



Date:	22nd March 2016
Classification:	General Release
Title:	Underlying risks in accepting admitted bodies to the pension scheme
Report of:	City Treasurer
Financial Summary:	The report has no immediate financial implications. However the absence of a clearly established admissions policy and on-going risk monitoring to manage the risks associated with admission bodies could result in costs falling upon the Fund in future.
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1. Executive Summary

- 1.1 At the 16th November 2015 meeting, the Pension Fund Committee requested a report on the underlying risks and mitigations in accepting admitted bodies to the pension fund. This report outlines the risks and the mitigation actions available.

2. Recommendation

- 2.1 That the Pension Fund Committee note the risks and mitigation actions available and agrees to the City Treasurer preparing an admissions policy and risk monitoring arrangements to be reported back to a subsequent meeting of the Committee.

3. Background

- 3.1 The Local Government Pension Scheme (LGPS) has two broad classes of membership, namely:
 - a) scheduled bodies largely comprising principal local authorities such as the City Council, but also a range of specific bodies, including academies, set out in Part 1 of Schedule 2 of the LGPS Regulations 2013, whose employees are members of the LGPS as of right; and

- b) admission (or admitted) bodies whose employees can become members of the LGPS under an admission agreement.

3.2 When functions or services of the Council are out-sourced to a third party, the pay, terms and conditions of employment for any employees transferred from the Council are protected under the Transfer of Undertakings (Protection of Employment) Regulations 2006. This includes obligations to provide a pension. Consequently the recipient employer of those transferred staff can either become an admitted body of the LGPS or provide their own pension scheme.

3.3 Admission bodies fall into two broad categories:

- a) Community admission bodies, which are largely bodies which provide a public service other than for gain, such as charitable bodies and joint committees of local authorities. These often have links to a local authority or another Scheme employer as defined in Part 2 of Schedule 2 to the LGPS Regulations 2013; and
- b) Transferee admission bodies, which are either:
 - i. bodies formed when a service provided by a local authority or another scheduled body is contracted out the private sector; or
 - ii. bodies providing a public service in the United Kingdom approved in writing by the Secretary of State.

3.4 Admission bodies can only join the LGPS subject to an admission agreement. Admission varies:

- a) Admission of community admission bodies and bodies providing a public service and approved by the Secretary of State is at the discretion of Westminster City Council as the administering authority;
- b) Admission of transferee bodies formed when services are contracted out is mandatory provide they meet the requirements of the LGPS Regulations 2013.

4. Risks

4.1 The risks arising from admitting new employers as admission bodies to the City of Westminster Pension Fund include:

- a) avoiding underfunded default by an admitted body leaving liabilities with the pension fund;
- b) premature termination of a contract for outsourced services;
- c) the ongoing solvency of the admitted body to meet pension contributions;
- d) assets insufficient to pension liabilities particularly where there is a sudden spike in pension liabilities, such as a ill-health retirement;
- e) transferring staff with an inherited pension deficit which creates a liability on the admitted body from the start of its operations.

5. Mitigating actions available

- 5.1 Under the LGPS Regulations 2013 the administering authority can either require an admission body to enter into:
- a) an indemnity or bond approved by the Fund; or
 - b) a guarantee from another organisation or the Secretary of State where either funds or controls the admission body.

Paragraph 8.1 of the Funding Strategy Statement approved in 2014, requires all new admission bodies to have a bond or a guarantee from another employer in the Fund before they can be admitted.

- 5.2 Other ways to mitigate admitted body risk include ill-health insurance, and the use of stronger actuarial assumptions in determining contribution rates and deficit recovery periods. For example, contribution rates for admission bodies tend to be significantly higher than the Council's total contribution rate. Also deficit recovery periods are much shorter than the Council's recovery period and are usually linked to the length of the contract.

Paragraph 6.2 of the Funding Strategy Statement aligns the deficit recovery period for:

- a) community admission bodies to the strength of the covenant and any guarantees; and
 - b) transferee admission bodies to the length of the contract.
- 5.3 The LGPS Regulations 2013 require the prospective admission body to carry out an assessment of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, taking account of actuarial advice. The risk assessment must be carried out to the satisfaction of the administering authority and any scheme employer in the case of an outsourcing.
- 5.4 The cost of the risk assessment falls upon the prospective admission body.
- 5.5 Where the level of risk identified by the risk assessment requires it, the admission body will be required to enter into an indemnity or bond in a form approved by the administering authority with a body specified in the Regulations.
- 5.6 The Fund would need to ensure that the level of indemnity or bond provided was sufficient to cover the identified risk.
- 5.7 In the event that 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. The guarantor has to be either:

- a) another organisation or Scheme employer which funds or controls the admission body or
- b) the Secretary of State where the admission body is statutorily established and funded from central government.

5.8 In assessing any guarantee there would need to be an assessment of the strength of the parent organisation's covenant to make good the guarantee.

5.9 The LGPS Regulations 2013 require all admission agreements to include the following safeguards:

- a) provision to terminate if the admission body ceases existence
- b) provisions requiring the admission body to notify the administering authority of any matter which might affect its continuing participation in the LGPS;
- c) specific obligations on the admission body to notify the administering authority of any change in status, including takeover, reconstruction, amalgamation, insolvency, winding up, receivership, liquidation or material change in the body's business or constitution;
- d) a right of the administering authority to terminate the admission agreement in the event of insolvency, winding up, or liquidation of the admission body, a material breach of any obligations under the admission agreement or a failure to pay sums due to the Fund within a reasonable period of time after notice from the Fund.

These safeguards should enable the Fund to act fast, and recover any payments due.

6 Financial Implications

6.1 The absence of a clearly established admissions policy and ongoing risk monitoring to manage the risks associated with admission bodies could result in costs falling upon the Fund in future.

7. Legal Implications

7.1 The absence of clearly established admissions arrangements compliant with the LGPS Regulations 2013 could expose the City of Westminster Pension Fund to the risk of legal challenge.

If you have any questions about this report, or wish to inspect one of the background papers, please contact:

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