3.3 At the termination of the Admission Agreement, the Devon Pension Fund will require the Admission Body to meet any financial liability in full, that has arisen from any adverse difference between the actual and expected experience in relation to the value of members' benefits.
- 3.4 The primary risk arising from Admission Bodies is from the cost of any outstanding liabilities at the point of termination of the Agreement coupled with the ability of the Admission Body to pay.

### **4. Mitigating Risk**

#### **4.1 Pre-Admission Agreement**

- 4.1.1 The Devon Pension Fund will require a prospective Admission Body to be clear on its eligibility to join the LGPS and to complete and submit an Admission Body Application Form.
- 4.1.2 LGPS Regulations require the Admission Body to undertake an assessment taking into account actuarial advice on the level of risk arising from premature termination of the provision of service by reason of insolvency, winding up, or liquidation of the Admission Body. The Admission Body can employ an external actuary to provide this assessment, or it can use the Fund's actuary. If an external actuary is used, the Devon Pension Fund may request verification of the assessment by the Fund's actuary at a cost to the Admission Body.
- 4.1.3 The Devon Pension Fund will expect the Admission Body to discuss the results of the assessment with the letting authority in the completion of contract detail and fulfilment of Admission Agreement arrangements including the provision of surety or indemnity.

- 4.1.4 Any shortfall attributable to an Admission Body will ultimately fall to the letting authority where the Fund is unable to obtain contributions from the Admission Body, including cessation funding on termination of the Admission Agreement. This effectively means that the letting authority, as the awarding or sponsoring body, is the guarantor for the Admission Body under LGPS terms. The letting authority must confirm to the Devon Pension Fund where this is to be their entire approach for indemnifying the Fund.
- 4.1.5 Where the letting authority determines that the level of risk identified in the assessment is such as to require it, a potential Admission Body must provide a bond in a form approved by the Administering Authority in order to meet the level of risk identified. The bond needs to be in place by the commencement date of the Admission Agreement and renewed upon each expiry date.
- 4.1.6 The Admission Body must provide the Devon Pension Fund with details of their proposed bondsman for approval in advance of entering into the bond. Section 6 of the LGPS (Administration) Regulations 2008 lays out conditions on the type of financial institution that bonds can be with.
- 4.1.7 As an alternative to a bond, Admission Bodies are able to set up an escrow account for the equivalent value of the actuarially assessed bond level. Devon County Council as Administering Authority for the Fund will need to be a signatory party to the account, or have a legal charge placed over it, on the basis that monies can only be withdrawn or the account closed with mutual consent, and will require evidence of the value of the amounts on deposit at start up and thereafter on a periodic basis.
- 4.1.8 The letting authority and the Admission Body may also reach agreement on sharing the cost risk of pension provisions under an Admission Agreement both throughout the life of a service contract and upon its cessation including any termination liability. This practice is known as a Pass-Through arrangement and is purely a service contract issue for the two parties. The Administering Authority will not typically be involved in such an arrangement as the letting authority will remain as guarantor for the Admission Body and the conditions of the Admission Agreement will be unaffected by it.

## 4.2 During the Admission Agreement

- 4.2.1 Letting authorities should regularly review the level of risk relating to an Admission Agreement throughout its life.
- 4.2.2 Devon County Council, as Administering Authority for the Devon Pension Fund will, as a minimum, commission the Fund Actuary to conduct a formal risk assessment of Admission Bodies and to re-evaluate associated indemnity or bond levels every three years in between Actuarial Valuations of the Fund. The Fund will bear the cost of this risk assessment.

- 4.2.3 Devon County Council shall notify letting authorities and Admission Bodies of the results of the risk exercise. The letting authority can require an Admission Body to adjust an indemnity or bond or escrow deposit accordingly.
- 4.2.4 The Admission Body must ensure that the agreed indemnity or bond remains in force at all times during the life of the Admission Agreement. The letting authority will need to monitor this is so.
- 4.2.5 The Fund actuary can use the results of the risk assessment exercise in determining the outcome of the three-yearly Actuarial Valuation of the Fund for both the Admission Body and the letting authority in relation to deficit recovery periods and employer contribution rates.
- 4.2.6 The Admission Body is required to notify Devon County Council of any matter which may affect or is likely to affect its participation in the LGPS, and give immediate notice of any actual or proposed change in its status which may give rise to a termination of the Admission Agreement. This will include any potential take-over, reconstruction or amalgamation, liquidation or receivership and change in the nature of its business or constitution.
- 4.2.7 Furthermore, the Admission Body is expected to cooperate with any measure Devon County Council may introduce in order to research and monitor the strength of its employer covenant in respect of the risk posed to the Fund.

#### 4.3 Towards the end of the Admission Agreement

- 4.3.1 Actuarial gains and losses arising in the period of the Admission Agreement are the responsibility of the Admission Body, unless a cost sharing arrangement such as Pass-Through is agreed with the letting authority.
- 4.3.2 Underfunding can be caused by a number of factors including low investment returns, increased longevity, inflation, salary growth, ill-health retirements and benefit enhancements, early retirement costs and membership movement.
- 4.3.3 The funding position and employer contribution rate for each employer participating in the Devon Pension Fund are reviewed during each triennial actuarial valuation, with the objective of maintaining or restoring its notional share of Fund assets to a level equal to the value of its liabilities, thereby eliminating any cessation debt or surplus funding upon exiting the Fund.
- 4.3.4 In advance of the natural end of a contract or early termination, the Fund, where applicable, will discuss with the Admission Body involved the possibility of paying an adjusted employer contribution rate that is calculated to eliminate any deficit or surplus in funding by the date of cessation.
- 4.3.5 There is currently no mechanism in place for repaying surplus funding upon cessation.

## **5. Cessation Policy**

- 5.1 Upon the cessation of an employer's participation in the pension scheme, the Devon Pension Fund will ask the Fund actuary to undertake a termination assessment or cessation valuation to determine any deficit or surplus in funding.
- 5.2 Where there is a deficit, payment of this amount in full will be sought from the Admission Body unless it is agreed by the Administering Authority and the other parties involved that the assets and liabilities relating to the employer will transfer within the Fund to another participating employer. The Fund will also pursue any indemnity or bond or guarantor for payment as appropriate.
- 5.3 When assessing the financial position on termination, the Fund Actuary may adopt a discount rate based on gilt yields and incorporate different assumptions to those used at the previous actuarial valuation in order to protect other employers in the Fund from having to fund any future deficits which may arise from the liabilities that will remain in the Fund.
- 5.4 Where appropriate, and at its discretion specifically in a situation where the exiting Admission Body is continuing in business, the Devon Pension Fund will consider permitting payment of the funding deficit to be spread over an agreed period. Under such an agreement the Fund will accept an appropriate security to be held against the deficit. Deficit recovery payments would be derived from a cessation valuation carried out on an ongoing basis and the whole approach monitored as part of each triennial or actuarial valuation of the Fund. Throughout this period, the Devon Pension Fund will reserve the right to seek immediate payment of the funding shortfall.

## **6. Conclusion**

- 6.1 That the Board notes the process for Admitted Bodies.

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Electoral Divisions: All  
Local Government Act 1972  
List of Background Papers – Nil

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