Environment Agency
Pension Fund

2012

Bulk transfer and admission agreement policies

Introduction

This is the policy of the Environment Agency Pension Fund ("EAPF") regarding the admission of any new employers into the EAPF, as well as bulk transfers of pension rights to and from the EAPF. This policy should be read in conjunction with the Fund's Funding Strategy Statement and relevant legislation, such as the Local Government Pension Scheme (Administration) Regulations 2008 (as amended).

The policy also applies to bodies other than the Environment Agency who subsequently participate in the EAPF and includes admission bodies participating via admission agreements and scheduled bodies participating following their inclusion in Schedule 2 of the Local Government Pension Scheme (Administration) Regulations 2008 (as amended).

Bulk transfers - background

The EAPF's policy on bulk transfers is based on the following key principles:

- When a group of active scheme members joins the EAPF, the Administering Authority's objective is to ensure, as far as practical, that the EAPF does not accept an ongoing funding deficit in respect of the transferring employees.
- When a group of active scheme members leaves the EAPF, in order to protect the funding position in respect of the remaining members, the transfer values relating to the transferring members should be no more than the assets held in respect of the transferring liabilities, and at most be 100% of the transferring liabilities on the ongoing funding basis as set out in the EAPF's Funding Strategy Statement.
- Service credits granted to active scheme members should fully reflect the value of the benefits being transferred, irrespective of the transfer value paid or received.
- There is also an overriding objective to ensure that the LGPS Regulations and any supplementary guidance (in particular the Cabinet Office Statement of Practice ("COSOP") dated January 2000 "Staff Transfers from Central Government: A Fair Deal for Pensions" (commonly known as 'Fair Deal') as they pertain to bulk transfers are adhered to.

It should be noted that, as far as possible, EAPF employers should treat the EAPF's preferred terms on bulk transfers as non-negotiable. Any differences between the value the EAPF is prepared to pay (or receive) and that which the other scheme involved is prepared to accept should be dealt with by the employers concerned, outside of the EAPF.

The payment of bulk transfers and the resulting award of service credits are determined and governed by the Local Government Pension Scheme (Administration) Regulations 2008 (as amended). The regulations that are relevant to bulk transfers to and from the scheme include the following:

Regulatory and guidance framework

The LGPS

The payment of bulk transfers and the resulting award of service credits are determined and governed by the Local Government Pension Scheme (Administration) Regulations 2008 (as amended). The regulations that are relevant to bulk transfers to and from the scheme include the following:

- Regulation 81 – applies on transfer out to non-LGPS schemes. It allows for the payment of a bulk transfer value where at least two active members of the LGPS cease scheme membership and join another approved pension arrangement. Agreement must be reached between the members' appropriate administering authority, the members' employing authorities (if different), and the trustees or managers of the new scheme to make the bulk transfer payment, otherwise cash equivalent transfer values will be payable.

- Regulation 82 - gives the LGPS actuary discretion in the choice of method of calculation used to calculate the bulk transfer value.
- Regulation 83 – allows an individual who holds relevant pension rights under a previous employer to request to be admitted for past service into the LGPS. The LGPS Fund does not have to grant the request. Any request must be received in writing from the individual within 12 months of active membership commencing.
- Regulation 84 – dictates that membership must be awarded to the level where the benefits awarded would be equal to the transfer value received at the transfer date.
- Regulation 85 - states that any transfer between one LGPS fund and another LGPS fund (in England and Wales) where 10 or more members elect to transfer will trigger bulk transfer negotiations between Fund actuaries.

Cabinet Office Code of Practice (“Fair Deal”)

Where employees are being transferred under TUPE, the principles of Annex A of the Cabinet Office Statement of Practice ("COSOP") dated January 2000 "Staff Transfers from Central Government: A Fair Deal for Pensions" (commonly known as ‘Fair Deal’) must also be adhered to. The main requirements in Fair Deal for transferring employees are:-

- Protection of future service by provision of a broadly comparable pension scheme or becoming an admission body in the LGPS.
- Payment of a bulk transfer and protection of past service by provision of day for day service credits (or equivalent allowing for differences in the benefit structure of the new scheme).
- Protection of other pension related terms and conditions of employment, such as enhancement of benefits on redundancy.

The bulk transfer requirements in relation to Fair Deal come into effect where a contractor decides to provide its own broadly comparable scheme (rather than entering into an admission agreement with the EAPF). The Fair Deal guidance specifies that it is essential to provide transferring staff with the cover of a bulk transfer agreement to allow them, if they wish, to maintain a link between their future earnings growth and their past service pension benefits. It also notes:

- The costs of the bulk transfer agreement may be a significant element in the overall costs of the project.
- The procurement of the bulk transfer agreement should therefore be handled as an integral part of the competition for the overall procurement (hence the need for the terms of the agreement being advertised at the earliest stage and being finalised before staff transfer).
- The bulk transfer agreement should be complemented by enforceable provisions requiring the broadly comparable scheme to provide a satisfactory bulk transfer value in a bulk transfer agreement with another scheme in any onward staff transfer to another employer.

The Government has been undertaking a review of the current Fair Deal arrangements and has recently published the responses to a consultation exercise on the reform of Fair Deal that was undertaken earlier in the year. The key outcome expected from the reform of Fair Deal consultations is that employees transferred to a supplier will in future automatically remain in their existing public sector pension scheme; accordingly, it is expected that the choice of moving to a new broadly comparable pension scheme provided by the supplier will no longer be available.

One of the purposes of further consultation is to determine how the reformed Fair Deal will impact re-tender exercises for existing Fair Deal transfers.

At present the suggested reforms to Fair Deal will not automatically flow through to machinery of government transfers, which are governed by COSOP, although it might be expected they would do so in due course (albeit the exact timing of any such change is not be known).

Further changes to the bulk transfer and admissions policy may be required when the Government confirms changes to Fair Deal/COSOP guidance.

Bulk transfers from the EAPF

Under the LGPS regulations, a bulk transfer is paid where two or more employees transfer accrued pension rights to another broadly comparable non-LGPS arrangement, or where ten or more employees are transferred to another LGPS fund in England and Wales.

Fair Deal requires that the new employer's pension scheme allows the employees transferring their accrued rights from the EAPF to do so on an enhanced basis. The aim of this is to include some protection in order to help preserve the link between past service benefits accrued in the EAPF and future final salary.

Due to a number of issues, such as the age profile of the members and the method of calculation, the amount of a bulk transfer will normally be expected to be different to the total of all the individual transfers that would otherwise have been paid via the traditional cash equivalent route (it could be less of more). In return for the payment of a bulk transfer, the transferring employees will be awarded the appropriate 'service credits' in the receiving pension scheme.

There are some restrictions on the value of transfer payment that might be paid and the resulting service credits awarded in the new scheme, where employees are treated as being transferred under TUPE. Regardless of the bulk transfer amount, the scheme members must be awarded 'day for day' service credits (or equivalent allowing for differences in the benefit structure).

Although the receiving pension scheme receives a bulk transfer payment, in some circumstances the amount of the payment from the EAPF may not be sufficient to fully fund the service credits to be awarded in the receiving scheme. The receiving scheme may, therefore, require a "top up" to the transfer payment with a cash payment (on day 1, during the life and/or at the end of the contract) to appropriately fund the transferees' pension benefits (e.g. if their pension scheme uses more prudent actuarial assumptions to value the service credits). This "top up" will be a cost to the new employer which they may seek to build into their contract price and/or may require the transferring EAPF employer to fund this amount as part of any subsequent onward bulk transfer at the end of the contract period.

There is also the possibility that some or all of the transferring employees who join the new employer's scheme naturally leave service with the new employer or change roles within the new employer and therefore become deferred members in the new scheme earlier than was anticipated at the time of the calculation of the bulk transfer amount. If a bulk transfer had been paid in respect of such employees the contractor's scheme would benefit from a "withdrawal profit" equal to the difference between the bulk transfer amount and the value of the deferred benefits that the employees would become entitled to on ceasing future service accrual. This "profit", caused by the transferring employees losing the link to final salary on past service benefits, would be retained in the contractor's scheme, and therefore lost by the EAPF. This could enable the contractor's pension scheme trustees to fund benefits for other members in its scheme.

Policies

The following policy decisions have been made by the Pensions Committee in relation to transfers from the EAPF.

The EAPF has delegated powers from the Environment Agency Board to decide whether or not a bulk transfer is paid.

The EAPF actuary in consultation with the EAPF will propose the size and terms of a bulk transfer payment to a receiving pension scheme or fund that will generally be non-negotiable. This policy is to protect the financial interests of the EAPF and the remaining financial beneficiaries of the fund.

For outsourcing projects awarded by an employer in the EAPF, it would only be in highly exceptional circumstances that the EAPF might decline or postpone a bulk transfer (e.g. if it was considered that the service credits being offered to the transferring members were not sufficient or there was any uncertainty over the awarding employer not appropriately compensating the EAPF for any shortfall in the bulk transfer payment not immediately payable from the EAPF).

For outsourcing projects awarded by an employer in the EAPF, the EAPF would work in liaison with the contract awarding EAPF employer's procurement as part of any EU tendering process and supplier selection due diligence process. The EAPF norm would be to provide a bulk transfer and support an EAPF employer's outsourcing policy decision, subject to the following policies being adhered to (where relevant).

If the receiving pension scheme considers a bulk transfer payment to be insufficient and the new employer is not paying for the initial shortfall, the contract awarding EAPF employer (as employer and outsourcing sponsor) will be required to make up any shortfall. The EAPF will not be party to this arrangement and will not top up any bulk transfer payment in relation to any shortfall. This requirement will also apply to any subsequent bulk transfers resulting as part of any retender of the contracted services where the amount payable from the outgoing contractor's pension scheme is insufficient to meet the expected costs of actuarially equivalent benefits in the new contractor's pension scheme.

For a bulk transfer where employees are being treated as transferring under TUPE, the bulk transfer will be calculated on a 'fully funded past service reserve' approach. This does not allow any deficit due to underfunding in the EAPF to be taken into consideration and therefore may result in additional costs in relation to any deficit left behind after the transfer which will be passed on to the contract awarding EAPF employer. This method of calculation reflects Cabinet Office 'Fair Deal' guidance. The EAPF will require a lump sum capital payment to be paid by the EAPF employer at the time of the transfer in relation to the deficit (associated with only those employees who agree to transfer accrued benefits away from the EAPF) left behind after the transfer date. The Pensions Committee may consider allowing staged capital payments over a period of no more than three years if that EAPF employer is a scheduled body, subject to appropriate adjustments being made to the payment to allow for the longer payment period.

Where a bulk transfer takes place and employees are not being treated as transferring under TUPE, notwithstanding the following paragraphs H) and I), the amount of the bulk transfer will be considered on the merits of the case. Specifically;

- No more than a fully funded bulk transfer amount would be paid i.e. if the EAPF was in surplus at date of transfer then the surplus amount would be retained in the EAPF.
- Where only active members of an EAPF employer are transferring out of the EAPF, the bulk transfer value payable would be the assets left behind after fully funding the remaining deferred and pensioner members of the EAPF employer on a gilts basis. This minimises the risk of any other EAPF employers having to cover the legacy deferred and pensioner liabilities of the EAPF employer.

However, where an EAPF employer is leaving the EAPF altogether after the transfer date (for example because it no longer has any active scheme members or its admission agreement is ceasing), the bulk transfer value paid from the EAPF will be equivalent to the employer's share of the assets in the EAPF less an amount withheld to ensure non-transferring liabilities (any deferred or pensioner members) are fully funded on a termination basis on the transfer date (assuming the transfer date and termination date are the same).

The EAPF will require any contract awarding EAPF employer or any EAPF employer which is subject to a machinery of government change (or its parent where appropriate) to enter into a written memorandum of understanding indemnifying and compensating the EAPF for any cost, loss or detriment experienced by the EAPF in connection with any bulk transfer out or the associated employee transfer or which is otherwise related to the contract or procurement process.

There is inevitably a delay between the date that staff transfer employment and the date that the bulk transfer amount is physically paid, to allow time for calculations to be performed and agreed and to finalise the details of the transferring members. To protect assets left behind after the transfer, the bulk transfer will be adjusted during this period by a 'Timing Adjustment' to reflect actual returns on assets held by the EAPF, or by index returns on a notional portfolio of assets where actual returns are not yet available. Every effort will be made to minimise this period with terms outlined in contracts aiming to reduce this to a few months rather than years.

The bulk transfer may be paid either in stocks and shares ('in specie') or in cash. The type of payment will be at the discretion of the EAPF. A deduction to the bulk transfer will be made for any administration, legal and transaction costs incurred by the EAPF as a result of having to disinvest any assets to meet the form of payment that suits the receiving scheme.

The EAPF will work closely with each EAPF employer in relation to any outsourcing and ensure the EAPF employer appreciates its responsibilities in relation to the ongoing monitoring of the suitability of pension arrangements following payment of a bulk transfer. As part of this, the EAPF employer will be expected to share all announcements and communications relating to the transfer of pension rights so they can be agreed by the EAPF, including assisting in this principle being followed in relation to any announcements and communications to be made by the receiving pension scheme.

The EAPF will require any actuarial, legal, administration and other justifiable costs arising from bulk transfers to be paid by the EAPF employer in order to protect the financial interests of the remaining beneficiaries of the EAPF.

The EAPF will agree with the EAPF employer how any additional deficit resulting from a bulk transfer is to be paid. Though it is likely this will be through adjustments to its employer contribution rate, the EAPF may require a lump sum payment or instalments of lump sums to cover this additional deficit, for example where the deficit is a large proportion of the total remaining notional assets and liabilities.

Bulk transfers into the EAPF

Bulk transfers into the EAPF can occur for a number of reasons including a national restructuring resulting in the admission of an employer whose employees have LGPS service in another LGPS fund, where there is a reorganisation of central government operations (transfers in from other government sponsored schemes) or where an outsourced contract ceases and active scheme members (re)join the LGPS from a broadly comparable scheme.

Unlike bulk transfers out of the EAPF, there is no specific provision to allow for bulk transfers into the EAPF (except in the case of bulk transfers between LGPS funds where the value of the transfer amount must be agreed between fund actuaries). As a result, any transfer value received into the EAPF, whether on the voluntary movement of an individual or the compulsory transfer of a number of employees, must be treated the same way as individual transfers.

That being said, the majority of bulk transfers into the EAPF will be required to adhere to COSOP and/or Fair Deal Guidance in relation to ensuring rights acquired in the EAPF are on a fully protected basis. This means the transfer-in service credits will need to be day for day, or equivalent allowing for differences in the pension scheme structures.

While not explicit in the Administration Regulations it is typically assumed that the service credits provided in the EAPF should be at least equivalent to those that would have been granted via the traditional cash equivalent transfer value route.

For a transfer into the EAPF, it is strictly speaking the responsibility of the ceding scheme's actuary to propose the assumptions used for the transfer value. In response, the EAPF would then be required to consider whether the proposed basis puts an equal or greater value on the transferring active scheme members' accrued benefits, when compared to the ongoing valuation basis on updated financial assumptions at the date of transfer.

Policies

The following policy decisions have been made by the Pensions Committee in relation to transfers into the EAPF.

The EAPF will expect all bulk transfers in to be sufficient to meet the value of the accrued benefits on ongoing valuation assumptions (i.e. the EAPF's funding basis) applicable at the transfer date.

As service credits awarded by the EAPF are non-negotiable and calculated in line with GAD guidance, the EAPF may require a bulk transfer back to the Active Pension Fund from external suppliers at the end of contracts, or into the EAPF for any other reason, to be topped up by the receiving EAPF employer or the transferring employer so that the transferring employees are awarded service credits in line with Cabinet Office guidance or any other agreement.

Where a bulk transfer is being paid into the EAPF, the EAPF will request the sending scheme to make the payment in a manner which is preferential to the EAPF, which could be specific stocks or shares or cash (or a combination thereof). In the event of a dispute the default option would be cash.

Depending on the strength of covenant of the receiving EAPF employer and the significance of the shortfall, any such shortfall will be met by either a lump sum payment or through increases to its ongoing contribution rate at the point the transfer is made or at the next funding valuation. Any deficit payments that EAPF agree to include as part of the ongoing contribution rate will be based on a spreading period not exceeding that set out in the Fund's Funding Strategy Statement.

The EAPF will require any contract awarding EAPF employer or any EAPF employer which is subject to a machinery of government change (or its parent where appropriate) to enter into a written memorandum of understanding indemnifying and compensating the EAPF as regards any cost, loss or detriment experienced by the EAPF in connection with any bulk transfer in or the associated employee transfer or which is otherwise related to the contract or procurement process.

Admission agreements and new employers – background

EAPF and that the financial risk to the fund and to employers in the fund is identified, minimised and managed accordingly.

The EAPF's policy is based on the following key principles:

- To ensure the long-term solvency of the EAPF as a whole and the solvency of each of the notional sub- funds allocated to the individual EAPF employers.
- To ensure that sufficient funds are available to meet all benefits as they fall due for payment.
- Not to restrain unnecessarily the investment strategy of the EAPF so that the Administering Authority can seek to maximize investment returns (and hence minimise the cost of the benefits) for an appropriate level of risk.

- To help employers recognise and manage pension liabilities as they accrue with consideration to the effect on the operation of their business where the Administering Authority considers this appropriate.
- To minimise the degree of short-term change in the level of each EAPF employer's contributions where the Administering Authority considers it reasonable to do so.
- To use reasonable measures to reduce the risk to other EAPF employers and ultimately to the tax payer from an EAPF employer ceasing participation or defaulting on its pension obligations.
- To address the different characteristics of the disparate EAPF employers or groups of EAPF employers to the extent that this is practical and cost-effective.
- To maintain the affordability of the fund to EAPF employers as far as is reasonable over the longer term.

There is also an overriding objective to ensure that the LGPS Regulations and any supplementary guidance (in particular the Fair Deal guidance) as they pertain to admission agreements are adhered to.

An admission agreement will be put in place where an application by an external employer meeting the criteria for admission bodies under the LGPS regulations to join the EAPF to provide the LGPS to its employees is successful. This admission agreement outlines the regulatory basis and financial terms of entry to the EAPF. On signing of an EAPF admission agreement, the body is known as an 'admission body'. Subject to the requirements of the LGPS regulations, the EAPF may include such terms in its admission agreements as it reasonably requires to protect the interests of the fund, the other employers in the fund and its members.

There are two types of potential admission bodies:

- Community admission bodies ("CABs") – these are generally bodies linked by a "community of interest", funded by or representative of a local authority or scheme employer. For example, this could be a charitable body.
- Transferee admission bodies ("TABs") – these are generally bodies providing a service as a result of the transfer of services (and/or assets), for example, an external contractor via outsourcing.

Employers may also be admitted to the EAPF as scheduled bodies, for example, by being explicitly mentioned in Schedule 2 of the Local Government Pension Scheme (Administration) Regulations 2008. These will generally be larger bodies created through machinery of government changes.

Though admission to the EAPF will be statutory in these circumstances, an 'entry agreement' will still be required to be put in place between the EAPF and the scheduled body.

When the first admission body or scheduled body joins the EAPF, the EAPF would become a multi-employer fund.

A potential admission body might place risks on the EAPF, which it is important for the EAPF to understand and manage. Generally these risks relate to the costs of liabilities (i.e. underfunding) not yet paid for at the point of termination of the admission agreement. Termination can be for a number of reasons, including the natural end of a contract, a takeover or a body going into liquidation.

Under the terms of the LGPS Regulations, a termination valuation is carried out at the point of cessation in order to ascertain the final payment due relating to any deficit. Where the admission body is unable to meet the outstanding payment, the payment must be collected from:

- Any insurer or person providing an indemnity or bond on behalf of that body; or alternatively (where agreed with the administering authority (and scheme employer where appropriate).
- A guarantor, such as a sponsoring employer or central government department.

and where that is not possible:

- In the case of a TAB, from the awarding authority for that TAB.
- In the case of a CAB, from each other EAPF employer within the EAPF.

The outstanding deficit at the point of termination may largely exist already due to a variety of circumstances such as adverse investment experience. Any deficit could be increased further by additional liabilities resulting from the termination. The risks relating to the potential of a deficit arising at the point of termination include:

- Redundancy early retirements, on premature termination of the contract.
- Current funding strain (this will be zero at outset if the contractor commences on a fully funded position).
- Asset underperformance.
- Lower gilt yields than at the outset (i.e. the risk that the future return available from government bonds falls, leading to a higher value being placed on the liabilities and hence under funding on premature termination).
- The conservative nature of the financial and longevity assumptions which may be used in the cessation calculations
- Greater than expected salary increases over the term of the contract.
- The cost of ceasing participation in the EAPF (e.g. termination costs covering the need for a cessation valuation and all of the necessary additional administration costs).
- Unpaid contributions.

The LGPS Regulations include some requirements to reduce these risks. These include the need for the admitted body, to the satisfaction of the EAPF (and the awarding EAPF employer where appropriate), to carry out a risk assessment on the premature termination of a CAB or TAB on insolvency, winding up or liquidation and, where considered necessary taking into consideration the results of that assessment, require the CAB or TAB to put in place either;

- A bond or indemnity to cover the level of risk identified.
- Where considered desirable, a guarantor.

As the potential deficit relating to the above risks can fluctuate, often on a daily basis, there is no guarantee that any bond or indemnity payout (which is based on a fixed level of cover that is renewed periodically) will be sufficient to secure 100% funding of the departing employer's liabilities in the EAPF. Similarly there is no guarantee any guarantor will pay out in order to secure 100% funding of the departing employer's liabilities in the EAPF. Any remaining shortfall would fall on the guarantor, ceding employer or on all other employers in the EAPF, as appropriate under the LGPS Regulations and the admission agreement.

Admission bodies in the EAPF

When an employer (admission or scheduled) joins the EAPF, it will be notionally allocated assets in the EAPF. Thereafter the admission body's assets, and liabilities, will be tracked in the EAPF and employer contributions set with a view to achieving solvency at the end of the targeted deficit recovery period, calculated using the EAPF's ongoing funding basis as set out in its Funding Strategy Statement.

If there is a shortfall on cessation, the admission body must pay that shortfall as a lump sum capital payment.

Under LGPS rules the EAPF cannot refund any excess funding over 100% to the admission body (again, notwithstanding the risk (cost) sharing options available). Though it is less likely that a scheduled body would leave the EAPF, the same principles will apply, and accordingly the body should be targeting 100% of assets to cover its liabilities.

Providing the flexibility for an employer to ensure a matched investment strategy is followed may reduce the risk of under-funding due to market movements, as the assets and liabilities would be expected to move in the same way. However, implementing, monitoring and managing separate investment strategies for each employer is currently extremely labour-intensive, and the potential benefits are outweighed by the additional work involved, making such a move impracticable.

If an admission body providing services to an EAPF employer (e.g. a contractor) suffers an insolvency event or ceases to exist and cannot meet its outstanding liabilities, these will fall back on the EAPF employer under the terms of the LGPS regulations, to the extent that they are not covered by an indemnity/bond or guarantor.

In the case of CABs or scheduled bodies, unless there is a guarantor in place, any outstanding liabilities will fall back on all the remaining employers in the EAPF, to the extent that they are not covered by an indemnity/bond or guarantor. It is therefore important that appropriate safeguards are put in place to protect both the EAPF and the other EAPF employers by way of a robust financial bond or indemnity via an insurance policy and/or a guarantor in case of default.
In the case of new EAPF employers generally, transferring employees who were EAPF members before and after the transfer may leave service naturally over time so that eventually there are substantially less transferring employees in active membership or perhaps none at all.

In the case of a TAB, there may be circumstances where a transferring employee works principally on the EAPF employer service contract but, because he works on a number of other contracts too or is promoted into another role by the supplier, the proportion of EAPF employer work reduces. Ordinarily the EAPF would expect that if an employee works less than 50% of his time on the contract over a six month period will become ineligible for continued participation in the LGPS. In the case of new EAPF employers generally, transferring employees who were EAPF members before and after the transfer may leave service naturally over time so that eventually there are substantially less transferring employees in active membership or perhaps none at all.

These circumstances have several implications including:

- The admission body could benefit from a “withdrawal profit” equal to the difference between the value of accrued benefits as active members (i.e. allowing for the link to final salary) and the value of the deferred benefits that the employees would become entitled to on ceasing future service accrual. This “profit” would be retained in the new EAPF employer section of the EAPF, and therefore lost by the transferring EAPF employer and could be used by the new EAPF employer to reduce its future contribution requirements during its remaining participation in the EAPF (which the transferring EAPF employer might wish to capture in any pricing agreement for the services).
- All other things being equal, the value of future bond assessments would be lower since bond values are linked to the value of liabilities (which would reduce) and to the size of the active membership (which would also reduce) for redundancy risk purposes.
- The regular contribution rate payable by the new EAPF employer would change depending on the profile of the ineligible employees. For example, if most of the members who became ineligible were younger on average than the eligible employees left in the EAPF, the contribution rate would increase. The past service element of the regular employer contribution would also change e.g. if the new EAPF employer was in deficit, the contribution may increase due to deficit being spread over a smaller payroll.
- There may be contract pricing implications for any pension risk (cost) sharing arrangement set up separately on a commercial basis between the contract awarding EAPF employer and the new

EAPF employer and falling outside of this policy. The extent to which contract pricing is affected very much depends on the form of the pension risk (cost) sharing arrangement in place and on the profile of the members leaving the EAPF.

Policies

The following policy decisions have been made by the Pensions Committee in relation to new employers in the EAPF.

All applications to become a new EAPF employer (whether admission body or scheduled body) in the EAPF will be put for consideration to the Pensions Committee, albeit any new scheduled body will ultimately be entitled to participate in the EAPF as a result of changes to the LGPS Regulations made by DCLG.

An assessment of the financial strength of the body applying for admission body status will be undertaken by the EAPF before permitting access and if not sufficiently strong it will not be permitted access. For Environment Agency led outsourcing projects this will be done in liaison with Environment Agency procurement and specialist external advisors as part of any EU tendering process and overall due diligence process. A similar approach will be used in relation to other EAPF employer led procurement exercises. Only in highly exceptional circumstances would the EAPF decline or delay the entry of an admission body into the EAPF (e.g. if there was a real concern over the financial integrity of the employer that was not detected by the due diligence of an external supplier). The EAPF norm would be to agree to an admission body entry into the EAPF and support an EAPF employer's outsourcing policy decision, subject to the following policies being adhered to (where relevant). Applications to become a new EAPF employer will generally only be considered from bodies whose interests are closely aligned with the work of the Environment Agency with no geographical restrictions.

A separate pension fund will generally not be set up for a new EAPF employer unless there are very strong strategic reasons to do so e.g. the employer is large and the nature of its liabilities merits a significantly different investment and funding strategy from that of the EAPF.

All prospective EAPF employers (whether admission bodies or scheduled bodies) will be required to enter into a legal agreement with the EAPF. The EAPF admission/entry agreement will generally be non-negotiable with standard terms drawn up on advice from the EAPF actuary and EAPF specialist legal advisor. These terms will include commencement, transfer, payment, bond/indemnity or guarantor requirements, as well as termination clauses to protect the other beneficiaries of the EAPF together with a requirement to comply with the EAPF's administration policies and service level agreement in force from time to time.

The EAPF will require any prospective EAPF employer to provide either:

- A financial bond (AAA rated) or indemnity at a level certified by the EAPF actuary covering a full range of risks including, but not limited to, early retirements, any potential deficit and investment risk. The EAPF actuary will recalculate the required level of the bond annually and it must be renewed appropriately by the admission body. This is the preferred option for a TAB (a contracting EAPF employer may require the same cover be provided by any TAB too); or a guarantor considered by the EAPF to be strong, secure and financially durable (generally only a local authority or central government department) or a bond/indemnity the EAPF considers to have equivalent strength.
- A financial guarantor who is considered to have a strong, secure, and durable financial covenant. e.g. a Government Department, another public body, or the Environment Agency Board.
- A Crown Guarantee where considered appropriate.

In all circumstances where a bond/indemnity, guarantor or Crown Guarantee is provided, the bond/indemnity, guarantor or Crown Guarantee must be re-evaluated and renewed periodically.

The EAPF will require any contract awarding EAPF employer or any EAPF employer which is subject to a machinery of government change (or its parent where appropriate) to enter into a written memorandum of understanding indemnifying and compensating the EAPF as regards any cost, loss or detriment experienced by the EAPF in connection with the admission of any new EAPF employer or the associated employee transfer or which is otherwise related to the contract or procurement process.

New EAPF employers will be required to organise the ongoing monthly payment into the EAPF of employee contributions and pay the employer contribution rate as set out in the EAPF rates and adjustment certificate as varied from time to time. The latter will be as certified by the EAPF actuary and this will be reviewed each triennial valuation or more frequently as determined by the EAPF and the EAPF actuary. The EAPF upon advice from the EAPF actuary may agree to increase the required level of the employer contribution rate as an effective way of reducing the risk of any potential shortfall on cessation which the contractor or contracting EAPF employer has to pay.

Additional assessments of the likelihood of a shortfall existing will be carried out by the EAPF actuary in the run up to the cessation of an EAPF employer.

EAPF employers will be required to pay any shortfall in assets immediately upon cessation or termination as a one off lump sum capital payment.

The cessation amount will be determined by the EAPF actuary and will be calculated on a basis agreed between the EAPF and the EAPF actuary. This would usually be calculated using the EAPF's ongoing funding basis e.g. where a TAB reaches the 'natural' end of its participation in the EAPF or the last active member of the EAPF employer leaving, but may depend on a gilts basis for the EAPF using a discount rate that is based on Government bond yields with allowance for longevity adjustments where the EAPF employer leaves the EAPF unexpectedly on a 'clean break' basis e.g. as a result of a machinery of government change.

The EAPF may require any actuarial, legal, administration and other justifiable costs to be paid by the existing EAPF employer, in the case of an admission body which is being created as a result of actions by that employer (including outsourcing), or the prospective new EAPF employer or its sponsor in all other circumstances.

Throughout the period of membership in the EAPF, the EAPF will monitor that the EAPF employer continues to meet the requirements of their agreement. The EAPF will work closely with any contracting awarding EAPF employer in relation to any admission/entry agreement to which they are party to and ensure the contract awarding EAPF employer appreciates its responsibilities in relation to the ongoing monitoring of the admission agreement. There must be clear responsibilities for monitoring, amongst other things, ongoing contribution payments, changes in scheme member profiles, implications of decision making, potential of premature cessation and communication of scheme member changes.

The Pensions Committee will advise the Environment Agency Board if it believes that there are any benefits of a representative of a new EAPF employer or a group of new EAPF employers being invited to attend the Benefits Sub-Group or Pensions Committee meetings as an observer.
The Pensions Committee will consider requests for continuity of an EAPF employer status to an alternative supplier or employer (for example during or at the end of the contract) following the requirements of this policy and the advice of the EAPF actuary.

The investment strategy is set for the Fund as a whole, not for each employer's notional share of the Fund.

Risk sharing

As part of a commercial contract, an EAPF employer may decide to enter into a pension risk/cost sharing arrangement with an external supplier. The EAPF will require the existing EAPF employer to consult and seek advice from Head of the Pension Fund Management and consult with the Pensions Committee well before signing such a contract, so that the Pensions Committee can ensure that the financial interests of the EAPF are protected for the full life cycle of the contract and any contract extension or appointment of a new contractor.

Therefore, where such an arrangement is being discussed between an EAPF employer and an external supplier, it is necessary to consider whether alternative arrangements to the points mentioned above should apply. The following policy decisions have been made by the Pensions Committee in relation to the EAPF.

Policy

The supplier will be expected to fully adhere to the requirements of admission body status as if no risk/cost sharing arrangement were in place. For example, the supplier will be required to pay the full contribution rate certified by the EAPF actuary and lump sum strain payments on premature retirement.

The only exceptions to this might be as follows:

The EAPF employer (as employing and contract awarding authority) may agree to its financial bond/indemnity requirements to be reduced or waived if the contract awarding EAPF employer accepts and guarantees to become financially liable in respect of any and all the monies due to the EAPF at the start, during or at the end of the contract. In these circumstances the EAPF will reduce or waive the bond/indemnity requirement.

The contract awarding EAPF employer (as employing and contract awarding authority) may agree to indemnify the supplier against paying any shortfall in funding at cessation. In these circumstances, the EAPF will require the contract awarding EAPF employer to provide a lump sum capital payment into the EAPF of the cessation amount immediately on the supplier ceasing to participate in the EAPF. The Pensions Committee may consider allowing an extension to this period or alternatively to staged capital payments over a period of no more than three years, subject to appropriate adjustments being made to the payment to allow for the longer payment period. The method of payment will be decided by the EAPF.

The Head of Pension Fund Management and the EAPF actuary and EAPF legal advisors should be consulted on the relevant draft contract and agreement between the contract awarding EAPF employer and an external supplier to ensure clarity about the nature and timing of any payments to be paid to the EAPF by the external supplier or the contract awarding EAPF employer to the EAPF.

General

The Head of Pension Fund Management has the right of access to raise any concerns with the Chair of the Pensions Committee and the Chair of Audit and Risk Committee as a result of any discussions around implications of Environment Agency outsourcing or other business proposals that could impact on the pension fund and its members.

Approved by the Pensions Committee – 12 December 2012