

Guidance Notes for Application to Warwickshire LGPS Pension Fund

In order to be admitted to the Warwickshire Pension Fund, the applicant body must fulfil the requirements of the relevant Local Government Pension Scheme (LGPS) regulations and complete the required Application Form.

The LGPS regulations set out the types of bodies that can be admitted to the LGPS if they meet certain criteria. The most common types of those admission bodies are:

- Community Bodies –
 - *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);*
 - *a body, to the funds of which a Scheme employer contributes.*
 - *a body representative of any Scheme employers, or local authorities or officers of local authorities.*
 - *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.*
- Transferee / Admission Bodies –
 - *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 the transfer of the service or assets, by means of a contract or other arrangement*
- Scheduled Bodies –
 - *a body who has entered into Academy arrangements within the meaning of section 1 (academy arrangements) of the Academies Act 2010.*
- Resolution Bodies –
 - *Parish and Town Councils*
 - *“Subject to the provisions of any enactment (including any enactment in this Act) all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.” - Para 39 (1) Sch. 12 Local Government Act 1972*

For further information on the types of admission bodies and how that affects admission to the Warwickshire Pension Fund, please refer to the **Admissions and Termination Policy** available on our website at:
<https://www.warwickshirepensionfund.org.uk/>.

You will need to provide further information under either section A, B, C or D of the **Application Form**, depending on which type of admission body you are.

An authorised representative must sign the declaration to confirm that the applicant body is undertaking to comply with the relevant LGPS regulations if it is admitted. In the event that the applicant body's application is accepted, this will be regarded as acceptance to the standard terms in the template form admission agreement as appended to the Admissions and Termination Policy.

For Academies joining a Multi Academy Trust (MAT), the pension contribution rate will be changed to the MAT rate as of the transfer date. This is as any liability and risks are pooled within the MAT whose rate may change every valuation.

For Admitted Bodies/Contractors providing an outsourced service, you will need to take contributions from the member(s) from the start date and pay them into a holding account. These should be ready to pay over to us, alongside the employer contributions, when admission to the fund is completed.

Advice to Consider when Outsourcing a Service

Any Scheme Employer intending to outsource a service that involves a TUPE transfer of either employees of the academy or of the county council (or a subsidiary) to a new contractor will need to contact the Pension Fund and complete a Letting Form. This is because the employees will be members of the Local Government Pension Scheme (or have the right to be members of the LGPS) and will therefore continue to retain the right to membership of the LGPS after the transfer.

Importantly, that right to retain membership of the LGPS continues whilst the employee continues in that role during the initial and all subsequent contracts with this contractor or subsequent contractors is required by the New Fair Deal. This acknowledges that the academy retains responsibility for those employee pension rights going forward.

Along with the responsibility for the academy to ensure continued membership of the LGPS the academy also retains accrued pension rights for those members transferred.

The pension rights are safeguarded by way of an Admission Agreement between the contractor, the Letting Authority body/Scheme Employer, and the pension fund. This is a legal and binding document that sets out the legal responsibilities of all parties.

The Department for Education guarantee may apply in situations where the academy is offering a guarantee to a contractor (either via pass-through or bespoke route) and would cover the outsourced employer's assets and liabilities. An academy must seek permission from the Department for Education in order to be covered by the guarantee and this application can be made retrospectively. The academy must also obtain approval from the Education Skills and Funding Agency (ESFA) for the outsourcing of a service.

What employer rate does the contractor pay?

The contractor will want to know what the employer rate for membership of the LGPS with the pension fund is.

The Warwickshire Pension Fund's preferred approach is that the contractor has a variable pass-through rate.

1) Variable pass-through rate

This rate is equal to the primary contribution rate of the Letting Authority body/Scheme Employer (e.g. academy) letting the contract. This rate will usually apply for the duration of the contract but if for any reason the primary rate is changed, this will be reflected in the pass-through rate applicable for the contractor. This would normally only occur following the triennial valuation of the pension fund when contributions are calculated for the subsequent years.

When determining the primary contribution rate, the Fund's Actuary (with the agreement of the Fund) uses a risk-based approach which sets contributions allowing for a desired likelihood of achieving the employer's funding target. Further details of the approach are documented in the Funding Strategy Statement.

At the end of the contract the employees and liabilities are simply transferred back to the Letting Authority body/Scheme Employer with no cessation report being needed. This will include liability for transfers of previous pension accrual that members decide to transfer in within the new 12 months window from the date the new contract starts. The Letting Authority body/Scheme Employer may then decide to outsource the contract again or retain the service back in house (a new application form and letting form is required for each outsourcing).

The benefits of this arrangement are:

- Potential contractors know immediately the rate payable and can price this into their contract price without having to wait for an assessment of the rate.
- there are no protracted conversations with the contractor about any concerns they may have about any potential liabilities they incur during the duration of the contract
- at the end of the contract the contractor has no concerns about any cessation payment which may be due to the Fund in respect of unfunded liabilities.

2) Bespoke rate

The alternative to a passthrough rate is for a bespoke contribution rate where the contractor will take full pension liability. This will include liability for transfers of previous pension accrual that members decide to transfer in within the new 12 months window from the date the new contract starts. The bespoke contribution rate will involve the pension fund's actuary confirming the rate payable looking at the liabilities inherited. **This assessment tends to take five to six weeks and will incur actuarial fees.** The Fund **will also require a bond** to be in place to cover the potential liabilities should the contractor foreclose. A bond is there to protect the academy and failure to have a bond in place will mean the academy is potentially exposed to unfunded liabilities if the contractor goes into liquidation or administration. A Cessation Report is run at the end of the contract and **any debt will be charged** to the contractor.

An example of actuarial fees involved in outsourcing:

Passthrough between £750 to £1,000 for the creation of the 'opening position'.

Bespoke contribution rate and bond assessment between £1,500 to £2,000. There will also be additional fees due to the underwriter for the bond.

NB, the pension fund will invoice the academy for any fees incurred. If the academy has an agreement with the contractor to pay the fees this is between the academy and the contractor.

Before you put out a tender to outsource a service please contact the Pension fund to let us know:

- The service you are looking to outsource
- The date the contract is due to start
- The length of the contract
- The information included in your contract about pensions

If a contract is let before the admission agreement is in place there is a **risk that your employees will not be covered by the pension scheme** for the period, the agreement is not in place.

It is at the funds discretion as to whether membership can be back dated if an agreement is not in place at the start of the contract.