Item 3

Pension Fund Investment Sub-Committee

11 November 2013

Warwickshire County Council Pension Fund Admissions and Termination Policy

Recommendation

That he Committee approve the amendments to the Admissions and Termination at Appendix b.

1.0 Background

1.1 At its meeting of 2 August 2010, the Pension Fund Investment Board approved the current policy (Appendix A) for the admission and termination for employers to the Warwickshire County Council Pension Fund.

1.2 Following their appointment as Actuary to the Pension Fund Hymans Robertson recommended a review of the policy with particular emphasis on the method and calculation of a possible cessation payment due in the event of the closure of a Fund employer.

1.3 A cessation payment is due to cover any unfunded liabilities due on cessation.

2.0 Admissions to the Fund.

2.1 The Funds policy for the admission of employers to the WCC Pension Fund is currently appropriate. However, the policy may require further review in light of the Secretary of State for Education announcement on the willingness of the Government to act as guarantor for potential unfunded liabilities if an academy should close.

2.2 Treasury and Pensions are currently discussing with the Fund's actuary an analysis of staff employed in the education sector at schools in Warwickshire and the overall impact on the County Council. The result of these discussions may require a review of how academies are reviewed for pension fund purposes. A report will be brought to a future meeting of the Board.

3.0 Termination policy.

3.1 The main purpose of this report is the review of the current termination policy as recommended by Hymans Robertson.

3.2 Treasury and Pensions has been approached by several employers regarding the possibility of terminating the admission agreement and the payment needed to be made by the employer in this eventuality.

3.3 The current policy allows for admission bodies with an agreement prior to August 2009 to have the cessation payment determined allowing for a notional deficit share of the Fund at the last valuation. For employers who have entered into an admission agreement since August 2009, the cessation payment will reflect a more realistic least risk basis.

4.0 Admissions and Termination policy.

4.1 Appendix B is an explanatory guidance on the policy and an initial draft of the policy for employers leaving the Fund.

4.2 Should the Committee approve the above amendment Treasury and Pensions will draft an amended policy document available for existing and prospective employers.

	Name	**Contact Information**
Report Author	Neil Buxton, Pension Services Manager	neilbuxton@warwickshire.gov.uk 01926 412195
Head of Service	John Betts, Head of Finance	johnbetts@warwickshire.gov.uk 01926 412441
Strategic Director	David Carter, Strategic Head of Resources	davidcarter@warwickshire.gov.uk 01926 412564
Portfolio Holder	Cllr John Appleton	johnappleton@warwickshire.gov.uk

Appendix A

Warwickshire County Council Pension Fund
Admissions and Termination policy

1. Introduction

1.1 This latest policy is presented for approval at the Pension Fund Investment Board of 2 August 2010.

2. Admissions Policy

2.1 There are several types of admission into which prospective participating employers could be categorised, and this policy identifies these types of employers and adopts a policy which should be used with regard to these particular admission types.

Scheduled Bodies

2.2 Applications received by employers who fall into this category cannot be refused as the regulations define that scheduled body employees have the authority to join the LGPS. Where appropriate, the Fund's actuary will establish a contribution rate for the employer.

Resolution Bodies

2.3 Applications received by employers who fall into this category cannot be refused as the regulations define that resolution body employees have the right to join the LGPS, provided the resolution passed by the employer specifies its employment as eligible for membership. Resolution Body employers are generally Parish and Town Councils. For actuarial purposes, all Parish and Town Councils are grouped together.

Community Bodies

2.4 Applications received by employers who fall into this category do not have to be accepted by the Board. The current acceptance criteria are:

- That the body has ten or more potential scheme members;
- That the body receives direct funding from Warwickshire County Council or another local authority within Warwickshire;
- That the body is guaranteed by a sponsoring local authority or directorate (in the case of WCC) who will underwrite any pension fund liabilities should the body foreclose.

2.5 The Fund's actuary will establish a contribution rate for the employer.

Transferee Bodies

2.6 These are bodies where employees of a local authority are transferred under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (known as TUPE) to a private contractor. On transfer, the contractor must either provide a comparable pension scheme or apply for access to the Pension Fund for the transferring employees to remain as members of the LGPS. If made, an application for an admission agreement cannot normally be refused.

2.7 The transferring local authority is required to carry out an assessment of the level of risk on premature termination of the contract. This assessment would normally be based on advice in the form of a "risk assessment report" provided by the Fund actuary. As the local authority is effectively the ultimate guarantor for these admissions to the Fund, the decision over the level (if any) of any bond requirement for the transferee admission body is the responsibility of the local authority, based on the actuary's advice.

2.8 For funding purposes, the Fund's actuary will determine a contribution rate for the employer, having undertaken a full risk assessment of the employer. The deficit recovery period will be determined in line with the maximum allowed under the Funding Strategy Statement but subject to a shorter period (for example the contract length) if this is determined appropriate by the administering authority or the transferring local authority involved. The contractor itself could also request a shorter recovery period if it wishes.

2.9 To guard against possible unfunded liabilities on foreclosure of the body or at the end of the contract, the employer must have in place a banker's bond to cover possible liabilities as determined by the local authority on the actuary's advice. Should there still be unfunded liabilities at foreclosure or at the end of the contract, the employer letting the contract must reimburse the Fund for those outstanding liabilities. If acceptable to the administering authority, this can be by adjustment to the authority's ongoing contribution rate.

2.10 If the transferee body is not able to or unwilling to obtain a banker's bond and the transferring employer will not indemnify potential liabilities, the admission body application will be refused.

Transferee Bodies (Grouping)

2.11 These are bodies where employees of a local authority are transferred under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (known as TUPE) to a private contractor, specifically where the contract is in respect of a school catering or cleaning contract.

2.12 These small contracts tend to be for a limited period of time and involve the transfer of a few members of the LGPS.

2.13 Where appropriate, the Fund will agree to the contractor paying the same contribution rate as the transferring employer for the duration of the contract.

2.14 As part of the admission agreement, the transferring employer will agree to act as guarantor should the admission body foreclose before the end of the admission agreement. In practice, this will involve the transfer of active, preserved, pensioner and dependant members back to the transferring employer for pension fund administration and actuarial purposes.

2.15 On closure of the admission agreement, scheme members will either transfer on to the new contractor or be subsumed back the transferring employer for pension fund administration and actuarial purposes.

3. Termination policy

Existing Admissions

3.1 These existing employers will be notionally "ring-fenced" and a valuation funding basis will be used for the termination assessment and calculation of ongoing contribution requirements. In the event of unfunded liabilities that cannot be recovered from the admission body at termination and in the absence of a guarantor or successor body, these will fall to be met by the Fund.

Grouped Bodies

3.2 The Pension Fund currently groups the following types of employers for contribution rate setting purposes:

- Social Services Group (County Council guarantor)
- Town and Parish Councils

3.3 The Pension Fund "policy" is that on termination of admission agreements within a group, the termination assessment is based on a simplified share of deficit approach. This involves disaggregating the outgoing body from the group by calculating the notional deficit share as at the last valuation of the Fund, in proportion to the respective payrolls for the body and the group as a whole, and then adjusting to the date of exit.

3.4 The adjustment to this date will normally be made in line with the assumptions adopted at the last actuarial valuation, unless the actuary and administering authority consider that the circumstances warrant a different treatment. For example, allowing for actual investment returns over the period from the last actuarial valuation to exit. Any unfunded liability that cannot be reclaimed from the outgoing body will be underwritten by the group and not all employers in the Fund.

3.5 Following the termination of a grouped body and the settlement of any unfunded liabilities, the residual assets and liabilities in respect of that body will be subsumed by the guarantor body in the case of the Social Services Group, or by the Fund as a whole in the case of the Town and Parish Councils Group.

3.6 For admission bodies admitted after 3 August 2009, the following procedures are in place:

Community Bodies

3.7 The Fund's policy is that a termination assessment will be made based on a least risk funding basis, unless the admission body has a guarantor within the Fund or a successor body exists to take over the admission body's liabilities (including those for former employees). This is to protect the other employers in the Fund. At termination, the admitted body's liabilities will become "orphan liabilities" within the Fund, and there will be no recourse to the admission body if a shortfall emerges in the future (after the admission has terminated).

3.8 If the admission body has a guarantor within the Fund, or a successor body exists to take over the admission body's liabilities, the Fund's policy is that the valuation funding basis will be used for the termination payment made, incorporating the assets and liabilities of the admission body within the Fund (sometimes known as the "novation" of the admission agreement). This may, if agreed by the successor body, include the novation to the successor of any funding deficit on closure, in place of a termination payment being required of the admission body itself.

Transferee bodies

3.9 On termination of a Transferee Admission, any orphan liabilities in the Fund will be subsumed by the relevant Scheme Employer as detailed in 2.6 above. The Fund's policy is that the valuation funding basis will be used for the termination assessment.

Transferee Bodies (Grouping)

3.10 On termination of a Transferee Admission, as detailed in 2.11 above, will be subsumed by the Scheme Employer as detailed in 2.14 and 2.15 above.

July 2010

CESSATION POLICY EXPLANATORY GUIDANCE

PURPOSE

This paper has been prepared at the request of Warwickshire County Council as Administering Authority to the Warwickshire County Council Pension Fund ("the Fund") which participates in the Local Government Pension Scheme ("LGPS"). It should be read in conjunction with our draft paper, "Policy for Employers Leaving the Fund" dated August 2013, which is appended to this report. It is intended to be an internal supporting document for the Fund, summarising the background to the procedures, calculations and provisions for payment of any deficit assessed on cessation of an employer from the Fund.

RELIANCES AND LIMITATIONS

This report has been prepared by Hymans Robertson LLP in our capacity as actuaries and consultants to the Fund. The advice in this report is intended for Warwickshire County Council in its capacity as Administering Authority to the Fund. It should not be disclosed to any third party without our prior written consent, in which case it should be released in its entirety. Hymans Robertson LLP accepts no liability to any third party unless we have expressly accepted such liability in writing. We do consent to the release of the "Policy for Employers Leaving the Fund" paper (once its content has been approved by Warwickshire County Council) to the employers in the Fund and their advisers, so long as it is released in its entirety.

This report has been prepared for the purposes of setting guidance on the withdrawal of any Fund employer and does not affect any member's benefit entitlement. This paper is not to be construed as advice to any employer. It sets out the background to the Fund's policy on cessation, but it should be noted that the approach in any specific case may depend on the individual circumstances. As such, the guidance in this paper is generic. We are not lawyers and nothing in this paper should be construed as providing legal advice. Specific actuarial and legal advice should be sought as part of any individual employer cessation.

GENERAL PRINCIPLES

We have drafted the Fund's policy on employers leaving the Fund on the basis of the following key principles:-

- when an employer leaves the Fund, the Administering Authority's objective is to minimise the risk that any remaining Fund employers will need to make future contributions to the Fund to cover a deficit arising on the past service liabilities of the current and former employees of the departing employer;
- in line with changes made to regulation 38 of the LGPS Administration Regulations, effective from 1 October 2012, the policy covers all fund employers (including scheduled and designating bodies as well as admission bodies);
- the Administering Authority's preferred approach is to assume a "clean break" on termination, i.e. the departing employer's liability to make further contributions to the Fund is extinguished on payment of the termination deficit calculated on a prescribed basis;
- whilst the Administering Authority's key objective is to protect the interests of the Fund (which are likely to be aligned to those of the remaining employers), a secondary objective is to consider the circumstances of the departing employer[1] and balance the interest of the Fund against the risk of challenge from the departing employer (such challenge may simply lead to further advisory costs for little or no net benefit to the Fund); and

[1] We have interpreted this to mean adopting an approach and basis which can be defended as reasonable in the circumstances and is not designed to unfairly penalise the departing employer.

- as there is no facility by which the Fund can extinguish its liability to pay the benefits to the members of departing employers, e.g. by "buying-out" the liabilities with an insurance company, the Administering Authority does not seek to impose a buy-out liability on departing employers. A buy-out basis typically leads to significantly higher liabilities than the termination approaches recommended in this paper since insurance companies build in loadings for expenses, profit margins and capital requirements. Further details of the differences between buy-out and the Fund's approach and the rationale for the Fund's approach are set out later in this paper.

REGULATIONS

Set out below are extracts from the Local Government Pension Scheme (Administration) Regulations 2008 Regulation 38 - Special circumstances where revised actuarial valuations and certificates can be obtained, together with a brief commentary on our understanding of their effect on Warwickshire County Council as Administering Authority to the Fund.

ACTUAL CESSATIONS

Regulation 38 (1)

> *Subject to paragraph (3A), where an employing authority ceases to be a Scheme employer, unless it has already obtained a certificate under paragraph (4), the appropriate administering authority **must** (our emphasis) obtain-*
>
> > *(a) an actuarial valuation, as at the date the employing authority ceases to be a Scheme employer, of the liabilities of the fund in respect of the employing authority's current and former employees; and*
> >
> > *(b) a revised rates and adjustment certificate showing the revised contributions due from that employing authority which specifies the percentage or amount by which, in the actuary's opinion-*
> >
> > > *(i) the contribution at the common rate should be adjusted; or*
> > >
> > > *(ii) any prior individual adjustment should be increased or reduced,*
>
> *with a view to providing that the value of the assets of the fund in respect of current and former employees of that body is neither materially more nor materially less than the liabilities of the fund in respect of those employees.*

This does not appear to give any discretion to the Administering Authority in any circumstance where an employing authority leaves the Fund. Therefore, Warwickshire County Council, as Administering Authority, would be required to obtain an actuarial valuation of an employer's liabilities as at the date that employer ceases to participate in the Fund. It also requires the authority to obtain a revision to the certified contributions to reflect the results of the cessation valuation.

Historically the Fund's practice has been to commission a cessation valuation under this regulation when an admission agreement ends. This policy will now be extended to cover all employing authorities leaving the fund. There may be situations where the cost of commissioning such a valuation appears disproportionate to the likely recovery for the Fund. If so, the Administering Authority may consider the case on its own merits, taking into account its view on the regulatory requirements and possible risks and sanctions associated with not commissioning such a valuation (we cannot advise on the legal implications of not carrying out a cessation valuation for any reason).

In practice, we (as actuaries to the Fund) have not tended to revise the Fund's Rates and Adjustments certificate when employers leave. The existing certificate specifies minimum employer contributions and hence any payment required on termination of the admission agreement can be viewed as being payable within the terms of the existing certificate. Instead, we will just advise the Administering Authority, in writing, of the additional contribution that should be paid by the outgoing employer. It is not clear whether this is within the strict letter of the Regulations, and we cannot give a legal view, so the Administering Authority may wish to reflect on whether this practice should continue, bearing in mind the additional cost of obtaining a revised certificate, the value of doing so and the potential sanction of not doing so.

Regulation 38 (3)

> *(3) Where for any reason it is not possible to obtain revised contributions from a body which has ceased to be a Scheme employer, or from an insurer, or any person providing an indemnity, bond or guarantee on behalf of that body, the administering authority* ***may*** *(our emphasis) obtain a further revision of any rates and adjustments certificate for the fund, showing-*
>
> > *(a) in a case where that body is a transferee admission body within regulation 6(2)(a) or (b), the revised contributions due from the body which is the Scheme employer in relation to that admission body; and*
> >
> > *(b) in any other case, the revised contributions due from each employing authority which contributes to the fund.*

If the Fund considers that it will not be able to recover any cessation deficit from the outgoing employer or any body providing security to the Fund in respect of that employer, then this Regulation applies. Here the use of "may" seems (to us) to mean that the provisions are discretionary rather than prescriptive. We are not aware that the Administering Authority has made use of this provision in the past as all such termination cases to date have been admission bodies to which Regulation 38 (3)(a) did not apply and/or either the termination deficit had been paid by the ceasing body or its liabilities had not been large enough to warrant an immediate adjustment under 38 (3)(b). Given the extension of this regulation to cover all employers the Fund will need to consider whether the need exists to make use of this particular discretion, particularly where it is known in advance of an employer ceasing to participate in the Fund (e.g. a cross Fund employer merger of say two or more colleges).

Where regulation 38 (3)(b) applies, the Rates and Adjustments certificate would in theory be adjusted to allow for any ongoing deficit for departed employers at each triennial valuation. The Fund's current policy has been as follows:

- for "Existing Admissions" (i.e. admission bodies admitted prior to 3 August 2009), the employer will be notionally "ring-fenced" and a valuation funding basis will be used for the termination assessment and calculation of ongoing contribution requirements. Where any deficit cannot be recovered from the admission body at termination and in the absence of a guarantor or successor body, these will fall to be met by the Fund.
- for "Grouped Bodies" (the Social Services Group, where the County Council acts as guarantor, and Town and Parish Councils), on termination of the admission agreement within a group, a simplified share of deficit approach is used in the termination assessment. The basis used will be the same as that adopted for the last formal valuation but adjusted for market conditions. Where any deficit cannot be recovered from the outgoing body, this will be underwritten by the group (not all employers in the Fund). Following termination of a grouped body and settlement of any unfunded liabilities, the residual assets and liabilities in respect of that body will be subsumed by:
    - the guarantor body in the case of the Social Services Group (County Council guarantor); or

  - the Fund as a whole in the case of the Town and Parish Councils.

- Where admission bodies have been admitted after 3 August 2009, the following procedures are in place:

  - for Community Bodies, the termination assessment is on a least risk funding basis, unless the admission body has a guarantor within the Fund or a successor body exists to take over the admission body's liabilities (including those for former employees). At termination, the liabilities become "orphan liabilities" within the Fund. If the admission body has a guarantor within the Fund, or a successor body exists to take over the admission body's liabilities, the Fund's policy is that the valuation funding basis will be used for the termination payment made, incorporating the assets and liabilities of the admission body within the Fund.

  - for Transferee bodies, on termination, any orphan liabilities in the Fund will be subsumed by the relevant Scheme Employer (the valuation Funding policy will be used for the termination assessment)

Going forward, where a bond or indemnity is not preferred for a new community or transferee admission body it will now be a requirement for the potential admitted body to secure a suitable guarantor in order to participate in the Fund (regulation 7(5)).

> *(5) Where, for any reason it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement shall 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) a person who-*
>
> *(i) owns, or*
>
> *(ii) controls the exercise of the functions of, the admission body; or*
>
> *(c) 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 that admission body.*

Given the above requirement it would be expected for all admission bodies that commence participation in the Fund on and from 1 October 2012 that either a bond or indemnity or alternatively a suitable guarantor will be in place, ensuring greater protection for the remaining employers in the Fund.

For transferee admission bodies where Regulation 38 (3)(a) could apply, we expect that the Administering Authority's policy will be to treat the assets and liabilities of an outgoing transferee admission body as being attributable to the original ceding employer and not the other employers in the Fund (i.e. in line with that regulation). This is reflected in the attached draft policy statement and we recommend that this approach is also included within the Fund's template tripartite admission agreement for such bodies. In our view, we do not believe that the Regulations permit passing the risk associated with the ongoing liabilities of a ceasing transferee admission body to other employers in the Fund.

FUTURE CESSATIONS

Regulation 38 (4)

(4) Subject to paragraph (3A), where in the opinion of an administering authority there are circumstances which suggest that an employing authority is to cease being a Scheme employer at some point in the future, the administering authority ***may*** *(our emphasis) obtain from an actuary a certificate specifying the percentage or amount by which, in the actuary's opinion-*

(i) the contribution at the common rate should be adjusted; or

(ii) any prior individual adjustment should be increased or reduced,

with a view to providing that the value of the assets of the fund in respect of current and former employees of that employing authority is neither materially more nor materially less than the anticipated liabilities of the fund in respect of those employees at the date it appears to the administering authority that the employing authority will cease to be a Scheme employer.

This regulation is relevant to employers which have a time limited admission agreement or it is known that the employer is going to leave the Fund at some date in the future, for example, those employers whose lifespan is limited or it is known that two or more employers from different Funds are to merge. In these circumstances, the Administering Authority may seek to increase or reduce the employer's contributions to the Fund in the period leading up to cessation to target a position where the employer's assets are equal to their liabilities on an appropriate basis.

Interestingly, we believe this is the only provision of the Regulations which permits employer contributions to be reduced between formal triennial valuations. The reason for this is likely to be that any surplus at the cessation date cannot be passed back to the employer so it would be reasonable for adjustments to be either positive or negative to target a 100% funding level on cessation of the admission agreement. We do not believe it is possible however, to certify a negative contribution rate (i.e. where a surplus exists and is still likely to exist at the point of termination), but the Administering Authority may wish to seek legal advice on this matter.

The approach used to carry out a provisional, or indicative cessation valuation should be the same as would be used if the body were ceasing on the calculation date. This is the approach used for the Fund to date and is reflected in the attached policy document.

It should be noted that nowhere in Regulation 38 does it set out how, or on what basis, the valuation of the liabilities when an employer leaves the Fund should be carried out. This gives the Administering Authority, on the advice of its actuary, considerable discretion in deciding the quantum of any additional contributions required. Much of the remainder of this paper concentrates on how this discretion is exercised.

SCHEME EMPLOYERS AND DESIGNATING BODIES

Historically there were no specific provisions within the LGPS Regulations allowing for cessation valuations to be carried out for ceasing scheme employers or designating bodies. With effect from 1 October 2012, however, the Local Government Pension Scheme (Administration) Regulations 2008 were amended to extend the cessation provisions across all employers in the Fund. Accordingly it is now permitted to request additional contributions at the point of cessation where a scheduled or designating employer is to cease participation in the Fund.

In addition it is possible to seek additional contributions from all employers where, for example, employees are being transferred from one body to another existing body. Regulation 38 (5) and (6) are reproduced below.

Regulation 38 (5) & (6)

(5) Paragraph (6) applies where-

(a) an administering authority agrees with an employing authority as mentioned in regulation 40 (4) (employer's payment following decision to increase membership or award additional pension); or

(b) it appears to an administering authority that the amount of the liabilities arising or likely to arise in respect of members in employment with an employing authority exceeds the amount specified in, or likely as a result of, the assumptions stated for that authority in a rates and adjustments certificate by virtue of regulation 36 (8) (actuarial valuations and certificates).

(6) The administering authority must obtain a revision of the rates and adjustments certificate concerned, showing the resulting changes as respects that employing authority.

If members' employment ceases (particularly if they become deferred members) then it is not clear whether Regulation 38 (5) could be interpreted as permitting a revision to the Rates and Adjustments certificate. We would suggest legal advice should be sought if this situation arises.

METHODOLOGY AND APPROACH

As with any actuarial valuation, the purpose of a termination valuation is not so much to predict the cost of providing the Fund benefits of the relevant members (which will be not known until the last benefit payment is made), but to assess how much the Fund should hold now to meet the future expected benefit payments. The amount required is heavily influenced by the basis used for the calculation of the liabilities, which in turn will ultimately depend on the particular circumstances of the cessation.

It is the responsibility of the Administering Authority to determine the final payment due if a deficit exists. We have outlined below a brief description of the alternative bases which may be used and the circumstances in which they might be considered appropriate:

- **Ongoing Funding Basis**: this basis is the same as that used for formal valuations of the Fund, for the purposes of setting employer contribution rates and as set out in the Funding Strategy Statement. Where the Fund's valuation basis is market-related, the financial assumptions will be updated for market conditions prevalent at the date the employer leaves the Fund. This basis is likely to be appropriate for (transferee) admission bodies which have reached the natural end of their contract and where the ceding body (or guarantor in the case of a community admission body) will take responsibility for all the liabilities relating to the employees and ex-employees of the ceasing body.

- **Gilts Basis**: this basis will produce a higher liability value than the ongoing basis. The discount rate is set as the redemption yield on the cessation date of government gilts of appropriate term and differs from the ongoing basis as it makes no allowance for any out-performance of the Fund's assets over and above gilt yields. Additionally, we may also allow for greater improvements in longevity than adopted for the ongoing basis. This basis is appropriate in situations where no Fund employers are taking responsibility for the liabilities relating to the employees and ex-employees of the ceasing body.

It should be noted that an ongoing funding basis would usually be adopted in situations where the employees are transferring to another employer within the Fund and hence are assumed to remain employee members. A gilts basis will more often be adopted when the employee members of the Fund will cease to accrue benefits within the LGPS. Under this approach, it may also be assumed that all active members over the age of 55 will be made redundant and will be entitled to early retirement at the cessation date[2].

The rationale for adopting a more prudent basis (such as a gilts basis) where no one Fund employer is taking the responsibility for the liabilities of the outgoing employer is to limit the risk that any remaining employers will be asked to make contributions in respect of those liabilities in future. In particular, the approach adopted to date by the Fund for community admission bodies admitted after 3 August 2009 seeks to limit the effect of the volatility of future investment returns due to the Fund's high exposure to equities (which do not provide a close "match" to the liabilities). It should be noted that it is not the Fund's policy to invest the assets attributable to departed employers' liabilities in matched investments although the Administering Authority does keep the Fund's investment strategy under review.

Buy-out basis: this basis will, in current conditions, produce a higher liability value than a gilts basis. Here the aim would be to mirror the approach used by insurance companies and other financial institutions when setting their prices for taking over pension liabilities from trust-based defined benefit schemes. The discount rate would usually be lower than the prevailing redemption yield of government gilts of appropriate term to make an allowance for the risk of gilt yields falling and hence future investment terms worsening. This would increase the value placed on the liabilities relative to our gilts basis. We would also expect a very cautious allowance for future life expectancy (allowing for longer life expectancy than we would usually propose) which would further increase the liabilities. There may be other differences such as a margin to allow for future changes in market expectations of inflation, and expense and profit loadings, all of which would usually increase the liabilities relative to our gilts basis. Conversely, market competition and new entrants to the bulk annuity market could act in the opposite direction.

We have not adopted a buy-out approach to cessation valuations in the Fund. The rationale for this is that there is no power within the Regulations to transfer liabilities to an insurance company. The Fund does not have the same capital requirements as are imposed on insurers writing annuity business and the Fund has therefore sought to strike a balance between protecting the interests of the remaining employers and acting "reasonably" in terms of the payment sought from the ceasing body. To date there have been other influences, notably the ability of the outgoing body to meet the Fund's demand for payment. We do not consider that it is currently necessary to adopt a buy-out basis when employers leave the Fund. This approach is reflected in the attached draft policy statement, although this policy will be subject to regular review in future.

It should be noted that other bases are possible depending on the circumstances of each cessation body. We outline several of the most common scenarios for bodies leaving the Fund and our recommended approaches below.

TRANSFEREE ADMISSION BODIES ("TAB")

Transferee Admission Bodies (as described under Regulation 6 (2)) are usually formed when a service or function offered by a local authority is contracted out to the private sector via a PFI or PPP and employees transfer from the local authority to the contractor but remain in the LGPS. Sometimes this can be as part of a further round of a contract, in which case employees are transferred from one contractor to another, albeit some may have originated from the local authority as part of the initial outsourcing. The length of the contract will usually be pre-determined and may be specified in the admission agreement. The admission agreement may or may not permit new employees employed on the contract to be admitted to the LGPS.

[2] On cessation, if any current employees aged 55 or over are made redundant, the employer will be required to pay the capital cost of the early retirement strain due to early payment of accrued pension benefits and any augmentation costs. This would be in addition to the cessation payment. The amount may be significant relative to the estimated cessation amount.

We describe below the most common circumstances which occur when TABs leave the scheme along with our suggested policy for the Fund.

- **Employers at the natural end of a contract** – Once the contract of a TAB is complete or the employer has completed the services it was contracted to carry out (and no plans for extending the contract are in place), the employer will leave the Fund.

  Under these circumstances, it is usual for the remaining active employees to transfer back to the ceding scheduled body or into a second (or later) generation contractor. We would recommend that the responsibility for the deferred pensioners and pensioners also transfers back to the original ceding scheduled body. Under this scenario we would normally recommend the cessation liabilities be calculated on an ongoing valuation basis since a current (or future) employer will be taking responsibility for funding those liabilities. Further, it is our understanding that the intention within the Communities and Local Government guidance issued in December 2009[3] is that the outgoing contractor should not be asked, in these circumstances, to make a payment into the Fund to meet the liabilities calculated using an approach which bears little resemblance to that used to allocate assets to that body when it joined the Fund. This implies that the calculation of the liabilities for assessing the termination deficit and the ongoing transfer to the new employer (including the original ceding body) should be the same.

- **Solvent employers that leave the scheme prior to the natural end of an admission agreement** – This situation could cover the last active member leaving employment of the TAB, as well as the TAB itself or the ceding employer seeking to terminate the admission agreement early.

  Under these circumstances, it will need to be established whether the current active membership will transfer to another Fund employer, where applicable, and who is responsible for any residual and future liabilities in respect of deferred pensioners and pensioners. Under a TAB agreement, these liabilities would usually fall back to the ceding scheduled body and ideally this should be written into the admission agreement or supporting documents.

  Employers falling under this category should be considered on a case by case basis since there may be circumstances where the transfer agreement between the ceding employer and the TAB (to which the Fund is in a party) dictate a different approach. We may calculate the deficit under a variety of bases in order for the Administering Authority (in conjunction with the ceding employer if necessary) to decide the final cessation payment.

- **Employers that leave the Fund due to insolvency** – In this scenario, it is usual for us to recommend a gilts basis to determine the cessation payment, unless the ceding employer takes a different view. In this case, we would expect that some of the deficit may be met by the bond or indemnity secured by the admission body. It should be noted that in many cases, the Fund will only be able to recover a fraction of the deficit amount (unless the parent company remains solvent) and that the ceding scheduled body will be required to take responsibility for any shortfall in funding for the affected members. One of the reasons for adopting a gilts approach is to maximise the payout from the administrator of the outgoing body. The ceding employer is likely to support this approach when it may incur significant additional costs associated with re-letting a contract early.

Where the outgoing body is not able to meet the cessation deficit and there is a significant shortfall, we may recommend a revision to the rates and adjustments certificate under Regulation 38 (3)(a) in relation to the ceding scheduled body.

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[3] http://timeline.lge.gov.uk/Statutory%20Guidance%20and%20circulars/CLG_AdmittedBody_guidance_Dec09.pdf

COMMUNITY ADMISSION BODIES ("CAB")

Community Admission Bodies (as described under Regulation 5) are usually employers that provide a public service in the United Kingdom otherwise than for the purpose of gain. Admission agreements for CABs are typically open-ended rather than time-limited. For all admission agreements entered into with a CAB on and after 1 October 2012 it is now a requirement for them to provide a guarantor or some other form of security, such as a bond, prior to admission. The Fund's policy is for new CABs wishing to join the Fund to be "sponsored" by one of the existing Fund employers (typically one of the Councils) and/or to provide some sort of security such as a bond. The sponsor (or guarantor) generally assumes responsibility for the assets and liabilities in the Fund which are attributable to the CAB but which cannot be met by the CAB. However, the majority of these bodies will have joined the Fund prior to the distinction between CABs and TABs being made and before the implementation of the requirement for either a guarantor or other security (such as a bond) to be put in place as a pre-requisite to admission to the Fund.

CAB employers may leave the Fund under any of the scenarios detailed for TAB employers above. Where there is no guarantor we would normally recommend the final deficit for these employers be calculated using a gilts basis since, in our experience both within the Fund and more generally within other LGPS funds, responsibility for the liabilities tends not to transfer to another Fund employer. In this situation, the amount recoverable may be limited and it will need to be discussed how any future deficit in respect of the membership will be treated (i.e. will the scheme employer who admitted the body (if any) be responsible or will all the employers in the Fund share in the risk). In some circumstances, e.g. where employees are transferring to another Fund employer (which will usually be the guarantor), an ongoing valuation approach may be adopted for any transferring liabilities.

SCHEDULED BODIES

"Scheduled bodies" is the term commonly used to refer to employers who participate in the LGPS by virtue of being listed in Schedule 2 to the Regulations (including designating bodies). They will only leave the LGPS if there is a change to the Regulations or their status changes, although there may be circumstances where they might leave the Fund and their employees transfer to another LGPS fund, e.g. on a reorganisation of services. If a scheduled body does leave the Fund then, following changes introduced from 1 October 2012, the Fund is able to seek to recover any funding shortfall from, or in respect of, the departing employer in respect of their remaining deferred and pensioner members (which cannot be transferred to another fund). In this situation the Fund should seek to ensure the residual liabilities are covered in the same way as for a departing admission body (either through a termination valuation or a reduction in any bulk transfer offered in respect of employee members being transferred out of the Fund, if appropriate).

CESSATION PAYMENTS

Following a cessation valuation, it is the responsibility of the Administering Authority to determine the final cessation payment (if any) which is due from the employer leaving the Fund. If the employer is in surplus on the cessation date, there is no facility by which this surplus can be refunded to the employer. In this situation, the employer will be able to make a clean break without further payment to the Fund. For TABs, it may be possible for any surplus to be dealt with via a payment from the awarding authority under the project agreement (i.e. outside of the Fund).

If it is determined that a payment is due, we recommend that it is paid in a single lump sum on an agreed date via BACS. However, there may be circumstances where the Administering Authority considers it appropriate to permit the spreading of the lump sum over multiple payments. We suggest that payments are spread only if the Administering Authority is confident that payment will be made and that the additional risk of non-payment of some or all of the instalments is not considered material.

In addition to the deficit on cessation, the Administering Authority may include any administration costs (including actuarial fees) in the final cessation payment. We are not aware that the Fund has, to date, sought to recover ongoing future administration costs and have worded the draft policy statement so that it is flexible in this regard. Further, we would usually recommend that interest at the level of the base rate (plus a margin if considered appropriate) be applied to the final cessation payment (plus expenses if appropriate) between the cessation date and the final payment date. Interest will also apply on any payments that are spread following the cessation date. This method is suggested for several reasons:

- it is easy to calculate;
- it is a transparent and easy method for the employers or administrators to understand; and
- the outgoing employer is not usually assumed to be subject to funding and investment risk following the cessation date. This means that any change in the funding position of the departing employer's liabilities due to actual fund returns or changes in gilt yields or funding approach falls to the scheme employer(s) who will be responsible for funding those liabilities in future.

This final point means that the employer is no longer subject to, or able to benefit from, the risk of Fund returns being more or less than the discount rate used to value the liabilities. Equally, it would no longer be subject to the risk of gilt yields increasing or falling and the liabilities reducing or increasing from the date of cessation.

RESPONSIBILITIES OF INTERESTED PARTIES ON CESSATION

We have also included a section on the responsibilities of the ceasing body, Administering Authority and Fund Actuary as laid out in the "Policy for Employers Leaving the Fund" paper. It should be noted that these are not exhaustive and should be reviewed and updated at regular intervals.

RESPONSIBILITIES OF EMPLOYERS ON CESSATION

The responsibilities of a departing employer are as follows:

1. to notify the Fund of their intention to leave the Fund (within the period required by their admission agreement, if appropriate);
2. to supply any data or information requested by the Fund, the liquidator or receiver if appropriate; and
3. to notify any parties assuming responsibility for their assets and liabilities in the Fund that a termination valuation will (or may for non-admission bodies) be carried out.

RESPONSIBILITIES OF THE ADMINISTERING AUTHORITY

The Administering Authority is responsible for ensuring that the Regulations and associated guidance are adhered to. Its aim is principally to ensure that any remaining employers are not exposed to undue risk in respect of the funding of the benefits of members of the employer leaving the Fund. The attached policy document is intended to help the Administering Authority to guide employers leaving the Fund through the cessation process. The general steps we have laid out to help the Administering Authority do this are to:

1. gather any relevant information in respect of the departing body's participation in the Fund;
2. notify the Fund actuary that the employer is leaving the Fund;
3. where applicable, discuss with the employer the possibility of paying adjusted contribution rates that target a 100% funding level (on a cessation basis) by its date of leaving;
4. where applicable, request a indicative cessation be done by the Fund actuary to determine the adjusted

contribution rate from step 3 above;

5 where applicable, liaise with the original ceding employer or guarantor to ensure they are aware that an employer contracted out from them is leaving and notify the ceding employer or guarantor if they will be responsible for any residual liabilities or risk associated with the affected employees (including ex-employees) of the departing body;

6 commission the Fund actuary to carry out a cessation valuation of the employer's share of the Fund as soon as is practicable;

7 having taken actuarial advice, decide on an appropriate demand for payment from the employer following cessation; and

8 negotiate payment (where applicable) of any deficit on cessation with the appropriate party.

RESPONSIBILITIES OF THE ACTUARY

Whilst the Fund Actuary has no statutory responsibilities other than to carry out any calculations as requested by the Administering Authority, he/she will be responsible for providing advice and guidance as follows:

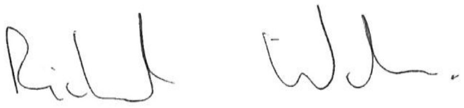
1 advise the Administering Authority on the appropriate course of action giving consideration to the circumstances of the employer and any information collected to date in respect of the cessation;

2 on request, prepare an indicative cessation or a full cessation valuation under the appropriate regulations; and

3 recommend any action to be taken as a result of a cessation valuation, including help to determine the amount of any payment due and revising the Rates and Adjustments Certificate as appropriate.

SCOPE

This paper does not cover the Fund's policy on the treatment of any termination deficit which is not recoverable from the outgoing employer, bond, guarantor or relevant Scheme employer (within the meaning of Regulations 38 (3)).



Richard Warden

Fellow of the Institute and Faculty of Actuaries

For and on behalf of Hymans Robertson LLP

23 August 2013

APPENDIX 1

Policy for Employers Leaving the Fund

WARWICKSHIRE COUNTY COUNCIL PENSION FUND

Effective: 1 September 2013 (to be agreed)

August 2013

1. INTRODUCTION

This is the policy of the Warwickshire County Council Pension Fund ("the Fund") as regards the treatment of employers leaving the Fund.

It has been prepared by the Administering Authority to the Fund, Warwickshire County Council, in collaboration with the Fund's actuary, Hymans Robertson LLP. This policy replaces all previous policies on employer termination and is effective from 1st September 2013.

These procedures and policies apply to employers participating in the Fund.

1.1 Regulatory Framework

The Local Government Pension Scheme (Administration) Regulations 2008 outline the general framework for employees and employers participating in the Local Government Pension Scheme in England and Wales. The regulations that are relevant to employers leaving the scheme are as follows:

- **Regulation 38 (1) – this regulation states that, where an employing authority ceases to be a Scheme employer, the Administering Authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the termination date. Further, it requires the rates and adjustments certificate to be amended to show the revised contributions due from the ceasing employer.**
- **Regulation 38 (3) – this regulation states that in instances where it is not possible to obtain additional contributions from the employer leaving the Fund or from the bond/indemnity or guarantor, the contribution rate(s) for the appropriate Scheme employer (in the case of Transferee Admission Bodies) or remaining Fund employers may be amended.**
- **Regulation 38 (4) – this regulation states that where it is believed a Scheme employer may cease at some point in the future the Administering Authority may obtain a certificate from the Fund actuary revising the contributions for that employer, with a view to ensuring that the assets and liabilities of the employer are broadly expected to be in balance when the admission agreement ends.**

These regulations relate to all employers in the Fund.

1.2 Reviews of Policy

This policy will be reviewed at least every three years following triennial valuations or following changes in the Regulations pertaining to employers leaving the Fund.

It should be noted that this statement is not exhaustive and individual circumstances may be taken into consideration where appropriate. Any queries should be directed to Neil Buxton, Pension Services Manager, in the first instance.

2. PRINCIPLES

2.1 Overriding Principles

The purpose of a cessation valuation is to determine the level of any surplus or deficit in an employer's share of the Fund as at the date the employer leaves the Fund. Unless the cost of doing so is deemed to outweigh the likely recovery to the Fund, the Fund will pursue an outgoing body (including the liquidator, receiver, administrator or successor body if appropriate) for any deficit. The Fund will also pursue any bond or indemnity provider and guarantor, for payment where appropriate.

It is the Fund's policy that the determination of any surplus or deficit on termination should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

Section 4 of this document sets out the bases currently in use for cessation valuations. These bases may be updated or withdrawn at the discretion of the Administering Authority on the advice of the Fund Actuary and will expire no later than 31 March 2017.

2.2 Interaction with Funding Policy

It is the Fund's policy that each employer is responsible for the funding of all Fund benefits of its own members, including current and previous employees. The Funding Strategy Statement sets this out in more detail and addresses the issue of cross-subsidies between employers. Whilst employer contributions may be pooled in the interests of stability and administrative ease for the purpose of triennial funding valuations under Regulation 36, the individual funding position for each employer is tracked by the Actuary at each triennial valuation. Any cessation valuation will be carried out using assets and liabilities allocated to the employer at the last triennial valuation as a starting point. This position will be updated to allow for membership movements and market conditions as at the cessation date.

Subject to one amendment, details of the approach to be adopted for cessation valuations for employers leaving the Fund are covered in the separate Admission and Termination Policy document, dated July 2010 (and included as an Appendix).

The amendment relates to the approach applied to "Community Bodies". The Fund's policy now is to apply a least risk gilts funding basis for the cessation valuation regardless of the date that the Community Body was admitted to the Fund, unless the body has a guarantor within the Fund or a successor body exists to take over the departing body's liabilities (including those for former employees). The previous distinction made between Community Bodies admitted before, or after 3 August 2009 no longer applies.

2.3 Principles for Determining Payment

Warwickshire County Council, as Administering Authority, will determine the deficit / surplus attributable to the employer on cessation having taken actuarial advice.

If the employer is in surplus, there is no mechanism by which this surplus can be repaid by the Fund. If an employer is aware that it will be leaving the Fund in future, it should alert the Administering Authority and request a valuation under Regulation 38 (4). If this valuation indicates that a surplus position is

likely, then the Actuary will be able to advise the Administering Authority whether a contribution reduction (before the employer ceases) is appropriate.

If it is determined that there is a deficit and the employer is required to make a payment to the Fund, Warwickshire County Council will advise the employer of the amount required.

The Fund's policy is for any deficit on cessation to be recovered through a single lump sum payment to the Fund, where possible. The Fund may consider permitting an employer to spread the payment over an agreed period where it considers that this does not pose a material risk to the solvency of the Fund.

If the payment is to be spread, Warwickshire County Council will consult with the Actuary to determine the appropriate payments to be made.

In the normal course of events (i.e. where the process below has been adhered to), the outgoing body will not be exposed to interest rate, investment or other funding risks after the cessation date. The final deficit payment will be calculated by the addition of interest at the level of the base rate between the cessation date and the final payment date(s). Exceptions to this may be made where the Fund is not advised of the employer having left the Fund within a reasonable time period.

3. PROCESS

3.1 Responsibilities of ceasing employers

An employer which is aware that its participation in the Fund is likely to come to an end must:

- **advise the Fund, in writing, of the likely ending of its participation (either within the terms of the admission agreement in respect of an admission body (typically a 3 month notice period is required) or otherwise as required by the Regulations for all other scheme employers). It should be noted that this includes closed employers where the last employee member is leaving (whether due to retirement, death or otherwise leaving employment);**
- **provide any relevant information on the reason for leaving the Fund and, where appropriate, contact information in the case of a take-over, merger or insolvency; and**
- **provide all other information and data requirements as requested by Warwickshire County Council which is relevant, including in particular any changes to the membership which could affect the liabilities (e.g. salary increases and early retirements) and an indication of what will happen to current employee members on cessation (e.g. will they transfer to another Fund employer, will they cease to accrue benefits within the Fund, etc.).**

3.2 Responsibilities of Administering Authority

The Administering Authority will:

- **gather information as required, including, but not limited to, the following:**
  - **details of the cessation - the reason the employer is leaving the Fund (i.e. end of contract, insolvency, merger, machinery of government changes, etc.) and any supporting documentation that may have an effect on the cessation;**
  - **complete membership data for the outgoing employer and identify changes since the previous formal valuation; and**
  - **the likely outcome for any remaining employee members (e.g. will they be transferred to a new employer, or will they cease to accrue liabilities in the Fund).**
- **identify the party that will be responsible for the employer's deficit on cessation (i.e. the employer itself, an insurance company, a receiver, another Fund employer, guarantor, etc.);**
- **commission the Fund actuary to carry out a cessation valuation under the appropriate regulation;**
- **where applicable, discuss with the employer the possibility of paying adjusted contribution rates that target a 100% funding level by the date of cessation through increased contributions in the case of a deficit on the cessation basis or reduced contributions in respect of a surplus;**
- **where applicable, liaise with the original ceding employer or guarantor and ensure it is aware of its responsibilities, in particular for any residual liabilities or risk associated with the outgoing employer's membership; and**
- **having taken actuarial advice, notify the employer and other relevant parties in writing of the payment required in respect of any deficit on cessation and pursue payment.**

3.3 Responsibilities of the Actuary

Following commission of a cessation valuation by the Administering Authority, the Fund Actuary will:

- **calculate the surplus or deficit attributable to the outgoing employer on an appropriate basis, taking into account the principles set out in this policy;**
- **provide actuarial advice to Warwickshire County Council on how any cessation deficit should be recovered, giving consideration to the circumstances of the employer and any information collected to date in respect to the cessation; and**
- **where appropriate, advise on the implications of the employer leaving on the remaining Fund employers, including any residual effects to be considered as part of triennial valuations.**

4. CESSATION VALUATION BASIS

The following bases will apply from 1 September 2013 to 31 March 2017, the date by which the 2016 valuation is signed off, unless otherwise withdrawn or updated by the Administering Authority on the advice of the Fund Actuary.

4.1 Gilts Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index as at the date of cessation, rounded to the nearest 0.1% per annum.

4.2 Ongoing Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index plus 1.6% per annum (calculated geometrically) at the date of cessation, rounded to the nearest 0.1% per annum.

4.3 Pension Increases

The pension increase assumption is determined in line with the Consumer Prices Index (CPI). The CPI assumption is based on the assumption for the Retail Prices Index (RPI) less 0.8% per annum.

RPI is calculated as the geometric difference between the annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index and the annualised gross redemption yield on the FTSE Actuaries Over 15 Years Index-Linked Gilts (3% Inflation) Index as at the cessation date, rounded to the nearest 0.1% per annum.

4.4 Salary Increases (Where Applicable)

As determined in the most recent valuation of the Fund, assumed salary increases will be 1% per annum above RPI.

4.5 Post-Retirement Mortality

Post-retirement mortality for all members is determined in line with Club Vita analysis which is carried out on behalf of the Fund at the triennial formal valuation. These are a bespoke set of Vita Curves that are specifically tailored to the individual membership profile of the Fund. Further improvements in line with the Medium Cohort and a 1% per annum minimum improvement from 2007 will be applied.

Further details are set out in the most recent formal valuation report of the Fund.

Under the gilts cessation basis, an allowance is made for further improvements to life expectancies by adjusting the value of liabilities upwards by 5%.

4.6 Other Demographic Assumptions

As previously agreed between the Fund and its Actuary for the purposes of the 2013 formal valuation. Further details are available on request.

APPENDIX