

# Warwickshire Pension Fund

## Admissions and Termination Policy

# WARWICKSHIRE

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# pension fund

**Version: 4**

**Date Issue: August 2023**

**Reference: WPF-ATP**

**Team: Warwickshire Pension Fund**

**Protective Marking: Public**

### 1 Introduction

- 1.1 Warwickshire County Council is the administering authority for the Warwickshire LGPS Pension Fund (the “Pension Fund”).
- 1.2 The administering authority is responsible for determining who may be admitted as a ‘scheme employer’ in the Pension Fund.
- 1.3 The Pension Fund is governed by legislation, mainly the Local Government Pension Scheme Regulations 2013, as amended from time to time (the “Regulations”). The Regulations set out criteria for admission to the Local Government Pension Scheme, which also afford the Pension Fund some discretion.
- 1.4 This policy seeks to clarify the basis on which the Pension Fund allows admission and may reject, withdraw, or terminate admission, having regard to the Regulations and the discretion afforded under them.
- 1.5 This policy seeks to clarify where charges will be applied for work undertaken by the Actuary and or Fund for new admissions and terminations

### 2 Scheme Employers

#### 2.1 Scheduled Bodies

- 2.1.1 The Regulations set out certain employers who have an automatic right to participate as ‘scheme employers’ within the Pension Fund. These bodies will still need to make an application to the administering authority but provided the requirements of the Regulations are met, the body will be admitted, and their employees will have an automatic right to join. The administering authority refers to these as “Scheduled Bodies”.
- 2.1.2 Those bodies are listed in Schedule 2 of the Regulations within Parts 1, 2 and the second column of the table in Part 4, which are reproduced at Annex A of this policy.
- 2.1.3 Without prejudice to paragraph 2.1.1, the administering authority may ask a Scheduled Body for evidence of their internal authority to join the Pension Fund, for example, any resolution that has been passed in relation to LGPS membership or minutes of a meeting granting approval (if applicable).

#### 2.2 Admission Bodies

- 2.2.1 In addition to those bodies listed in the Regulations, the administering authority may make an admission agreement with other bodies who meet certain criteria. These criteria are set out in Paragraph 1 of Part 3 of Schedule 2 of the Regulations and are reproduced in Annex B of this policy.
- 2.2.2 These bodies must make an application for admission to the Pension Fund, which will be determined in accordance with this policy. If the application is accepted, then the body will be admitted to the Pension Fund and must enter into an admission agreement to formalise the terms on which they are entitled to participate within the Pension Fund.
- 2.2.3 Admission bodies are subject to the requirements of the Regulations and must follow them in order to participate in the Pension Fund.

## Warwickshire Pension Fund - Admissions and Termination Policy

### 2.3 Community Bodies

2.3.1 The bodies that meet the criteria as set out in (a), (b), (c) and (e) of Paragraph 1 of Part 3 to Schedule 2 are referred to by the administering authority as “Community Bodies”. The administering authority does not have to accept an application from a Community Body, even if they meet the criteria within the Regulations, although it will normally seek to do so provided that such admission does not pose a risk to the Pension Fund.

2.3.2 In addition to the legislative requirements, the following matters will be considered by the Staff and Pension Committee, following advice from the Head of Pensions in relation to whether or not a Community Body will be admitted:

1. How many potential scheme members there will be – the administering authority will normally expect there to be at least 10 potential members
2. Whether the body will receive direct funding from a Scheduled Body and what limitations on that funding there may be
3. Whether there is a Scheduled Body or other appropriate form of guarantor that is sponsoring the prospective Community Body – the administering authority would normally expect a Scheduled Body to sponsor the application and to guarantee in writing the pension liabilities of the prospective Community Body should they be admitted, although the Fund may consider alternative guarantors where it is believed to be appropriate in terms of risk to the Fund and other participating employers. The financial viability of the prospective Community Body – the administering authority may reject an application if it considers that admitting the body may pose financial risk to the Pension Fund

### 2.4 Transferee Bodies

2.4.1 Those bodies that meet the criteria set out in (d) of Paragraph 1 are referred to by the administering authority as “Transferee Bodies”. These are bodies that are providing or will provide a service or assets in connection with the exercise of a function of a Scheduled Body as a result of the transfer of the service or assets by means of a contract or other arrangement.

2.4.2 For the purposes of this paragraph 2.4.2, the administering authority considers that it will normally be the “relevant administering authority” where the Scheduled Body that the Transferee Body is performing the function on behalf of (the “Letting Employer”) is located within Warwickshire. Where the administering authority is the relevant administering authority it must accept an application from a Transferee Body where that body has undertaken to comply with the Regulations.

2.4.3 There are specific requirements within the Regulations that apply to Transferee Bodies only, including the following:

1. The Letting Employer must be a party to the admission agreement; and
2. If the Transferee Body is performing more than one contract, then the Transferee Body must enter into an admission agreement for each one.

## Warwickshire Pension Fund - Admissions and Termination Policy

2.4.4 It is also a requirement of the Regulations that an admission agreement with a Transferee Body includes the following provisions:

1. That only employees that are employed in connection with the service for the Letting Employer are entitled to be members of the Pension Fund
2. The details of the contract with the Letting Employer
3. An agreement that the Letting Employer may set off against any sums due to the Transferee Body, any sums due to the Pension Fund under the Regulations
4. A requirement that the Transferee Body keeps under review, to the satisfaction of the administering authority and the Letting Employer, its assessment of the level of risk
5. A requirement that copies of notifications that are due to be provided to the administering authority are provided to the Letting Employer also
6. That a copy of the admission agreement be available for inspection at the Letting Employer's office

2.4.5 The administering authority expects to be advised of transfers well in advance of the transfer taking place and where possible, be provided with an accurate list of those employees transferring.

2.5 Risk assessment for new admission bodies

2.5.1 An admission body must carry out, to the satisfaction of the administering authority and, in the case of transferee admission bodies, the Letting Employer, an assessment of the level of risk arising on premature termination. In practice, the fund actuary assesses this because the assessment must be carried out to the administering authority's satisfaction.

2.5.2 After considering the assessment, the administering authority may decide the admission body must provide security, such as a guarantee from the letting employer, an indemnity or a bond.

2.5.3 This must cover some or all of the:

1. strain costs of any early retirements, if employees are made redundant when a contract ends prematurely
2. allowance for the risk of assets performing less well than expected
3. allowance for the risk of liabilities being greater than expected
4. allowance for the possible non-payment of employer and member contributions
5. admission body's existing deficit.

2.5.4 Unless there are exceptional circumstances, the administering authority will always expect there to be a bond or guarantee in place.

### **3 The Application Process**

- 3.1 A body that wishes to be admitted to the Pension Fund must provide all information requested by the administering authority in order for its application to be considered fully.
- 3.2 Officers on behalf of the administering authority will then prepare a report for consideration by the relevant committee at its next available meeting based on the information provided. It is the responsibility of the applicant body (and/or the Letting Employer in relation to a contract transfer) to ensure that the application is considered prior to the date admission is required and therefore those bodies should liaise with the administering authority in relation to upcoming meeting dates when considering submitting an application.
- 3.3 The applicant body (and the Letting Employer in the case of a Transferee Body) will be informed of the outcome of the application after the meeting where the decision is made.
- 3.4 Where the application is successful, the admission body (and/or the Letting Employer in the case of a Transferee Body) shall be responsible for providing the administering authority with a list of those employees that are to be admitted to the Pension Fund. The administering authority will specify the level of information required for administration of the process. This information will need to be provided within sufficient time for the Pension Fund's actuary to calculate the opening position, contribution rate and bond amount prior to admission. The cost of the actuary's report will be charged to the Letting Employer, in the case of a Transferee Body or the admission body/Scheduled Body, as appropriate, in other cases.
- 3.5 The administering authority will expect the admission body to pay the contribution rate and secure any bond amount as determined by the actuary. In the case of Transferee Bodies, the administering authority may consider risk sharing arrangements between the Transferee Body and the relevant Letting Employer provided that the Pension Fund's interests are protected. The administering authority shall have final determination over the level of bond or guarantee required.
- 3.6 The administering authority may consider proposals to pool employers for actuarial purposes. If an applicant body or existing admission body wishes to join an existing pool or create a new pool with similar employers, then it should notify the administering authority. Prior to agreeing to any proposals, the administering authority will seek actuarial advice. In the event that such proposals are agreed, the contribution rates for those employers will be set at the same level (if expressed as a percentage of pay) based on their aggregated notional fund assets and liabilities. For information on the fund's pooling arrangements please see section 2.5 of the Funding Strategy Statement.

### **4 The Admission Agreement**

- 4.1 The administering authority has a standard form of admission agreement that it will expect admission bodies to enter into prior to being admitted to the Pension Fund (the current draft agreements are available on the pension fund's website as appropriate). This standard form incorporates the requirements within the Regulations in relation to matters that should be included in admission agreements (including those that specifically relate to Transferee Bodies as referred to at 2.4.4 above where applicable).
- 4.2 Any bond agreement should normally be entered into at the same time as the

## Warwickshire Pension Fund - Admissions and Termination Policy

admission agreement; however, there may be exceptional circumstances whereby the administering authority will permit the bond agreement to be entered into after the transfer date provided that the admission agreement is clear that a bond must be entered into.

- 4.3 In the event that the actuary has been unable to calculate the contribution rate (e.g. as a result of information not being provided in time), the admission agreement will not normally be entered into until the rate has been calculated.
- 4.4 While the Regulations enable an admission agreement to take effect on a date prior to the date it was actually executed, in circumstances where the employer contribution rate has not been confirmed by the actuary or where the admission agreement has not been entered into for any other reason, the admission body will not be entitled to participate in the Pension Fund until everything that is required to enable the admission agreement to be signed is in place. Once the admission agreement is in place then a retrospective effective date can be applied, and the admission body required to remit to the fund the necessary arrears of employee and employer pension contributions and provide the necessary membership data required by the administering authority.
- 4.4 \*Please note, the Admission Agreement templates are available on the pension funds website

## 5 Participation in the Pension Fund

- 5.1 It is a condition of admission to the Pension Fund that scheme employers operate in a manner that respects their obligations in relation to pension liabilities, including but not limited to, paying contributions in accordance with the Pension Fund's actuary's assessment.
- 5.2 In accordance with the Regulations, the actuary on behalf of the Pension Fund will carry out an assessment every 3 years and will set the level of contributions required by each scheme employer. Those contributions may be set as a percentage of pay or combination of a percentage of pay and a cash sum. Whilst the administering authority may consider representations made by any scheme employer in relation to the amount of their contributions, the administering authority's decision as to the amount (based on actuarial advice) is final.
- 5.3 In the event that a scheme employer disputes the level of contributions required, the administering authority will endeavour to resolve the dispute informally, however, where such resolution is not possible, the administering authority will refer such matters to the relevant regulator (as appropriate), in order to protect the interests of members and other scheme employers within the Pension Fund.
- 5.4 The principles, approach and methodology for setting employer contribution rates is detailed in the Fund's Funding Strategy Statement (FSS). Section 2 of the FSS provides information on the funding strategy adopted for each employer group in the fund and how rates are determined, whilst Section 5 specifically considers how contribution rates are derived for new employers admitted to the Fund. It is important any new employers and Letting Employers read these sections carefully.

## Warwickshire Pension Fund - Admissions and Termination Policy

### 5.5 Actuarial Fees

The assessment of a contribution rate, bond (where applicable) and opening position for a new scheme employer all incur actuarial fees. The Fund is not liable for these fees and will invoice the employer letting the contract for any fees incurred. If the employer has an agreement with the contractor to pay fees this is between the employer and the contractor.

For new academies, parish and town councils and community admission bodies actuarial fees will be invoiced direct to the new scheme employer.

A schedule of fees is available from the administering authority.

## 6 Termination

6.1 The admission agreement will normally specify the circumstances by which an admission body may exit (or be required to exit) the Pension Fund and become an “exiting employer”. Without prejudice to such terms, an administering authority may determine that an admission body has ceased to be a scheme employer within the Pension Fund where it no longer meets the criteria on which it was originally admitted.

6.2 It is advantageous to both the Pension Fund and the exiting employer to be able to plan for any proposed exit in order to prevent a large exit payment or exit credit (or ideally any exit payment or exit credit). If the exiting employer gives advanced notice of its participation in the Pension Fund ceasing, the administering authority will consider (in conjunction with the relevant Letting Employer if it is a Transferee Body or any Scheduled Body or alternative guarantor if it is a Community Body) whether it is appropriate to obtain a revised assessment from its actuary to adjust the exiting employer’s contributions with the aim of there being no surplus or deficit by the point at which the exiting employer exits, where pass through has not been adopted in the case of a Transferee Body.

6.3 Without prejudice to paragraph 6.2, upon exiting the Pension Fund, in accordance with regulation 64 of the Regulations, the scheme employer may be liable to pay an exit payment to the Pension Fund or may be entitled to receive an exit credit. In determining the level of any funding shortfall or surplus, and therefore the amount of any exit payment or exit credit due, the administering authority will request an actuarial assessment.

6.3.1 The fund will recharge costs of administering cessations including actuary and other cessation expenses as appropriate. Fees and expenses are at the employer’s expense and are deducted from the cessation surplus or added to the cessation deficit. This improves efficiency by reducing transactions between employer and fund. Costs will be charged even if the cessation does not go ahead.

6.4 The principles, approach and methodology for the actuarial assessment is detailed in the Fund’s Funding Strategy Statement (FSS). Section 7 and Appendix J specifically consider how terminations are assessed and managed by the Fund. It is important any new employers and Letting Employers read these sections carefully.

6.5 If the actuarial assessment identifies a funding shortfall, the administering authority has discretion over the payment of an exit credit. In applying this discretion, the administering authority will consider a number of factors including:

1. the extent of any surplus,
2. the proportion of surplus arising as a result of the Admission Body’s employer

## Warwickshire Pension Fund - Admissions and Termination Policy

contributions,

3. any representations (such as risk sharing agreements or guarantees) made by the Admission Body and any employer providing a guarantee or some other form of employer assistance/support and
4. any other factors the Administering Authority deems relevant.

6.6 There are some circumstances, however, in which it may not be appropriate to pay an exit credit, although each case will be considered on its own merits. Circumstances where payment may not be appropriate are as follows:

6.6.1 Where the body was admitted prior to 14 May 2018 via a contract or other commercial arrangement with the letting authority/awarding authority/ceding employer:

6.6.2 Where the admission body has entered into risk sharing arrangements (see paragraph 3.5 above), including pass-through arrangements, and the terms of those arrangements do not reflect an exit credit being payable to the admission body; and

6.6.3 Where the administering authority has been asked by the Letting Employer to withhold payment of the exit credit under the terms of its contract with the admission body, for the purposes of setting off any amounts due to the Letting Employer.

6.7 In the event that an employer owes any outstanding monies to the Pension Fund upon exit, the administering authority reserves the right to deduct such sums owed from any exit credit due.

6.8 If the actuarial assessment identifies a funding shortfall, payment of this amount in full would normally be sought from the Admission Body. The Fund's normal policy is that this cessation debt is paid in full in a single lump sum within 28 days of the employer being notified. The Administering Authority may agree for this payment to be spread over an agreed period via a Deferred Spreading Arrangement. However, such agreement would only be permitted at the Administering Authority's discretion, where payment of the debt in a single immediate lump sum could be shown to be materially detrimental to the employer's financial situation. Such discretion would be exercised by the Pension Committee, following advice from the Head of Pensions. In cases where payment is spread, the Fund reserves the right to require that:

1. the ceasing employer provides some form of security (such as a charge over assets, bond indemnity or guarantee) relating to the unpaid amount of debt at any given time.
2. the arrangement is covered by a legally-binding agreement.
3. any breach of the arrangement would require any outstanding exit payment to be paid immediately in full.

Further detail is set out in Appendix J5.2 of the Funding Strategy Statement.

6.9 As an alternative, where the ceasing Admission Body is continuing in business, the Administering Authority may enter into a written agreement with the Admission Body to defer their obligations to make an exit payment and continue to make Secondary contributions (a 'Deferred Debt Agreement' as described in Regulation 64 (7A)). The Admission Body must meet all requirements on Scheme employers and pay the Secondary rate of contributions as determined by the Fund Actuary until the termination of the Deferred Debt Agreement.

The Administering Authority will consider Deferred Debt Agreements in the following circumstances:

- The Admission Body requests the Fund consider a Deferred Debt Agreement;



## Warwickshire Pension Fund - Admissions and Termination Policy

- The Admission Body is expected to have a deficit when the cessation valuation is carried out;
- The Admission Body is expected to be a going concern; and
- The covenant of the Admission Body is considered sufficient by the Administering Authority.

The Administering Authority will normally require:

- Relevant financial information for the Admission Body to assist in the covenant assessment;
- Security be put in place covering the Admission Body's deficit on their cessation basis;
- Regular monitoring of the contribution requirements and security requirements;
- The agreement to be formalised in a legally-binding written document;
- All costs of the arrangement to be met by the Admission Body, such as the cost of advice to the Fund, ongoing monitoring or the arrangement and correspondence on any ongoing contribution and security requirements.

A Deferred Debt Agreement will normally terminate on the first date on which one of the following events occurs:

- the Admission Body enrolls new active Fund members;
- the period specified, or as varied, under the Deferred Debt Agreement elapses;
- the take-over, amalgamation, insolvency, winding up or liquidation of the Admission Body;
- the Administering Authority serves a notice on the Admission Body that the Administering Authority is reasonably satisfied that the Admission Body's ability to meet the contributions payable under the Deferred Debt Arrangement has weakened materially or is likely to weaken materially in the next 12 months;
- the Admission Body defaults on any payment due under the agreement;
- the Fund actuary assesses that the Admission Body has paid sufficient secondary contributions to cover all (or almost all) of the exit payment due if the employer becomes an exiting employer on the calculation date (i.e. the Admission Body is now largely fully funded on their cessation basis);
- the Fund actuary assesses that the Admission Body's value of liabilities has fallen below an agreed de minimis level and the employer becomes an exiting employer on the calculation date; or
- The Admission Body requests early termination of the agreement and settles the exit payment in full as calculated by the Fund actuary on the calculation date (i.e. the Admission Body pays their outstanding cessation debt on their cessation basis).

On the termination of a Deferred Debt Agreement, the Admission Body will become an exiting employer and a cessation valuation will be completed in line with the FSS.

Further detail is set out in Appendix J5.2 of the Funding Strategy Statement.

- 6.10 Scheduled Bodies may exit the Pension Fund in accordance with the circumstances set out in the regulations.

## Warwickshire Pension Fund - Admissions and Termination Policy

### **Annex A – Scheduled Bodies** *(List current as at the date of this policy – check the legislation for updates)*

#### Schedule 2 – Part 1

1. In England, a county council, a district council, a London borough council, the Greater London Authority, the Common Council of the City of London and the Council of the Isles of Scilly.
2. In Wales, a county council, or a county borough council.
3. A joint board, body or committee appointed under any Act or statutory order or statutory scheme, of which all the constituent authorities are councils of a description in paragraph 1 or 2 or a combination of such councils.
4. A Mayoral development corporation within the meaning of section 198 of the Localism Act 2011.
5. A fire and rescue authority within the meaning of the Fire and Rescue Services Act 2004.
6. A police and crime commissioner.
7. A chief constable within the meaning of section 2 of the Police Reform and Social Responsibility Act 2011.
8. The Commission for Local Administration in England.
9. A probation trust established under section 5 of the Offender Management Act 2007 or a National Probation Service local board.
10. The Chichester Harbour Conservancy.
11. The Lee Valley Regional Park Authority.
12. An integrated transport authority within the meaning of Part 5 of the Local Transport Act 2008.
13. The Broads Authority.
14. A further education corporation, a sixth form college corporation or a higher education corporation within the meaning of section 90 of the Further and Higher Education Act 1992.
15. The London Pensions Fund Authority.
16. The South Yorkshire Pensions Authority.
17. The Environment Agency.
18. A National Park Authority established under Part 3 of the Environment Act 1995.
19. An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998.

## Warwickshire Pension Fund - Admissions and Termination Policy

20. A proprietor of an Academy within the meaning of section 579 (general interpretation) of the Education Act 1996 who has entered into Academy arrangements within the meaning of section 1 (academy arrangements) of the Academies Act 2010.
21. A body set up by a local housing authority as a housing management company to exercise management functions of the authority under an agreement approved by the appropriate minister under section 27 of the Housing Act 1985.
22. The Valuation Tribunal Service established under section 105 of the Local Government Act 2003 and the Valuation Tribunal for Wales established under regulation 4 of the Valuation Tribunal for Wales Regulations 2010.
23. A conservation board established under section 86 of the Countryside and Rights of Way Act 2000.
24. A combined authority established by an order under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009.
25. The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority established by the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority Order 2014.

### Schedule 2 – Part 2

1. The Board of Governors of the Museum of London.
2. A body (other than a body listed in Part 1 of this Schedule) which is—
  - a. a precepting authority within the meaning of section 69 of the Local Government Finance Act 1992 (interpretation),
  - b. a levying body within the meaning of section 74 of the Local Government Finance Act 1988 (levies), or
  - c. a body to which section 75 of that Act (special levies) applies.
3. A passenger transport executive.
4. An institution designated by an order under section 129 of the Education Reform Act 1988.
5. An entity connected with a local authority listed in paragraphs 1 to 5 of Part 1 of this Schedule where “connected with” has the same meaning as in section 212(6) of the Local Government and Public Involvement in Health Act 2007.
6. A company under the control of a body listed in paragraphs 6 to 24 of Part 1 of this Schedule  
  
where “under the control” has the same meaning as in section 68 or, as the case may be, 73 of the Local Government and Housing Act 1989 (except that any direction given by the Secretary of State must be disregarded, and any references to a local authority treated as references to such a body).
7. The Public Services Ombudsman for Wales.

## Warwickshire Pension Fund - Admissions and Termination Policy

8. The Serious Organised Crime Agency.
9. Transport for London.
10. The London Transport Users' Committee.
11. The Cultural Strategy Group for London.
12. The Children and Family Court Advisory and Support Service.
13. An urban development corporation.
14. The Secretary of State, in respect of persons specified in regulation 3A (1) (civil servants engaged in probation provision).

### Schedule 2 – Part 4

15. A local authority that has, with the consent of the governing body, designated an employee or a class of employees of a governing body of a voluntary school as being eligible for membership
16. A local authority that has, with the consent of the governing body, designated an employee or a class of employees of a governing body of a foundation school or foundation special school as being eligible for membership
17. A local authority that has, with the consent of the governing body, designated an employee or a class of employees of a governing body of a technical institute or other similar institution which is for the time being assisted by the local authority under the Education Act 1996 as being eligible for membership
18. A local authority that has, with the consent of the governing body, designated an employee or a class of employees of a federated school as being eligible for membership
19. The London Pension Authority
20. An authority appointing a coroner
21. A police and crime commissioner
22. The Commission for Local Administration in England
23. The passenger transport executive
24. The Housing Ombudsman

## Warwickshire Pension Fund - Admissions and Termination Policy

### **Annex B – Admission Bodies** *(List current as at the date of this policy – check the legislation for updates)*

1. Schedule 2 – Part 3, Paragraph 1The following bodies are admission bodies with whom an administering authority may make an admission agreement—
  - (a) a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest (whether because the operations of the body are dependent on the operations of the Scheme employer or otherwise);
  - (b) a body, to the funds of which a Scheme employer contributes;
  - (c) a body representative of—
    - (i) any Scheme employers, or
    - (ii) local authorities or officers of local authorities;
  - (d) a body that is providing or will provide a service or assets in connection with the exercise of a function of a Scheme employer as a result of—
    - (i) the transfer of the service or assets by means of a contract or other arrangement,
    - (ii) a direction made under section 15 of the Local Government Act 1999 1 (Secretary of State's powers),
    - (iii) directions made under section 497A of the Education Act 1996 2;
  - (e) a body which provides a public service in the United Kingdom and is approved in writing by the Secretary of State for the purpose of admission to the Scheme.

# Warwickshire Pension Fund - Admissions and Termination Policy

# Warwickshire Pension Fund - Admissions and Termination Policy