

# Oxfordshire Pension Fund

## Policy on pass-through

Effective date of policy	
Date approved	
Next review	

### 1 Introduction

The purpose of this policy is to set out the administering authority's approach to admitting new contractors into the Fund on a pass-through basis.

In addition, and subject to review on a case-by-case basis, the Fund may be willing to apply its pass-through principles to other admission bodies where liabilities are covered by a guarantor within the Fund.

Contractors are still permitted to enter the Fund under non-pass-through admissions as detailed in Section 5.3 of the Funding Strategy Statement (FSS). This policy does not apply in these cases.

It should be noted that this statement is not exhaustive and individual circumstances may be taken into consideration where appropriate.

#### 1.1 Aims and objectives

The administering authority's aims and objectives related to this policy are as follows:

- To set out the Fund's approach to admitting new contractors, including the calculation of contribution rates and how risks are shared under the pass-through arrangement.
- To outline the process for admitting new contractors into the Fund

#### 1.2 Background

Employees outsourced from local authorities, and other public bodies must be offered pension benefits that are the same, better than, or count as being broadly comparable to, the Local Government Pension Scheme (as per the Best Value Authorities Staff Transfer (Pensions) Direction 2007). This may be achieved by offering affected employees' membership of an alternative broadly comparable scheme. However, this is typically achieved by employees remaining in the LGPS and the new employer becoming an admitted body to the Fund and making the requisite employer contributions.

Similarly, employees outsourced from Academies and other Employers covered by the New Fair Deal guidance, must be offered the opportunity to remain within the LGPS by way of an Admission Agreement.

Pass-through is an arrangement whereby the letting authority (the local authority or the Academy) retains the main risks of fluctuations in the employer contribution rate during the life of the contract, and the risk that the contractor's assets may be insufficient to meet the employees' pension benefits at the end of the contract.

#### 1.3 Guidance and regulatory framework

The [Local Government Pension Scheme Regulations 2013](#) (as amended) set out the way in which LGPS funds should determine employer contributions and contain relevant provisions regarding the payment of these, including the following:

- Schedule 2 Part 3 sets out the entities eligible to join the Fund as an admitted body, their key responsibilities as an admitted body and the requirements of the admission agreement.

- Regulation 67 – sets out the requirement for employers to pay contributions in line with the Rates and Adjustments (R&A) certificate and provides a definition of the primary rate.
- Regulation 64 - covers the requirements for a cessation valuation following the exit of a participating employer from the Fund.

## 2 Statement of principles

This statement of principles covers the admission of new contractors to the Fund on a pass-through basis. Each case will be treated on its own merits, but in general:

- Pass-through is the preferred approach for the admission of all new contractors to the fund from the effective date of this policy. For the avoidance of doubt, this would apply to contracts established by councils and academy trusts (the letting authority). This simplifies the procurement process and reduces actuarial costs associated with the outsourcing.
- The contractor's pension contribution rate is set equal to the total contribution rate payable by the letting authority. This could change from time to time in line with changes to the letting authority's contribution rate (i.e. following future actuarial valuations).
- The letting authority retains responsibility for variations in funding level, for instance due to investment performance, changes in market conditions and longevity under its pass-through arrangement, irrespective of the size of the outsourcing.
- The contractor will meet the cost of additional liabilities arising from the exercise of their discretionary policies e.g. (non-ill health) early retirements and augmentations.
- Ill health experience will be pooled with the letting authority and no additional strain payments will be levied on the contractor in respect of ill health retirements.
- The contractor will not be required to obtain an indemnity bond.
- There will be no notional transfer of assets to the contractor within the Fund. This means that all assets and liabilities relating to the contractor's staff will remain the responsibility of the letting authority during the period of participation.
- At the end of the contract (or when there are no longer any active members participating in the Fund, for whatever reason), the admission agreement will cease and no further payment will be required from the contractor (or the letting authority) to the Fund, save for any outstanding regular contributions and/or invoices relating to the cost of early retirement strains, augmentations or strains from excess salary awards. Likewise, no "exit credit" payment will be required from the Fund to the contractor (or letting authority).
- The terms of the pass-through agreement will be documented by way of the admission agreement between the administering authority, the letting authority, and the contractor.
- All existing admission agreements are unaffected by this policy.

The principles outlined above are the default principles which will apply; however, the letting authority may request the specific details of a particular agreement to differ from the principles outlined above. The administering authority is not obliged to agree to a departure from the principles set out in this policy but will consider such requests and engage with the letting authority to reach agreement.

## 3 Policy and process

### 3.1 Compliance

Adherence to this policy is the responsibility of the relevant responsible service manager for any given outsourcing.

The administering authority and the Fund actuary must always be notified that an outsourcing has taken place, regardless of the number of members involved.

### 3.2 Contribution rates

The contribution rate payable by the contractor over the period of participation will be set equal to the total contribution rate payable by the letting authority. This means that the contractor's contribution rate could change following the triennial actuarial valuation.

### 3.3 Risk sharing and cessation valuation

The letting authority will retain the risk of the contractor becoming insolvent during the period of admission and so no indemnity bond will be required from contractors participating in the Fund on a pass-through basis. The letting authority is effectively guaranteeing the contractor's participation in the fund.

A cessation valuation is required when a contractor no longer has any active members in the Fund. This could be due to a contract coming to its natural end, insolvency of a contractor or the last active member leaving employment or opting out of the LGPS.

Where a pass-through arrangement is in place, the Fund assets and liabilities associated with outsourced employees are retained by the letting authority. At the end of the admission, the cessation valuation will therefore record nil assets and liabilities for the ceasing employer and therefore no cessation debt or exit credit is payable to or from the Fund.

The risk allocation should be agreed between the contractor and letting authority before the contract commences and should be appropriately detailed in the service agreement and legal documentation. In general, at the cessation of the admission agreement, the contractor will be required to pay any outstanding regular contributions and/or unpaid invoices relating to the cost of (non-ill health) early retirement strains, augmentations or strains from excess salary awards at the end of the contract.

### 3.4 Accounting valuations

Accounting for pensions costs is a responsibility for individual employers.

It is the administering authority's understanding that contractors may be able to account for such pass-through admissions on a defined contribution basis and therefore no formal FRS102 / IAS19 report may be required (contractors are effectively paying a fixed rate and are largely indemnified from the risks inherent in providing defined benefit pensions).

As the letting authority retains most of the pension fund risk relating to contractors, it is the administering authority's understanding that these liabilities (and assets) should be included in the letting authorities' FRS102 / IAS19 disclosures.

The letting authority and contractor should seek approval from their auditor of the proposed accounting treatment in the first instance.

### 3.5 Application

Letting authorities may request terms which differ from those set out in this policy and any such request will be considered by the administering authority.

All existing admission agreements (i.e. which commenced prior to the effective date of this policy) are unaffected by this policy.

### 3.6 Process

The procurement department at each letting authority that has responsibility for staff/service outsourcing must be advised of this policy. The process detailed below must be adhered to by the letting authority and (where applicable) the winning bidder.

- **Tender Notification** - The letting authority must publicise this pass-through policy as part of its tender process to bidders. This should confirm that the winning bidder will not be responsible for ensuring that the liabilities of outsourced employees are fully funded at the end of the contract, and that the winning bidder will only be responsible for paying contributions to the fund during the period of participation and meeting the cost of (non-ill health) early retirement strains, the cost of benefit augmentations and strains from excess salary awards (assuming the terms of this policy are adhered to). It should also advise the employer contribution rate as detailed in paragraph 3.2.
- **Initial notification to Pension Team** – The letting authority must contact the administering authority when a tender (or re-tender) of an outsourcing contract is taking place and staff (or former staff) are impacted. The administering authority must be advised prior to the start of the tender and the letting authority must also confirm that the terms of this policy have been adhered to.
- **Confirmation of winning bidder** – The letting authority must immediately advise the administering authority of the winning bidder.
- **Request for winning bidder to become an admitted body** – The winning bidder (in combination with the letting authority), should request to the administering authority that it wishes to become an admitted body within the Fund.
- **Template admission agreement** – a template admission agreement will be used for admissions under this policy. It will set out all agreed points relating to the employer contribution rate, employer funding responsibilities, and exit conditions. Only in exceptional circumstances, and only with the prior agreement of the Administering authority, will the wording within the template agreement be changed. All admission agreements must be reviewed (including any changes) by the administering authority and possibly its legal advisors.
- **Commercial contract** – Once the admission agreement has been signed, the winning bidder is then able to enter the Fund. It is the letting authority's responsibility to ensure that the commercial contract reflects the pension arrangements in the admission agreement.
- **Signed admission agreement** - Signing of the admission agreement can then take place between an appropriate representative of the winning bidder, the lead finance officer of the letting authority, and the administering authority. It is at this point the fund can start to receive contributions from the contractor and its employee members (backdated if necessary).

### 3.7 Costs

The letting authority will be liable to meet any additional costs incurred by the administering authority as a result of any deviation from the Fund's standard processes and agreements for pass-through arrangements, which includes (but is not limited to) the actuarial fees.

## 4 Related Policies

The fund's approach to setting regular employer contribution rates is set out in the Funding Strategy Statement, specifically "Section 2 – How does the fund calculate employer contributions?".

The treatment of new employers joining the fund is set out in the in the Funding Strategy Statement, specifically "Section 5 – What happens when an employer joins the fund?"

The treatment of employers exiting the fund is set out in the in the Funding Strategy Statement, specifically "Section 7 – What happens when an employer leaves the fund?"