

# South Yorkshire Pension Fund Policy on admissions



## November 2022

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# 1. Introduction

The purpose of this policy is to set out the administering authority's default approach to admitting new employers into the fund.

While it is possible for a prospective new employer to request alternatives, any deviation from the stated default position would have to ensure no risk to other scheme employers and will be at the discretion of the Fund to agree to.

In addition, and subject to review on a case-by-case basis, the fund may be willing to apply its pass-through principles to other admission bodies where liabilities are covered by a guarantor within the fund.

## 1.1 Aims and objectives

The administering authority's aims and objectives related to this policy are as follows:

- Set out how the fund ensures that only appropriate bodies are admitted to the Fund and that the financial risk to the fund and to other employers in the fund is identified, minimised, and managed accordingly.
- Set out the Fund's default position in relation to the admission of new employers.
- In respect of the admission of new contractors, to set out the calculation of contribution rates and how risks are shared under the pass-through arrangement.
- To outline the process for admitting new employers into the fund.

## 1.2 Background

It is essential for the administering authority to establish its fundamental approach to the risks involved in the admission of new employers to the fund.

The regulatory framework relating to the different types of employer that may join the fund is set out in the next section.

## 1.3 Guidance and regulatory framework

The [Local Government Pension Scheme Regulations 2013](#) (as amended) set out the various types of employer that can participate in the fund and the different requirements that apply to each. These can be summarised as:

- **Scheduled Bodies** listed in Part 1 to Schedule 2 – the councils, further education colleges, academies, police and fire services. These bodies must provide access to the LGPS to their employees (assuming they are not eligible to be members of other pension schemes)
- **Designating employers** listed in Part 2 to Schedule 2 – have the right to decide who of their employees are eligible to join the scheme. Includes town and parish councils, as well as entities connected to bodies in Part 1 above. If a relevant designation is made the Administering Authority cannot refuse entry into the scheme in respect of that employer.
- **Admission bodies listed in part 3 to schedule 2** – who can apply to participate in the scheme. Admission bodies can encompass a variety of different types of employer. These are –
  - 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 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 (i.e. outsourcing),
    - a direction made under section 15 of the Local Government Act 1999,
    - directions made under section 497A of the Education Act 1996;
  - 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.

When an administering authority is considering permitting a body to become an admission body, the LGPS Regulations include some discretions relating to the creation and management of admission agreements. These discretions are considered within this policy. The discretionary areas are:

- Part 3 of Schedule 2 (para 1) – Whether or not to proceed with admission agreements
- Part 3 of Schedule 2 (para 9(d)) – Whether to terminate the admission agreement

- Regulation 54(1) – If the Fund will set up separate pension funds in respect of admission agreements

Further, the regulations contain requirements around the determination of employer contributions, and the relevant provisions regarding the payment of these, specifically:

- Regulation 67 – which sets out the requirement for employers to pay contributions in line with the Rates and Adjustments (R&A) certificate.
- Regulation 64 - covers the requirements for a cessation valuation following the exit of a participating employer from the fund.

Employees outsourced from local authorities, police and fire authorities or from independent schools (generally academies, regulated by the Department for Education) must be offered pension benefits that are the same, better than, or count as being broadly comparable to, the Local Government Pension Scheme (as per the Best Value Authorities Staff Transfer (Pensions) Direction 2007). This is typically achieved by employees remaining in the LGPS and the new employer becoming an admitted body to the Fund and making the requisite employer contributions.

## 2 Statement of principles

### 2.1 General

The administering authority's policy is drafted on the basis of the following key principles:

- to ensure the long-term solvency of the fund as a whole and the solvency of each of the notional sub-funds allocated to the individual 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 fund so that the administering authority can seek to maximise investment returns (and hence minimise the cost of the benefits) for an appropriate level of risk;
- to set clear principles and ensure there is a consistency of requirement for employers in respect of all admissions and cessations to and from the fund.
- to ensure employers recognise the impact of their participation in the LGPS, helping them manage their pension liabilities as they accrue and understanding the effect of those liabilities on the ongoing operation of their business;
- to minimise the degree of short-term change in the level of each employer's contributions where the administering authority considers it reasonable to do so;
- to use reasonable measures to reduce the risk to other employers and ultimately to the council taxpayer from an employer ceasing participation or defaulting on its pension obligations;
- to address the different characteristics of the disparate employers or groups of employers to the extent that this is practical and cost-effective; and
- to maintain the affordability of the Fund to 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 Best Value Authorities Staff Transfer (Pensions) Direction 2007 and Fair Deal guidance) as they pertain to admission agreements are adhered to.

### 2.2 New contractors

This statement of principles covers the **admission of new contractors** to the fund. Each case will be treated on its own merits, but in general:

- In the absence of a preferred approach from the letting authority, pass-through is the default approach for the admission of all new contractors to the fund from the effective date of this policy. For the avoidance of doubt, this would apply to contracts established by councils, police & fire authorities, and academy trusts ("the letting authority").
- Pass-through is an arrangement whereby the letting authority (the local authority or the independent school) retains the main risks of fluctuations in the employer contribution rate during the life of the contract, and the risk that the employer's assets may be insufficient to meet the employees' pension benefits at the end of the contract.
- The contractor's pension contribution rate is set equal to the primary contribution rate payable by the letting authority. This will change from time to time in line with changes to the letting authority's primary contribution rate (i.e. following future actuarial valuations).

- The letting authority retains responsibility for variations in funding level, for instance due to investment performance, changes in market conditions, longevity, and salary experience under its pass-through arrangement, irrespective of the size of the outsourcing.
- The contractor will meet the cost of additional liabilities arising from (non-ill health) early retirements and augmentations.
- Ill health experience will be pooled with the letting authority and no additional strain payments will be levied on the contractor in respect of ill health retirements.
- The contractor will not be required to obtain an indemnity bond.
- There will be no notional transfer of assets to the contractor within the Fund. This means that all assets and liabilities relating to the contractor's staff will remain the responsibility of the letting authority during the period of participation.
- At the end of the contract (or when there are no longer any active members participating in the fund, for whatever reason), the admission agreement will cease and no further payment will be required from the contractor (or the letting authority) to the fund, save for any outstanding regular contributions and/or invoices relating to the cost of early retirement strains and/or augmentations. Likewise, no "exit credit" payment will be required from the Fund to the contractor (or letting authority).
- The terms of the pass-through agreement will be documented by way of the admission agreement between the administering authority, the letting authority, and the contractor.
- All existing admission agreements are unaffected by this policy.

The principles outlined above are the default principles which will apply for the admission of new contractors, however, the letting authority may request the specific details of a particular agreement to differ from the principles outlined above.

The administering authority is not obliged to agree to a departure from the principles set out in this policy but will consider such requests and engage with the letting authority to reach agreement.

## 3 Policy and process – all employers

### 3.1 Entry conditions

The following entry conditions apply;

- **Scheduled bodies** must ensure that the fund is aware of their creation.
- **Designating employers** must ensure that the fund is aware of their creation and provide the fund with a copy of its resolution, confirming who is eligible for membership of the fund.
- **Admission bodies.** The fund will consider applications from bodies;
  - with links to a scheme employer, or
  - that provides services or assets on behalf of a scheme employer

Agreements can be open or closed so long as necessary protections are in place.

### 3.2 Security

The security requirements (i.e. via a bond, indemnity and/or guarantor) are as follows:

- There are no security requirements for **scheduled bodies** and **designating employers**.
- **Admission bodies.** Where contractors are being admitted to the fund under a pass-through arrangement, the requirement set out in Section 4 will apply. For all other admission bodies:
  - the admission body is required to undertake risk assessment to the satisfaction of the administering authority (and scheme employer where seeking admission as a body under Part 1(d) to Part 3 of Schedule 2).
  - the admission body is required to put in place a secure and financially durable bond to the satisfaction of the administering authority or agree an alternative guarantor (generally with a scheme employer and/or government department).
  - Documentary evidence of the bond or guarantee must be provided to the administering authority by the admission body.
  - The level of risk must be reviewed and any associated security renewed on an annual basis

### 3.3 Approval

The process for approving the participation of a new employer in the fund is as follows;

- **Scheduled bodies.** The Fund has no power to refuse participation of any new employer set up under Part 1 of schedule 2 and where the Fund is designated as the appropriate Fund for that employer.
- **Designating employers** The Fund has no power to refuse participation of an employer under Part 2 of schedule 2, although it will require sight of a signed copy of the relevant resolution to confirm the employees eligible for participation in the scheme.
- **Admission bodies.** Fund officers to be responsible for ensuring prospective admission bodies meet the necessary criteria. Admission agreement template will generally be standard and non-negotiable

All new employers will be reported to the Pension Authority and Local Pension Board for information only.

### 3.4 Asset allocation

The starting asset allocation for new employers will be determined in the following way;

- **Scheduled bodies and designating employers.** Assets for any new employer will be calculated using the Fund's ongoing funding basis, as set out in the Funding Strategy Statement (FSS).  
Academies may be pooled with other academies as part of a Multi Academy Trust (MAT).  
Where a new employer is created from an existing scheme employer, the initial asset allocation will be based on a share of the ceding employer's assets, with consideration taken of the ceding employer's estimated deficit as at the date of transfer.
- **Admission bodies.** The asset allocation will be agreed on a case by case basis. For new contractors participating in the fund under a pass-through arrangement, the fund assets (and liabilities) associated with outsourced employees are retained by the letting authority.

### 3.5 Contributions

Contribution rates will be set in accordance with the FSS.

### 3.6 Costs

Employer being admitted to the fund will be required to meet the cost of this, which includes (but is not limited to) the actuarial fees incurred by the administering authority.

### 3.7 Employer specific policy

#### Connected entities

Connected entities by definition have close ties to a scheme employer given that a connected entity is included in the financial statements of the scheme employer. Although connected entities are "designating bodies" under the regulations, they have similar characteristics to admitted bodies (in that there is an "outsourcing employer"). However, the regulations do not strictly require such bodies to have a guarantee from a scheme employer. However, to limit the risk to the fund, the administering authority will require that the scheme employer provides a guarantee for their connected entity, in order that the ongoing funding basis will be applied to value the liabilities.

#### Children's centre transfer to academy trusts

Local education authorities have an obligation to provide children's centres under the Childcare Act 2006. The Act places duties on these authorities in relation to establishing and running children's centres and therefore the financial obligation to cover the LGPS costs of eligible staff remains a responsibility of the local education authority regardless of service delivery vehicle. The local education authority is liable for all the LGPS liabilities of the children's centre.

As the staff cannot be employed directly by an academy or academy trust, the fund will permit admission of a separate participating employer (with its own contribution rate requirements based on the transferring staff), through a tri-partite admission agreement between the fund, the local education authority of the ceding council and the body responsible for managing the children's centre (this could be an academy trust or private sector employer).

#### Second generation outsourcings

A 2nd generation outsourcing is one where a service is being outsourced for the second time, usually after the previous contract has come to an end. For Best Value Authorities, principally the unitary authorities, they are bound by The Best Value Authorities Staff Transfers (Pensions) Direction 2007 so far as 2nd generation outsourcings are concerned. In the case of most other employing bodies, they should have regard to Fair Deal Guidance issued by the Government.

It is usually the case that where services have previously been outsourced, the transferees are employees of the contractor as opposed to the original scheme employer and as such will transfer from one contractor to another without being re-employed by the original scheme employer. There are even instances where staff can be transferred from one contractor to another without ever being employed by the outsourcing scheme employer that is party to the Admission Agreement. This can occur when one employing body takes over the

responsibilities of another, such as a maintained school (run by the local education authority) becoming an academy.

In this instance the contracting body is termed a ‘Related Employer’ for the purposes of the Local Government Pension Scheme Regulations and is obliged to guarantee the pension liabilities incurred by the contractor. “Related Employer” is defined as “any Scheme employer or other such contracting body which is a party to the admission agreement (other than an administering authority in its role as an administering authority)”

## 4 Policy and process – new contractors

### 4.1 Compliance

Adherence to this policy is the responsibility of the relevant responsible service manager for any given outsourcing.

The administering authority and the fund actuary must always be notified that an outsourcing has taken place, regardless of the number of members involved.

### 4.2 Contribution rates

The contribution rate payable by the contractor over the period of participation will be set equal to the primary rate payable by the letting authority from time to time. This means that the contractor’s contribution rate will change once every three years, following the triennial actuarial valuation, but not between those times. Even then, this would always be in line with changes in the letting authority future service primary rate, and not affected by the (generally more volatile) changes in past service funding level.

### 4.3 Risk sharing and cessation valuation

The letting authority will retain the risk of the contractor becoming insolvent during the period of admission and so no indemnity bond will be required from contractors participating in the Fund on a pass-through basis. The letting authority is effectively guaranteeing the contractor’s participation in the fund.

A cessation valuation is required when a contractor no longer has any active members in the fund. This could be due to a contract coming to its natural end, insolvency of a contractor or the last active member leaving employment or opting out of the LGPS.

Where a pass-through arrangement is in place, the fund assets and liabilities associated with outsourced employees are retained by the letting authority. At the end of the admission, the cessation valuation will therefore record nil assets and liabilities for the ceasing employer and therefore that no cessation debt or exit credit is payable to or from the Fund.

The contractor will be required to pay any outstanding regular contributions and/or unpaid invoices relating to the cost of (non-ill health) early retirement strains and/or augmentations at the end of the contract.

However, in some circumstances, the winning bidder will be liable for additional pension costs that arise due to items over which it exerts control. The risk allocation is as follows:

Risks	Letting authority	Contractor/ Admitted body
Surplus/deficit prior to the transfer date	✓	
Interest on surplus/deficit	✓	
Investment performance of assets held by the Fund	✓	
Changes to the discount rate that affect past service liabilities	✓	
Changes to the discount rate that affect future service accrual *		✓
Change in longevity assumptions that affect past service liabilities	✓	
Changes to longevity that affect future accrual *		✓
Price inflation affects past service liabilities	✓	
Price inflation / pension increases that affect future accrual *		✓
Exchange of pension for tax free cash	✓	
Ill health retirement experience	✓	
Strain costs attributable to granting early retirements (not due to ill health (e.g. redundancy, efficiency, waiving actuarial reductions on voluntary early retirements))		✓
Greater/lesser level of withdrawals	✓	
Rise in average age of contractor’s employee membership	✓	



Changes to LGPS benefit package *		✓
Excess liabilities attributable to the contractor granting pay rises that exceed those assumed in the last formal actuarial valuation of the Fund (the letting authority may wish to address this as part of any contract discussions).	✓	
Award of additional pension or augmentation		✓

\* These elements would be picked up at the next triennial valuation, if the contractor is still active in the Fund at that time and would feed through into the letting authority's primary contribution rate and hence the contractor's contribution rate.

#### 4.4 Accounting valuations

Accounting for pensions costs is a responsibility for individual employers.

It is the administering authority's understanding that contractors may be able to account for such pass-through admissions on a defined contribution basis and therefore no formal FRS102 / IAS19 report may be required (contractors are effectively paying a fixed rate and are largely indemnified from the risks inherent in providing defined benefit pensions).

As the letting authority retains most of the pension fund risk relating to contractors, it is the administering authority's understanding that these liabilities (and assets) should be included in the letting authority's FRS102 / IAS19 disclosures.

The administering authority expect employers to seek approval to the treatment of pension costs from their auditor.

#### 4.5 Application

Letting authorities may request terms which differ from those set out in this policy and any such request will be considered by the Administering authority.

All existing admission agreements (i.e. which commenced prior to the effective date of this policy) are unaffected by this policy.

#### 4.6 Process

The procurement department at each letting authority that has responsibility for staff/service outsourcing must be advised of this policy. The process detailed below must be adhered to by the letting authority and (where applicable) the winning bidder.

- **Tender Notification** - The letting authority must publicise this pass-through policy as part of its tender process to bidders. This should confirm that the winning bidder will not be responsible for ensuring that the liabilities of outsourced employees are fully funded at the end of the contract, and that the winning bidder will only be responsible for paying contributions to the fund during the period of participation and meeting the cost of (non-ill health) early retirement strains, the cost of benefit augmentations. It should also advise the employer contribution rate as detailed in paragraph 4.2.
- **Initial notification to Pension Team** – The letting authority must contact the administering authority when a tender (or re-tender) of an outsourcing contract is taking place and staff (or former staff) are impacted. The administering authority must be advised prior to the start of the tender and the letting authority must also confirm that the terms of this policy have been adhered to.
- **Confirmation of winning bidder** – The letting authority must immediately advise the administering authority of the winning bidder.
- **Request for winning bidder to become an admitted body** – The winning bidder (in combination with the letting authority), should request to the administering authority that it wishes to become an admitted body within the Fund.
- **Template admission agreement** – a template pass-through admission agreement will be used for admissions under this policy. It will set out all agreed points relating to employer contribution rate, employer funding responsibilities, and exit conditions. Only in exceptional circumstances, and only with the prior agreement of the Administering authority, will the wording within the template agreement be changed. All admission agreements must be reviewed (including any changes) by the administering authority and possibly its legal advisors.
- **Signed admission agreement** - Signing of the admission agreement can then take place between an appropriate representative of the winning bidder, the lead finance officer of the letting authority, and the administering authority. It is at this point the fund can start to receive contributions from the contractor and its employee members (backdated if necessary).
- **Admitted body status** – The letting authority will advise the contractor of its requirements and responsibilities within the Fund.

## 5 Related Policies

The information contained with the FSS applies equally to admission bodies as to other participating employers within the Fund. This admissions policy, therefore, supplements the general policy of the Fund as set out in the FSS and should be read in conjunction with that document, together with its associated funding policies.