

<b>REPORT TO:</b>	<b>Pension Committee 14 September 2021</b>
<b>SUBJECT:</b>	<b>Pension Fund Governance: the Bulk Transfer Policy and the Policy for Employers Leaving the Fund</b>
<b>LEAD OFFICER:</b>	<b>Nigel Cook Head of Pensions and Treasury</b>

## 1. RECOMMENDATION

The Committee are asked to:

- 1.1 Agree the “Bulk Transfer Policy” and the “Policy for Employers Leaving the Fund” as attached as appendices B and C.

## 2. EXECUTIVE SUMMARY

- 2.1 This Report explains rationale for the Committee to agree a “Bulk Transfer Policy” and a “Policy for Employers Leaving the Fund” and recommends these documents to the Committee for approval accordingly.

## 3 DETAIL

- 3.1 In accordance with Schedule 2 of the Local Government Pension Scheme Regulations 2013 (as amended) membership of the Scheme as administered by the Council is allowed for two types of employer – “Scheme Employers” and “Admission Bodies.”
- 3.2 “Scheme Employers,” such as the Council and academy trusts, must provide automatic admission into the Scheme for all their eligible employees.
- 3.3 “Admission Bodies” which, subject to strict conditions, provide services or assets to a Scheme employer, can provide access to the Scheme through an admission agreement.
- 3.4 New employers can choose not to seek membership of the Scheme but they need to offer employees transferred from the Scheme, membership of a certified “broadly comparable” pension scheme.
- 3.5 The review of the Fund’s Governance arrangements recommended that the Committee:
  - *Consider whether to introduce admission and bulk transfer policies, to provide greater detail and expand on some of the areas in the Funding Strategy Statement (FSS); and*
  - *Update the “Policy for employer leaving the Fund” in line with exit credit legislation.*
- 3.6 A bulk transfer is the transfer of a group of members from one pension scheme (the transferring scheme) to another (the receiving scheme). The transferring

scheme will make a transfer payment to the receiving scheme, covering all of the transferring members. The transferring members will cease to be entitled to benefits in the transferring scheme and will become entitled to benefits under the receiving scheme.

3.7 Appendix B is the recommended basis for the bulk transfer of staff into and out of the Scheme subject to various different circumstances including:

- Transfers between schemes with actuarially equivalent benefits (Club schemes);
- Transfers between broadly comparable schemes; and
- Inter fund transfers (transfers between Local Government Pension Schemes).

3.8 An admission agreement terminates if the employer ceases to be an admission body or the last active members leave employment or opt out of the Fund. Appendix C is a recommended updated “Policy for Employers Leaving the Fund” in which the main features of the financial arrangements are described in detail.

3.9 The Committee are recommended to agree:

- (i) the Bulk Transfer Policy (Appendix B)
- (ii) the Policy for Employers Leaving the Fund (Appendix C)

#### **4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

4.1 There are no financial considerations arising from this report.

**Approved by:** Nigel Cook, Head of Pensions and Treasury on behalf of Richard Ennis, Acting Director of Finance, Investment and Risk, S151 Officer

#### **5. LEGAL CONSIDERATIONS**

5.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance and Deputy Monitoring Officer that the Local Government Pension Scheme Regulations 2013/2356 (“the Regulations”) govern such matters as admission to the Local Government Pension Scheme (LGPS), transfers and leaving the pension fund.

5.2 In seeking to establish policies governing the above referenced areas, the Council must ensure that it complies with the relevant provisions within the Regulations and shall have regard to statutory guidance. Non-statutory guidance has also been published with covers these areas and regard ought also to be had to such non-statutory guidance.

5.3 Regulations 3 to 8 of the Regulations set out the rules for eligibility for membership and the different categories of member. Part 2 of the Regulations sets out provisions relating to the administration of the Scheme. Regulations 96 to 103 set out provisions relating to transfers between funds. Schedule 2 to the Regulations sets out who can be Scheme employers and makes provision

relating to admission agreements between employers who are not listed within the Schedule and administering authorities and Schedule 3 to the Regulations sets out who must maintain a fund for the Scheme, and is thus an administering authority and contains provision identifying who is the appropriate administering authority for the employees of any particular Scheme employer.

- 5.4 Regulation 64 makes provision in relation to requirements on employers who leave the LGPS and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014/525, under regulation 25A gives the Fund the ability to levy a cessation debt on employers who have ceased participation in the Fund (under the previous regulations) but for whom a cessation valuation was not carried out at the time.
- 5.5 Under provisions in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) [SI 2006/246], the pay, and terms and conditions of employment for transferred employees are protected, preventing these entitlements from being changed without agreement. The Transfer of Employment (Pension Protection) Regulations 2005 [SI 2005/649] covers the pension and contribution arrangements for employees to which a TUPE transfer applies.
- 5.6 Section 101 and 102 of the Local Government Act 2003 makes provision for staff transfer matters generally and in relation to pensions in particular (section 102) and provides that Directions may be made by the Secretary of State in this regard with which the Council needs to comply. Best Value Authorities Staff Transfer (Pensions) Direction 2007 has been made by the Secretary of State under this authority and provides that a Best Value authority must secure pension protection for each TUPE transferring employee, which must be the same as, broadly comparable to, or better than, those they had a right to acquire prior to the transfer.
- 5.7 Where relevant, regard should also be had to the non-statutory New Fair Deal guidance issued by the Government Actuaries Department in October 2013 which applies to central government departments, agencies, the NHS, certain maintained schools (including academies) and any other parts of the public sector under the control of government ministers, where staff are eligible to be members of a public service pension scheme. The new policy applies when such staff move from the public sector to an independent contractor by way of a transfer to which TUPE applies or when such staff move by way of a non voluntary transfer to a public service mutual or to other new models of public service delivery. The reformed policy generally does not apply to staff transfers from local authorities and other best value authorities (as listed in section 1 of the Local Government Act 1999).The New Fair Deal sets out how pensions' issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services, including how this pertains to pensions.
- 5.8 Further legal consideration will be required on the implementation of the recommendations in the report.

**Approved by:** Sandra Herbert, Head of Litigation and Corporate Law and Deputy Monitoring Officer on behalf of the Interim Director of Law and Governance.

## **6. HUMAN RESOURCES IMPACT**

- 6.1 There are no direct workforce implications arising from the recommendations within this report.

**Approved by:** Vicki Richardson, Head of HR & Finance Service Centre on behalf of the Director of Human Resources

## **7. EQUALITIES IMPACT**

- 7.1 There are no equalities impacts arising from this report.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 There are no environmental impacts arising from this report.

## **9. CRIME AND DISORDER REDUCTION IMPACT**

- 9.1 There are no crime and disorder impacts arising from this report.

## **10. DATA PROTECTION IMPLICATIONS**

- 10.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

Has a data protection impact assessment (DPIA) been completed?

**NO**

- 10.2 The Director of Human Resources comments that this report relates to matters relating to the administration of the LGPS and the Croydon Pension Fund.

**Approved by:** Vicki Richardson, Head of HR & Finance Service Centre on behalf of the Director of Human Resources

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**CONTACT OFFICER:**

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Resources Department, ext. 62552.

**BACKGROUND DOCUMENTS:**

None

**APPENDICES:**

Appendix A – Bulk Transfer Policy  
Appendix B – Policy for Employers Leaving the Fund