

**REPORT FOR: Pension Fund  
Investment Panel**

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<b>Date of Meeting:</b>	25 <sup>th</sup> June 2012
<b>Subject:</b>	<b>Academies – Employer Contribution Rates</b>
<b>Responsible Officer:</b>	Julie Alderson, Corporate Director of Resources
<b>Exempt:</b>	No
<b>Enclosures:</b>	Appendix 1: Minutes of the PFIP and L&GPC meetings Appendix 2: DfE Briefing note Appendix 3: Joint letter from DfE and CLG

## **Section 1 – Summary and Recommendations**

The next 12 months may see the introduction of at least four Harrow schools converting to academy status and a newly formed free school in the borough. As the trend of schools converting to academy status is likely to increase it is important for Harrow to establish a common approach in setting Local Government Pension Scheme (LGPS) employer contribution rates for each academy or free school.

### **Recommendations:**

The Panel is invited to consider the information contained within this report and agree on the following recommendation to be presented to the Licensing and General Purposes Committee for determination:

1. That the calculation of employer contribution rates for all Harrow Schools converting to academy status and newly formed free schools follows the approach applied by the Council to the seven high schools that converted to academy status on 1 August 2011, (as detailed in 2.6 below).

## **Section 2 – Report**

### **2.1 Background**

- 2.2 In August 2011 seven of Harrow's high schools converted to academy status under the Academies Act 2010 and as a result became separate employers (Scheduled Bodies) of the London Borough of Harrow Pension Fund in accordance with LGPS Regulations.
- 2.3 This new status required each academy to be set an employer contribution rate and hence the approach in calculating these rates had to be determined by Harrow Council as the administering authority of the Fund.
- 2.4 Significant consideration was given to this issue, initially at the PFIP meeting on 5<sup>th</sup> April 2011 and subsequently at L&GPC meetings held on 11<sup>th</sup> April, 19<sup>th</sup> April and 17<sup>th</sup> May 2011 (Appendix 1 – minutes of these meetings). Members considerations essentially focused on three main elements;
- the implications of including any newly formed academy within Harrow Council's pension fund pool,
  - the basis of calculating the share of deficit to be transferred to each academy, and
  - the deficit recovery period to be used to recover the share of deficit allocated to each academy.
- 2.5 Members received extensive information from various sources which included a DfE Briefing note (Appendix 2) and presentations by Hymans Robertson representatives at the meetings on the 5<sup>th</sup> April, 11<sup>th</sup> April and 17<sup>th</sup> May 2011.
- 2.6 This led to the final determination at the L&GPC meeting on the 17<sup>th</sup> May 2011 as detailed below;
1. Schools that apply for academy status will not be pooled with Harrow Council.
  2. A separate employer contribution rate for each academy be established.
  3. No stabilisation of contributions to be applied.
  4. A deficit recovery period of 20 years to be used to recover the share of deficit allocated to each academy.
  5. The 20 year recovery period to only be applicable for as long as the academy or DfE did not give notice of exiting its status.
  6. On receiving 7 years notice of exiting academy status, the outstanding deficit be spread over the remainder of the notice period and the contribution rate be recalculated with effect from the start of the following financial year.
  7. The Committee to reserve its position regarding the actuarial basis to be used for the recalculation.

8. The share of the deficit to be transferred to the schools be calculated based on the liabilities of current LGPS staff who transfer to the academy and the estimated liability for deferred and pensioner members formally employed by the former maintained school.
9. The cost of calculating academy specific contribution rates to be charged to each school (academy).

## **2.7 Current Situation**

2.8 The Council are currently aware of four schools considering whether to convert to academy status and one free school being established within the borough, namely;

- Salvatorian College
- Chrishna Avanti
- Avanti House Free School
- Grange F&M
- Grimsdyke

2.9 As the number of schools seeking to convert to academy status is likely to increase over the coming years Members are asked to consider establishing a common approach when calculating employer contribution rates for each academy or free school.

2.10 It is therefore recommended that the approach applied by the Council to the seven high schools that converted to academy status on 1 August 2011 be applied to all Harrow Schools converting to academy status and newly formed free schools.

2.11 This will enable a consistent approach that provides a reasonable balance between protecting the Fund and ensuring the contribution rate payable by each academy is affordable.

## **2.12 Joint letter from DfE and CLG**

2.13 The Officer recommendation is to adopt the approach as set out above. However, Members should be aware of a joint letter that was issued by DfE and CLG setting out their opinion on how they believe academies should be treated (Appendix 3). This letter represents guidance only and is not legally binding.

2.14 In short, the letter makes the following comments;

- Academies should be viewed in the same way as maintained schools.
- A strong recommendation that administering authorities positively consider pooling an academy with the local authority if the academy expresses a wish to do so.
- The Government would be bound to consider all available options for dealing with an academy's pension liabilities should the academy fail.

- The aim is for a consistency of approach across administering authorities so that academies are treated in the same way throughout the country.
- The Government will consider making regulatory changes, following discussion with LGPS experts, if it is found that inconsistencies or high employer contribution rates remain.

2.15 On the surface, this may appear to be compelling grounds to shift to DfE/CLG recommendations for both current and future academies. However, for the reasons set out below this could be considered as an imprudent approach.

- Although publicly funded, academies are independent schools by virtue of the Academies Act 2010, completely autonomous from Local Government control and assume responsibility for managing their own finances unlike a maintained school. It is therefore reasonable that separate employer contribution rates should be set.
- Each academy is responsible for its own decisions with regards to the release of early retirements and the application of its discretionary policies which could generate a cost to the Fund. This would have a negative impact across other employers if in a pooled arrangement.
- The letter states that the Government would be bound to consider all available options for dealing with an academy's liabilities should the academy fail. However in the absence of a clear guarantee from Government that any underfunding will be met, administering authorities should continue to seek to protect other employers in the Fund from inheriting any potential underfunding deficit.
- It is assumed that pooling with a local authority will always result in the academy paying a lower contribution rate which may not necessarily be the case. There is the potential that over time the funding position of a pooled employer could improve to the extent that it would be more attractive to 'opt out' of the pool for that period and then perhaps opt back in when the situation again reverses. This of course would be an unsatisfactory arrangement as it will destabilise the funding position for the other employers in the pool.

2.16 In view of the above the Government will need to give serious consideration before imposing legislative changes to LGPS regulations in an attempt to enforce pooling across Funds as this may inadvertently compromise the overall health of Pension Funds in addition to undermining the integrity of administering authorities in their role as quasi trustees.

## **2.17 Financial Implications**

2.18 Contained within the body of the report and presentation.

## 2.19 Risk Management Implications

2.20 Risk included on Directorate risk register? No

2.21 Separate risk register in place? No

## 2.22 Corporate Priorities

2.23 NA

## Section 3 - Statutory Officer Clearance

Name: Julie Alderson	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 21 June 2012		
Name: Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 20 June 2012		

## Section 4 - Contact Details and Background Papers

**Contact:** Linda D'Souza (Service Manager – Shared Services), Te: 020 8424 1426, Email: linda.d'souza@harrow.gov.uk

### Background Papers:

Licensing and General Purposes Committee Report 17<sup>th</sup> May 2011

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	NA