Licensing and General Purposes Committee (Special)

SUPPLEMENTAL AGENDA

DATE: **Monday 11 April 2011**

AGENDA - PART I

4. ACADEMIES - EMPLOYER CONTRIBUTION RATES (Pages 1 - 30)

Report of the Assistant Chief Executive.

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

Agenda item	Special Circumstances/Grounds for Urgency
4. Academies – Employer Contribution Rates	This report was not available at the time the agenda was printed and circulated as it was still being consulted on. Members are requested to consider this item, as a matter of urgency, to allow the Committee to make recommendations to Council in relation to pension fund arrangements for schools seeking academy status.

Harrow COUNCIL
LONDON

EXCLUSION OF THE PRESS AND PUBLIC:

To resolve that the press and public be excluded from the meeting for the following appendix, on the grounds that it involves the likely disclosure of confidential information in breach of an obligation of confidence, or of exempt information as defined in Part I of Schedule 12A to the Local Government Act 1972:

Agenda Item No	Title	Description of Exempt Information
5.	Academies - Employer Contribution Rates Appendix 5	Information under paragraph 3 (contains information relating to the financial or business affairs of any particular person, including the authority holding that information).

AGENDA - PART II

5. ACADEMIES - EMPLOYER CONTRIBUTION RATES APPENDIX 5 (Pages 31 - 34)

Appendix 5 to the report of the Assistant Chief Executive, item 4.

REPORT FOR: Licensing & General Purposes Committee

Date of Meeting:	11 April 2011
Subject:	Academies – Employer Contribution Rates
Responsible Officer:	Tom Whiting, Assistant Chief Executive
Exempt:	No, except for Appendix 5 which is exempt by virtue of paragraph 3, Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).
Enclosures:	**Appendix 1:** Hymans Robertson "Academies" Presentation. **Appendix 2:** DfE briefing note **Appendix 3:** Hymans Robertson briefing note **Appendix 4:** Recommendation from the Pension Fund Investment Panel **Appendix 5:** Indicative calculation of employer contribution rates (Exempt)

Section 1 – Summary and Recommendations

Hymans Robertson will lead a discussion on the implications of including any newly formed academies within Harrow Council's pension fund pool resulting in a shared employer contribution rate.

Recommendations:

The Committee is invited to consider the information presented by Hymans Robertson and agree on the following recommendations:

1. Schools that apply for Academy status will not be pooled with Harrow Council.
2. A separate employer contribution rate for each Academy will be

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established.

3. No stabilisation of contributions to be applied.
4. A deficit recovery period of 20 years to be used to calculate the deficit contribution.
5. The Harrow Council ongoing funding level as at the date of transfer to be applied to the liabilities of transferred actives to determine the initial assets to be allocated to each academy.
6. The actuarial liabilities and deficit contributions for pensioners and deferred members remain with Harrow Council.
7. The cost of calculating academy specific contribution rates to be charged to each school (Academy).

Section 2 – Report

2.1 Background

2.2 The Academies Act 2010 saw the coalition government introduce legislation allowing schools to become completely independent from Local Government control and assume responsibility for managing their own finances. Instead of receiving funds through the Local Education Authority each Academy is funded directly from the Department for Education and has greater autonomy in a number of areas.

2.3 Schools that opt to convert to academy status will be deemed as a separate Scheme employer under the Local Government Pension Scheme Regulations, (termed in the LGPS regulations as a 'Scheduled Body'). In essence this means that the non-teaching staff within the Academy must still have access to the LGPS.

2.4 In a briefing note issued by the DfE, it was suggested that each Academy should have its own employer contribution rate and will be responsible for a share of the LGPS pension fund deficit relating to the Academy's employee membership profile.

2.5 Notwithstanding the DfE statement, there is an option available to Pension Fund Administering Authorities to pool the Academy's membership profile together with its own which would result in a shared employer contribution rate and pension fund deficit.

2.6 The operation of an employer pool has its advantages and disadvantages which are highlighted in the Hymans Robertson presentation (Appendix 1 – page 4).

2.7 It should be noted that the Council currently shares an employer pool with the employers listed below:

- Harrow College
- Stanmore College
- St Dominics Sixth Form College
- North London Collegiate School

2.8 Current Situation

2.9 The Council are aware that seven high schools in the borough are investigating academy status with potential conversion on or before the 1st September 2011; namely;

- Nower Hill High – 109 LGPS members
- Park High – 63 LGPS members
- Harrow High – 77 LGPS members
- Canons High – 73 LGPS members
- Bentley Wood High – 49 LGPS members

- Hatch End High – 111 LGPS members
- Rooks Heath High – 79 LGPS members

2.10 On behalf of these schools, Nower Hill High School has made a formal request for all Academies formed in Harrow to participate in the current employer pool. This request is based on the principle that Academies should be on an equal footing with that of the Further Education Colleges who currently participate in the pool.

2.11 What other Local Authorities are doing

2.12 Some initial research carried out has shown that the majority of Local Authorities do appear to be setting their Academies up on an individual basis and are adopting either the Council or the Colleges deficit recovery period.

2.13 One Local Authority has decided to allow the Academies to pay the same contribution rate until the next triennial valuation to facilitate a smooth transition for the schools that transfer to academy status.

2.14 Another Local Authority operating an employer pool is considering moving away from a single pool on the back of the introduction of more academies and the DfE briefing note.

2.15 Other considerations

2.16 Whilst the matter of maintaining the best position for the Council as an employer in relation to the Pension Fund is extremely important, it is equally important to strike a balance between protecting the Fund and ensuring the contribution rate payable by the Academy is reasonable.

2.17 The Council has made it clear that it would prefer the seven high schools to remain within the family of schools in the borough, but has also committed to providing support to the schools and to work in partnership with them regardless of the outcome of their choice to become an Academy or otherwise.

2.18 It should be noted that the recommendations shown in section 1 above were approved by the Pension Fund Investment Panel at their meeting on 5 April 2011.

2.19 Financial Implications

2.20 Contained within the body of the report and presentation.

2.21 To assist members in understanding the impact of operating a separate employer contribution rate for each Academy, some calculations have been undertaken by Hymans Robertson detailing indicative employer contribution rates for the 7 schools listed in 2.9 above (Appendix 5).

2.22 Risk Management Implications

2.23 Risk included on Directorate risk register? No

2.24 Separate risk register in place? No

2.25 The Panel should note that applying a shorter deficit recovery period will result in higher contribution rates for the Academies. This could have a major impact on the schools' decision to opt for academy status.

2.26 Corporate Priorities

2.27 NA

Section 3 - Statutory Officer Clearance

Name: **Jennifer Hydari** Date: **6 April 2011**	√	on behalf of the Chief Financial Officer
Name: **Linda Cohen** Date: **6 April 2011**	√	on behalf of the Monitoring Officer

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:

DfE Briefing note – August 2010
Hymans Robertson Briefing note – February 2011
Cabinet Report – March 2011

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	NA

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HYMANS ROBERTSON

London Borough of Harrow Pension Fund

Academies

- Bryan Chalmers
- 5 April 2011

Real people. Real skills. Real results.

PUBLIC SECTOR

HYMANS ROBERTSON

Background

- Introduced by coalition government
- In Academies Act 2010
- No longer under Local Authority control
- Manage own finances

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How should Academies be treated in LGPS?

- Department of Education briefing note
- Recommends own employer contribution rate
- Responsibility for share of LGPS deficit

HYMANS ROBERTSON

Should Academies be Pooled?

- LGPS Regulations silent with no central guidance from CLG

YES	NO
Volatility of contributions contained	How secure is future funding of Academies?
	Would pay stabilised contributions
	Would they pay early retirement strain costs?
	school no longer under Council control
	FRS17/IAS19 issues

Ultimately Administering Authority decision

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How should initial deficit be calculated?

- Actives only?
- Include deferreds and pensioners?

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Deficit based on actives only

	Council	Academy
Active liabilities	200	20
Deferred liabilities	100	0
Pensioner liabilities	100	0
Total	**400**	**20**
Assets	300	15
Deficit	(100)	(5)
Funding level	75%	75%

HYMANS ROBERTSON

Safeguard deferreds and pensioners?

	Council	Academy
Active liabilities	200	20
Deferred liabilities	100	0
Pensioner liabilities	100	0
Total	**400**	**20**
Assets	300	10
Deficit	(100)	(10)
Funding level	75%	50%

HYMANS ROBERTSON

What deficit spread period?

- Funding guaranteed for 7 years
- Council and Colleges – 20 years
- Shorter the deficit spread period
  - Higher the initial contribution rate

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Deficit spread – 20 years

	Council	Academy
Future Service Rate	16%	15%
Past Service Adjustment	7%	6%
Total Contribution Rate	23%	21%
Actual Contribution Rate Paid (if pooled)	19%	19%
Actual Contribution Rate (not pooled)	19%	21%

Above figures based on deficits shown earlier assuming deferreds and pensioners safeguarded

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Deficit spread – 7 years

	Council	Academy
Future Service Rate	16%	15%
Past Service Adjustment	7%	15%
Total Contribution Rate	23%	30%
Actual Contribution Rate Paid (if pooled)	19%	19%
Actual Contribution Rate (not pooled)	19%	30%

Above figures based on deficits shown earlier assuming deferreds and pensioners safeguarded

HYMANS ROBERTSON

What decisions need to be made?

- Academies to be included in Council pool?
- How is initial deficit to be calculated?
- What deficit spread period to be used?

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Local Government Pensions Scheme – DfE briefing note

1. Non-teaching staff in a maintained school converting to academy status are likely to belong to the Local Government Pension Scheme (LGPS) and have their pension dealt with by the administering authority applicable to schools in that Local Authority (LA). The pensions authority is sometimes the same local authority as that maintaining the school, but in London there is a separate pensions authority, and in areas affected by local government reorganisation there is often a lead authority which acts as pensions authority for several LAs. <u>When a school is about to convert to academy status, the relevant pensions authority should be contacted at the earliest possible stage.</u>

2. Academies are separate scheme employers under the LGPS. Academies are 'scheduled body' employers, being listed in Part 1 of Schedule 2 to the LGPS Administration Regulations 2008 [SI2008/239] (as amended). They are not 'admitted bodies'.

3. Academies' funding agreements require them to offer LGPS membership to all non-teaching staff. Where maintained schools apply to convert to Academies under section 3 of the Academies Act 2010 and an Academy order is made under section 4, those existing staff who are already members of the LGPS by virtue of the Administration Regulations would not be affected by the conversion. Their membership of the LGPS would continue unaffected. After conversion, new non-teaching staff will be eligible to join the LGPS and will be automatically enrolled in the Scheme when employed, but will have the option to opt out of the Scheme if he or she gives notice within three months. It is also open to an Academy to pay contributions into private pension schemes, but this normally happens only if an academy was previously an independent school and some staff wish to remain in the private scheme.

4. The pensions authority should be asked for a calculation of the employer contribution rate for the academy. The actuarial assessment will be done by the LGPS administering authority's fund actuary but the school may wish to have their own assessment performed by an independent actuary. The employer contribution rate will be calculated on the basis of the academy's staff profile and relates only to the academy, whereas nearly all maintained schools in an LA pay the same pooled rate. This means the rate can be higher than the rate which applied to the school when maintained. There is likely to be a charge for the actuarial calculation.

5. Unlike the Teachers Pension Scheme (TPS), LGPS is a funded scheme and can be in surplus or deficit according to investment performance. Most pension funds are currently managing a deficit, and the deficit in respect of pensionable service prior to conversion transfers from the LA to the academy through the transfer agreement signed prior to conversion. The actuarial calculation of the employer contribution rate will take into account the amount needed to pay off any past service deficit and meet future accruals over a specified period, which is normally taken to be 20 years for Academies, although it is for the actuary to take a view on this.

6. Whatever arrangements apply currently for remitting contributions as a maintained school, the academy will itself be responsible for remitting employer and employee contributions to the pensions authority, although a payroll provider may do this on its behalf. The LA may itself be the payroll provider if the academy decides to use its services.

7. If there is a deficit in the relevant pension fund, the Charities Statement of Recommended Practice (SORP) requires that the academy's statutory accounts show the deficit as a liability in the balance sheet. The total deficit can be substantial. However, the Charity Commission has advised that this liability, even if it exceeds the academy's assets, does not mean that the academy is trading while insolvent, because the deficit is being reduced by the contributions made, using the grant payable to the academy. See the advice at

http://www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_governance/Managing_resources/pensions.aspx#2

especially paragraphs 2 and 3.

Conclusion

8. When a school is converting, it is therefore vital to obtain details of the pension authority contacts as quickly as possible (usually from the HR/pay department of the maintaining LA), to ensure that staffing information required by the pension authority's actuary can be supplied by the school or the maintaining authority, and to ensure that the implications for the academy have been fully discussed with the pensions authority.

DfE
August 2010

APPENDIX 3



HYMANS ROBERTSON

BRIEFING NOTE

PUBLIC SECTOR

February 2011

Academies – what does this mean for the LGPS?

Following the introduction of the Academies Act 2010, schools have the opportunity to become independent from the Local Authority, and assume responsibility for their own finances. Non-teaching staff are eligible to join the LGPS and academies will be wholly responsible for pension contributions in respect of their staff, and any funding deficit.

There are a number of issues that the Administering Authority, ceding employer and the Academy should be aware of when the initial pension calculations are carried out. Julie Morrison considers the different approaches to determining the starting funding position of an Academy, and their implications.

Background

The Academies Act 2010 saw the coalition government introduce legislation allowing schools to break free from Local Authority control, and assume responsibility for managing their own finances. Whilst Academies can set pay and conditions for staff, our understanding is that staff must have access to the LGPS.

To date there has been no clear guidance on the approach to allocating LGPS assets and liabilities for Academies, nor to calculating their contribution rate. However, a briefing note issued by the Department of Education[1] states that each Academy should have its own contribution rate calculated and will be responsible for a share of the LGPS deficit.

We understand that in rare circumstances an Academy may participate in the LGPS under a PFI contract, in which case it may be appropriate for there to be no transfer of deficit. Such special circumstances must be discussed with your actuary to ensure the most appropriate approach is taken.

This briefing note only considers what we understand will be the norm, where an Academy is set up as a scheduled body and will be responsible for a share of the funding deficit. As with all things actuarial, "a share of the funding deficit" has no single definition.

There are different approaches which may be taken to determining the share of deficit (and hence the initial asset allocation) and though the differences may seem subtle, they have important implications for both the Academy and the ceding employer.

Share of deficit: which deficit?

Schools are typically pooled with the Council responsible for education services for the purpose of setting employer contributions to the LGPS, and in many cases their membership may be indistinguishable from other Council members. In all cases, it is our understanding that the share of deficit calculation is based on the pool or Council's deficit not that for the fund as a whole. Further, unless there are strong arguments for doing otherwise, our assumption is that the deficit should be calculated using the ongoing valuation basis (albeit this will usually involve updating the assumptions to those appropriate to the transfer date) and assuming the whole Fund investment strategy applies.

Share of deficit: actives only

Under this approach, the Academy would be awarded the same funding level as the ceding employer (or pool of employers) as determined at the

[1] http://www.education.gov.uk/~/media/00197BD5A9824D248C3325C94FC431D6.ashx

date of the transfer. For example, if the liabilities attributable to the new Academy are 20, and the funding level of the ceding employer (or pool) is 75%, then the new Academy will be allocated assets of 15 (= 75%*20).

Adopting this method, the contribution rate for the Academy is likely to be lower than the ceding employer or pool was previously paying (assuming the same deficit recovery period). The reason for this is that the Academy has only active members so its deficit is recoverable over a proportionately larger payroll. There are of course other variables:

- to the extent that the Academy's active membership is different to that of the Council or pool, the contribution rate for future service will also be different (lower if the average age is lower);
- if market conditions at the date of transfer are materially different to those at the last valuation both the assessed funding level and future service contribution rate may be different to those calculated for the Council pool as at 31 March 2010;
- if the Council or pool rate is based on a "stabilised" approach, and the Academy's rate is based on the theoretical rate, this will also lead to differences in the actual contribution rate payable.

In practice, these differences may actually cancel out such that the contribution rates end up being similar. In this case it is even more important to understand the underlying differences in the calculations. We have included an illustrative example for this purpose below.

Implications for ceding employer or pool

Whilst the deficit for the ceding employer remains unchanged, this will be spread over a lower payroll (since active members have transferred to the Academy). This "maturing" of its membership profile means that at future valuations, deficit recovery contributions, expressed as a percentage of payroll, will increase (unless the monetary amount of the deficit reduces).

Share of Deficit: Including deferreds and pensioners

An alternative approach, which we understand some actuaries are adopting, is to allocate assets to the Academy which allow for a proportionate share of the deferred and pensioners remaining with the LEA, to be fully funded.

In the example below, allowing for sufficient assets to cover the total deferred and pensioner liabilities, the ceding employer or pool has 300 of assets available to meet the total active liability of 600. Thus the new Academy is notionally allocated assets at the same funding level, i.e. 50% in this case.

	Ceding employer	New Academy Actives only	New Academy Allowance for deferreds and pensioners
Active liabilities	600	20	20
Deferred liabilities	200	0	0
Pensioner liabilities	400	0	0
Assets	900	15	10
Deficit	(300)	(5)	(10)
Funding level	**75%**	**75%**	**50%**
Future service rate	16%	16%	16%
Past service adjustment (spread over 20 years)	8%	2%	4%
Total contribution rate	24%	18%	20%
Actual contribution rate payable	21%	18%	20%

This example is for illustrative purposes only. The initial funding level and contribution rate will vary depending on the timing of the transfer, the membership profile of the Academy, the funding position of the ceding employer (or pool) at the date of transfer and the deficit recovery period adopted. We have assumed that the ceding employer retains responsibility for the deferred and pensioner members.

Whilst the Academy will see a significantly decreased funding level, and larger deficit, for the reasons explained previously, it does not necessarily follow that the Academy's contribution rate will be higher than that of the ceding employer or pool.

Proponents of this approach argue that it is "fairer" on the grounds that it recognises that the Local Education Authority will lose funding in respect of the provision of education services but will remain responsible for the pension liabilities of former education staff whose benefits will not transfer to the Academy. Whilst it will provide more protection for the ceding employer or pool against the issues associated with maturing membership, it is not possible to identify the former education staff within the pool's membership and it is not clear whether the Department of Education will be supportive of this approach or whether any additional funding will be available to academies to meet this additional deficit.

Using this method, academies will assume a substantial deficit at the date of the transfer, which will directly impact on their balance sheet. Whilst the briefing note issued by the Department of Education states that the academy should not be deemed insolvent, even if the deficit is greater than its assets, as contributions are being paid towards repayment of the deficit, it is not obvious that it is the best approach for the fund, particularly if the financial strength of the new academies is considered inferior to that of the LEA.

Responsibility for deferred and pensioner members

It should be noted that under both approaches above, the ceding employer or pool is assumed to retain the risk in respect of former education staff. What this means is that if investments underperform or those members live longer than expected, any future deficit arising on those liabilities will fall to be met by the ceding employer/pool.

The reason for this is that it is our understanding that no explicit provision exists within the LGPS Regulations to transfer deferred and pensioner members to the new Academy, and the Schools and Standards Framework Act 1998[2] states that all liabilities relating to staff transfer back to the LEA on dissolution of the School (and this is only overridden in respect of active employees transferring to the Academy).

Deficit recovery period

The example set out above assumes that the deficit allocated to the Academy is to be recovered over a twenty year period. We understand that the Department for Education has guaranteed funding for academies for a period of 7 years. It is not clear what will happen thereafter, but if further funding is not guaranteed administering authorities may need to consider the strength of covenant of the Academies and future financing constraints when setting the length of time over which any deficit should be recovered.

Different approaches to setting the deficit recovery period may be taken by different funds; we are aware that different funds already take different approaches for further education colleges which, whilst being scheduled bodies, are considered to be less financially strong than councils. We suggest unless there is a strong reason to do otherwise, a consistent approach should be taken to all academies in a fund.

Practicalities

In some cases, former education staff may be separately identifiable to the administering authority by means of a separate employer code. However, given the provisions of the Schools and Standards Framework Act 1998, we assume that this will include only those who were active at the time the separate employer code was established. What this means is that the schools employer code will not capture former education members who remained coded to the LEA and so if the second option above is chosen, it is still appropriate to consider the overall pool deferred and pensioner liabilities rather than only those attributable to the school in question.

[2] Paragraph 7, Schedule 22, School and Standards Framework Act 1998.

ACADEMIES – WHAT DOES THIS MEAN FOR THE LGPS?

In order that an individual employer contribution rate can continue to be calculated for the Academy in future, the employee members of the Academy should be allocated to a new employer code at the date of the transfer.

Conclusion

The Administering Authority's objectives should be to strike the right balance between protecting the fund and ensuring the contribution rate payable by the Academy is affordable. Whatever approach is taken, it is important to ensure that both the ceding employer and the Academy understand the approach and its implications (they should also ensure that it is consistent with the Transfer Agreement). Whilst setting the contribution rate may be most pressing, with accounting figures likely to be due as at 1 August 2011 it is also important to agree the method used to allocate fund assets to the Academy.

The potential impact on the Fund, and the ceding employer, will depend on the number of academies that have sought or may seek academy status. Where the number of members (and amount of liabilities) involved is small, there is likely to be less pressure to assess the relative effects of different approaches and to consider allocating a share of the deficit in respect of pensioners and deferred members. However, funds may wish to adopt a consistent approach for all their academies, (including unknown future academies) so it may still be worth considering the options before proceeding with any calculations.

POST SCRIPT

This briefing note is intended to facilitate discussions between Administering Authorities and the actuary on the approach to be taken for future calculations. Please supply us with any information available to you in respect of these academies, to allow us to discuss with you the best approach going forward.

This briefing note considers only the actuarial aspects of the admission of academies to the LGPS. Whilst pensions are an important consideration, care must be taken to ensure that pension provision is not the sole factor for the success or otherwise of the Academies initiative. There may be political or local pressures encouraging schools to make the move to Academy status, and hence administering authorities may need to strike a balance between protecting the ceding employer without unduly affecting the new Academy.

It is not clear what protections are in place for funds on termination of the contract, or insolvency of the Academy. As there are no provisions in the LGPS Regulations to levy a cessation payment on a Scheduled Body further consideration may need to be given to the financial security offered by academies.

Your usual Hymans Robertson contact will be in touch to discuss how you wish to proceed with these calculations.

For further information, or to discuss any matter raised by the Briefing Note, please speak to your usual contact at Hymans Robertson LLP.

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APPENDIX 4

PENSION FUND INVESTMENTS PANEL

MINUTES

5 APRIL 2011

Chairman:	* Councillor Mano Dharmarajah	
Councillors:	* Tony Ferrari * Thaya Idaikkadar	* Richard Romain
Co-optee (Non-voting):	* Howard Bluston	

[Note: Other Attendance: (1) Robert Thomas attended in an observer role, as the representative of Harrow UNISON;

(2) Stephen Brooks attended in an observer role, as the representative of GMB;

(3) Bryan Chalmers and Lorna Tonner of Hymans Robertson attended in an advisory role, as the Council's Actuary/Adviser.]

* Denotes Member present

RECOMMENDED ITEM

9. Academies - Employer Contribution Rates

An officer introduced the report and explained that there were currently 7 schools within the borough who were investigating becoming an academy. Schools that wished to become academies would be deemed as a separate scheme employer under the Local Government Pension Scheme (LGPS) Regulations. However a formal request had been made for all academies to participate in the current employer pool, which would result in a shared employer contribution rate and pension fund deficit.

The officer reported that the recommendations in the report focused on separating employer contribution rates for each academy. Stabilisation of the contributions was not considered to be necessary. Additionally the deficit recovery period of 20 years proposed, would allow academies to pay a reasonable contribution rate. A proposal was also included for the costs of calculating academy specific contributions to be charged to each academy.

The officer explained that having conducted some research, it appeared that the majority of local authorities were establishing separate Employer Contribution Rates. It was considered that the recommendations before the panel were reasonable and not detrimental to academies.

As part of the discussion on the item, representatives from Hymans Robertson provided information to the Panel on general issues relating to Academies and the LGPS. The representatives reported that

- the Department for Education (DfE) had produced a briefing note which provided useful guidance on academies and the LGPS and recommended that academies had their own employer contribution rate;

- The DfE had recommended individual rates for academies and for academies to have responsibility for their share of the pension fund deficit. The calculation of this deficit would have to be determined by the Council;

- The DfE had indicated that the pension deficit should be allocated at the outset but no guidance had been given to the calculation of the allocated deficit. Two possible options to calculate the deficit had been provided by Hymans Robertson. This included a deficit based on actives only and a deficit including deferreds and pensioners;

- The deficit including an allocation for deferreds and pensioners was considered to be a more extreme model and took into account deficits incurred as a result of staff on pensions and those who had left employment. This model could also impose difficult administrative problems in identifying relevant deficits relating to such staff. For these reasons the deficit based on actives only was considered to be a better, fairer and more reasonable model to calculate pension deficit;

- Using the example of a specific school in the borough, if the first model was used, this would result in a funding deficit of £400,000 compared with £1.01million if the second model was used. Therefore for the first model, the contribution rate would be 18.8% over 20 years compared with 21.8% for the second model.

During the discussion on this item, Members raised a number of issues which were responded to by officers as follows:

- It was for the Pension Fund Administering Authority to determine whether academies could participate in the current employer pool;

- There was a statutory right for non-teaching staff within the academy to remain in the LGPS;

- Officers had approached the subject and formulated recommendations by looking objectively to protect the pension fund;

- Academies were aware of the proposed recommendations submitted to the Panel and had communicated that they in fact wished to pool its membership profile with the Council to result in a shared employer contribution rate and pension fund deficit;

- Historically staff from some colleges within the borough had been pooled into the Council's pension fund. This may have occurred due to administrative arrangements and the relative size of the fund. However all other groups of staff, other than Council staff, who had been incorporated into the LGPS, had not been pooled. Reflecting on and analysing the current situation, it was recommended that no pooling be applied in this current situation;

- It was possible for a separate contribution rate to be paid by academies and for the funds to be pooled, if desired;

- The panel had to ensure that potential risk to the pension fund was considered and balanced. If an academy encountered difficulties in the future in terms of funding, there could possibly be implications for the pension fund for which the Council would have to deal with;

- There would be cost issues if a fidelity bond with the academies was pursued. It was considered not to be appropriate given the funding streams for academies were not yet confirmed;

- Each Academy would pay their own employer contribution rate. This would be funded by the Academy's themselves;

- It was anticipated that academy specific contribution rates would be within the range of 18% to 20% under the proposed approach.

During the discussion on this item, Members of the Panel made a number of comments including:

- The Members of the Licensing and General Purposes Committee had a different remit to members of the Panel, who were essentially trustees of the fund. Having regard to this, it would be wise to have a representative of Hymans Robertson at the meeting of the Committee on 11 April 2011 to answer any queries;

- Academies had lobbied Members to not agree the recommendations presented to them;

- Academies were working together to minimise costs in a number of areas. For example they had employed a single legal framework lawyer to deal with the transition to becoming an academy.

In concluding the item a Member of the Panel raised concerns with using a deficit recovery period of 20 years to calculate the deficit contribution. Academies had been guaranteed funding for 7 years and therefore this should be the period to calculate the deficit contribution. The representatives from Hymans Robertson commented that this was a decision for the Panel to make, however it was not expected that academies would close after 7 years due to a number of political and social factors. Other Members of the Panel commented that the Panel had a responsibility to take sensible and prudent balance of risks when making decisions relating to the pension fund. The right decisions had to be made to ensure it was fully funded. Therefore 20 years was reasonable.

A Member of the Panel also queried whether stabilisation should be applied for an initial 3 year period. This would provide a level of stability for the academies and in any event, officers had reported that this occurred in any event. Other Members of the Panel disagreed with the view stating that further information was required from the government on funding streams before stabilisation could be applied. Additionally if the deficit recovery period was set at 7 years, this could potentially mean the deficit would be higher for the remaining 4 years.

A Member of the Panel wished it to be recorded that there was a discussion between Members of the Panel on the issue of stabilisation and deficit recovery period and that in his view stabilisation should be applied to employer contributions for three years and a deficit recovery period of 7 years be used to calculate the deficit contribution.

Resolved to RECOMMEND: (to the Licensing and General Purposes Committee)

That

(1) schools that apply for academy status will not be able to pool 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 calculate the deficit contribution;

(5) the Harrow Council ongoing funding level as at the date of transfer to be applied to the liabilities of transferred actives to determine the initial assets to be allocated to each academy;

(6) the actuarial liabilities and deficit contributions for pensioners and deferred members remain with Harrow Council;

(7) the cost of calculating academy specific contribution rates be charged to each academy.

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