



Admissions Policy 2016



1. Introduction

1.1 Background and Policy

The London Borough of Barking and Dagenham Pension Fund (the Fund) is part of the Local Government Pension Scheme (LGPS), which is a statutory scheme, established by an Act of Parliament and governed by regulations made under the Superannuation Act 1972.

This is the Fund administrator's policy for the treatment of admission bodies in the Fund and it should be read in conjunction with relevant legislation, such as the LGPS Regulations 2013 and the Fund's Funding Strategy Statement (<http://moderngov.barking-dagenham.gov.uk/documents/s98715/Agenda%20Item%205%20Appendix%202%20FS%20S.pdf>).

All applications for admission to the Fund must be agreed by the Pension Panel and this policy document should be included in all future tender documents, effective from the 15th December 2016.

This policy will be reviewed from time to time and at least following changes in the regulations pertaining to admission bodies or employees transferring pension rights.

It should be noted that this statement is not exhaustive and individual circumstances may be taken into consideration where appropriate. Any queries should be directed to Group Manager for Treasury and Pensions (david.dickinson@lbbd.gov.uk) or the Pension Manager (Justine.spring@lbbd.gov.uk).

There is also an overriding objective to ensure that the LGPS Regulations and any supplementary guidance (the Best Value Authorities Staff Transfer (Pensions) Direction 2007 and Fair Deal guidance) as they pertain to admission agreements are adhered to and, apart from in exceptional circumstances, the Fund's terms included within their admission agreements will be non-negotiable.

1.2 Key Fund Statistics as at 31 March 2016

Fund Type:	LGPS Defined Benefit Career Average
Funding Level:	77.2%
Discount Rate:	4.1%
Asset Value	£772m

Total employers: 28 (14 scheduled bodies and 14 admitted bodies)
Governance: The Fund is overseen by a Pension Panel (Committee of LBBDD)

The Panel currently consists of:

Chair:	Councillor Dominic Twomey
Deputy:	Councillor Faraaz Shaukat
Councillor:	Sade Bright
Councillor:	Edna Fergus
Councillor:	James Ogungbose
Councillor:	John White
Councillor:	Jeff Wade

2. Admission Bodies

2.1 Principles

The purpose of an admission policy is to ensure that only appropriate bodies are admitted to the Fund and that the financial risk to the Fund and to employers in the Fund is identified, minimised and managed accordingly.

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

- i. to ensure the long-term solvency of the Fund and of each individual employer;
- ii. to ensure sufficient funds are available to meet all benefits as they fall due;
- iii. to ensure employers agree to and then meet the requirements outlined in the Fund's Administration Strategy (Appendix 1).
- iv. to assist employers recognise and manage pension liabilities as they accrue with consideration to the effect on the operation of their business;
- v. to reduce the risk to other employers from an employer ceasing participation or defaulting on its pension obligations;
- vi. to address the different characteristics of the various employers or groups of employers to the extent that this is practical and cost-effective; and
- vii. to maintain the affordability of the Fund to employers as far as is reasonable.

2.2 Funding Strategy Statement (FSS)

The FSS (Appendix 2) sets out high level policies in several areas relating to admission agreements. The key areas covered by the FSS are:

- Purpose of the FSS;
- Aims and purpose of the Pension Fund;
- Responsibilities of the key parties;
- Solvency issues and target funding levels;
- Link to investment policy set out in the Statement of Investment Principles;
- Identification of risks and counter-measures; and
- Monitoring and review.

The information contained within the FSS applies equally to admission bodies. This admission body policy further clarifies the operation of the FSS within the Fund.

2.3 Guidance and the Regulatory Framework

The following bodies are admission bodies with whom an administering authority may make an admission agreement:

- i. a body which provides a public service in the UK 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);
- ii. a body, to the funds of which a Scheme employer contributes;
- iii. a body representative of:
 - any Scheme employers, or

- local authorities or officers of local authorities;
- iv. 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,
 - a direction made under section 15 of the Local Government Act 1999 **(a)** (Secretary of State's powers),
 - directions made under section 497A of the Education Act 1996 **(b)**;
- v. a body which provides a public service in the United Kingdom and is approved in writing by the Secretary of State for 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. 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; and
- Regulation 541 - If the Fund will set up separate pension funds in respect of admission agreements.

2.4 Fair Deal, ODOM Code of Practice and the direction

HM Treasury has issued guidance, often referred to as 'Fair Deal', which addresses the pension position for employees being compulsorily transferred from the public sector to private sector delivering public sector services. The main requirements in Fair Deal are:

- for transferring employees:
 - i. protection of future service by provision of a broadly comparable pension scheme or becoming an admission body in the LGPS;
 - ii. 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); and
 - iii. protection of other pension related terms and conditions of employment, such as enhancement of benefits on redundancy.
- for new employees: provision of a good quality employer pension scheme. If this is through a defined contribution scheme there should be matching employer contributions of up to 6% of pay.
- the continuation of these protections in second and subsequent transfers of staff.
- these pension requirements to be notified at the earliest possible stage of the procurement exercise.

In addition, the Office of the Deputy Prime Minister's ("ODPM") Circular 03/2003 includes the Code of Practice on Workforce Matters in Local Authority Service Contracts which must be adhered to where staff are transferred by a local authority to a contractor. This Circular clarifies that the Fair Deal provisions must be adhered to in these circumstances.

Finally, the Best Value Authorities Staff Transfers (Pensions) Direction 2007 came into force on 1 October 2007. The direction applies to all "Best Value Authorities" in England

and Police Authorities in Wales (which therefore applies to all local authorities in England). The purpose of the Direction was to provide legal enforcement to some of the provisions covered by Fair Deal. The Direction:

- requires the contractor to secure pension protection for each transferring employee through the provision of pension rights that are the same as or are broadly comparable to or better than those he had as an employee of the authority; and
- provides that the provision of pension protection is enforceable by the employee.

The Direction also requires similar pension protection in relation to those former employees of an authority, who were transferred under TUPE to a contractor, in respect of any re-tendering of a contract for the provision of services (i.e. second and subsequent rounds of outsourcing). Because of Fair Deal, the ODPM Code of Practice and the Direction, LGPS funds are often asked to admit service providers to their Fund. The December 2009 CLG Admission Body Guidance consequently sets out pension considerations that arise when employees transfer from a local authority and the contractor's preferred route of providing broadly comparable pension benefits.

On 7 October 2013 HM Treasury issued revised Fair Deal guidance. This reset the pension protection for staff compulsorily transferred from the public sector and applies directly to central government departments, agencies, NHS, maintained schools (except local authority maintained schools), and academies where staff are eligible to be a member of a public service pension scheme. However, beyond academies, the new guidance does not apply to best value authorities in England and Wales.

2.5 Background and policies

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 admission body is responsible for any surplus or deficit arising during the period of participation in the Fund so that if or when that participation ceases, it is 100% funded. However, ultimately, if the body was to fail or cease to exist and any deficit cannot be met by the body or claimed from any bond, indemnity or guarantor, the liability will fall to other employers in the Fund (either the awarding authority on the failure of a service provider, any guarantor employer or all other employers, depending on the circumstances and the type of body). It is prudent therefore for the Fund to ensure any such risks are minimised and mitigated.

Although the risks may not be able to be eliminated completely, there are several options that can be considered to try and mitigate these risks. These are summarised below and considered in more detail as part of this policy:

- Allocating assets on entry;
- Consideration of who can become admission bodies;
- Requirements for a bond/indemnity or guarantor;
- Potentially levying a higher contribution rate e.g. due to a change of circumstances at the admission body during the contract term that increases the risk of termination and/or under-funding;
- Having clear termination clauses;
- Putting in place a wide ranging and unambiguous admission agreement;
- Reviewing the bond regularly;

- Monitoring individual employer experience and status (e.g. salary experience and the continued ability of employees to join the Fund); Requiring the cost of all early retirements and topped up benefits to be paid as a lump sum;
- Monitoring other costs and levying a lump sum where necessary;
- Additional valuations in the final lead up to termination and adjusting contributions accordingly;
- Funding basis for cessation calculations; and
- Including a requirement to reimburse all actuarial, legal and other appropriate fees relating to the admission.

The following sections will consider these further in relation to the various stages of the admission body cycle.

3. Entry conditions and requirements of the Fund

3.1 Background and policies

London Borough of Barking and Dagenham (as administering authority) is responsible for deciding which admitted body applications should be declined or accepted. The overriding requirement is that the body meets the entry requirements outlined within the LGPS Regulations. Beyond that the Council can:

- for a body with links to a Scheme employer, have complete flexibility in deciding whether or not to accept applications. It is therefore appropriate for the Council to determine what entry criteria exists for employers to become admission bodies within the Fund; and
- for outsourced service providers, in line with the regulations, must admit a contractor if the contractor and the awarding authority agree to meet the requirements of the LGPS Regulations and the terms of the Fund's admission agreement.

The Fund will only enter an admission agreement with a body that provides services linked to one of the scheme employers in the Fund where such an arrangement is beneficial to the relevant scheme employer. The interests of the body must be closely aligned to the work of the scheme employer and meet the requirements in the LGPS regulations; or provides services on behalf of one of the scheme employers in one of the ways prescribed in the LGPS regulations.

Termination can be for several reasons, including the natural end of a contract, a takeover, liquidation or the last active member ceasing membership. In such cases the admission body becomes an 'exiting employer' and is liable to pay an 'exit payment'. Under the terms of the LGPS Regulations, a termination valuation is carried out at the point of cessation to ascertain the exit payment due relating to any deficit. Where the admission body is unable to meet the payment, it must be collected from:

- any insurer or person providing an indemnity or bond on behalf of that body; or
- alternatively, a guarantor (i.e. sponsoring employer or government department).

and where that is not possible:

- for a service provider, from the awarding authority for that service provider; or
- any other admission body, from each other employing authority within the Fund.

The outstanding liability 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:

- asset underperformance;
- a lower outlook for future investment returns due to changes in market conditions, leading to a higher value being placed on the liabilities;
- conservative nature of financial assumptions used in cessation calculations;
- greater than expected salary increases over the term of the contract;
- unfavourable changes in membership profile;
- redundancy early retirements, on premature termination of the contract;
- unpaid contributions; and
- the cost of ceasing participation in the Fund (e.g. termination costs covering the need for a cessation valuation and all necessary additional administration costs).

The LGPS Regulations include some requirements to reduce these risks, including the need for the admission body, to the satisfaction of the administering authority (and awarding scheme employer where appropriate), to carry out an assessment taking account of actuarial advice on the level of risk arising on premature termination on insolvency, winding up or liquidation and, where considered necessary taking into consideration the results of that assessment, require the admission body to put in place either:

1. a bond or indemnity to cover the level of risk identified; or
2. where considered desirable, a guarantor.

As the potential deficit relating to the above risks can fluctuate, often daily, there is no guarantee that any bond or indemnity pay-out (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 Fund. Similarly, there is no guarantee any guarantor will pay out to secure 100% funding of the exiting employer's liabilities in the Fund. Any remaining shortfall would fall on the guarantor, awarding authority or on all other employers in the Fund, as appropriate under the LGPS Regulations and the admission agreement.

The Fund will require any potential admission body to provide:

- a guarantor considered by the Fund to be strong, secure, and financially durable (generally only a local authority or central government department) or a bond/indemnity the Fund considers to have equivalent strength.
- for a service provider, a preference for a bond or indemnity although this is not a mandatory requirement as the awarding authority is in effect a guarantor already under the terms of the LGPS Regulations. The awarding authority will be required to stipulate a bond or will provide a guarantee.

In all circumstances where a bond or indemnity is provided, the bond or indemnity must be re-evaluated and renewed on an annual basis at the provider's cost.

3.2 Risk sharing

Subject to obtaining the appropriate legal advice and as part of the main contract negotiations between the Transferor Scheme Employer and the New Admission Body, it is possible for alternative arrangements to be considered and agreed between the two parties.

For example, 'pass through' is where the cost of providing a defined benefit contribution scheme such as the LGPS is shared between the Transferor Scheme Employer and the New Admission Body. The Transferor Scheme Employer may consider a fixed employer contribution rate for the New Admission Body for the duration of the contract with any excess being paid by the Transferor Scheme Employer. Or the Transferor Scheme Employer and the New Admission Body may agree an upper or lower employer contribution rate and providing the rate calculated by the actuary falls within the range agreed, the New Admission Body pays all the contributions. However, where the actuarial rate is either side of the range an adjustment is made to the cost of the service provided by the New Admission Body to the Transferor Scheme Employer.

It must be noted that any arrangement made between the Transferor Scheme Employer and the New Admission Body will not impact upon the Pension Fund liabilities identified by the actuary and any such arrangements must be included in the main service contract. The Pension Fund will not be a party to the arrangements and so they will not be included as any part of the pension admission agreement.

3.3 Approval process for becoming an admission body

The officers of the Fund will be responsible for ensuring any potential admission bodies meet the criteria set out above, having regard to the appropriate legal and actuarial advice. The Fund's admission agreements (see appendix 3) is standard and non-negotiable, drawn up on advice from the Fund actuary and legal advisor. These terms include the provisions required by the LGPS regulations details on commencement, transfer, payment, bond/indemnity or guarantor requirements, termination clauses to protect the other beneficiaries and participants in the Fund.

Officers will carry out an assessment of each admitted body and if they are satisfied the criteria are met then a report will be submitted to the Pension Panel for agreement.

For all new Admission Bodies the security must be to the satisfaction of the Pension Panel as well as the letting employer and will be reassessed on a regular basis.

The Pension Panel will also consider requests from Admission Bodies with links to a Scheme employer (or other similar bodies such as section 75 NHS partnerships) to join the Fund if they are sponsored by a Scheduled Body with tax raising powers guaranteeing their liabilities and providing a suitable form of security as set out above.

Any applications departing materially from these criteria and/or the standard terms of the admission agreement will be considered by the Pension Panel on a case by case basis for agreement, and may be refused.

3.3 Allocation of assets

On initial admission, each body will be notionally allocated assets. Thereafter the body's assets and liabilities will be tracked and employer contributions set with a view to achieving solvency at the end of the targeted deficit recovery period. The assets that are notionally allocated for new service providers are usually set equal to 100% of the value of the past service liabilities of any transferring employees on the Fund's ongoing funding basis, updated for market conditions on entry. For others, there may or may not be a deficit in respect of the past service liabilities; where there is, the service provider will be set a 10-year recovery period (or length of fixed term contract whichever is lower) or other period as may be determined by the Fund's actuary acting reasonably unless a sponsoring authority can guarantee payments over a longer recovery period.

The allocation of assets at the commencement of an admission agreement will be as follows (unless a pooling arrangement is entered as described later in this policy):

- For new service providers – 100% of the value of the past service liabilities of any transferring employees;
- For others - to be agreed in each individual case depending on the circumstances of the case, taking into consideration the views of any transferring employer. Past service liabilities will be expected to be recovered over a 10 year (or length of fixed term contract) unless a sponsoring authority can guarantee payments over a longer period. Any application departing from this will be reported to the Pension Panel for agreement, and may be refused.

In both cases, the assets will be calculated using the Fund's ongoing funding basis updated for market conditions at entry as set out in the Fund's Funding Strategy Statement.

This asset share will be tracked during the period of the admission agreement and adjusted at each formal triennial valuation to take account of cashflows paid and received in respect of the employer, and investment returns earned by the Fund over the period. This approach allows the funding position of the employer to be assessed regularly and on a basis that reflects its actual experience in the Fund.

The assets will remain within the main Fund (i.e. no separate admission body fund will be set up).

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 labour intensive, and accordingly matched investment strategies have not been adopted. The investment strategy is set for the Fund not for each employer's notional share of the Fund.

3.4 Contribution rates and other costs

When a new employer joins the Fund the actuary will calculate the employer contribution rate payable by the new employer. The employer contribution rate will be set in accordance with the FSS, taking into consideration elements such as:

- i. any past service deficit;
- ii. whether the Fund is closed or open; and
- iii. the deficit spread period.

The approach taken is to calculate an individual contribution rate based on the cost of pension accrual for an employer's own membership plus an adjustment for any deficit transferred to them. In addition, the designating employer will be required to pay additional payments including, but not limited to:

- lump sums for early retirements or early payment of pension benefits;
- lump sums in relation to any award of additional benefits;
- lump sum payments in respect of early payment and/or enhancements for early retirements on ill-health grounds;
- any actuarial, legal, administration and other justifiable costs; and
- reimbursement of the administering authority's or other bodies costs due to poor administration by the academy.

3.5 Termination requirements

One of the most significant risks to the Fund is that a body ceases to exist with an outstanding deficit that it cannot pay and which will not be met by any bond, indemnity or guarantor. The Fund may take legal advice where a cessation event has occurred on the appropriate termination requirements. Termination of a designating body would be considered to take place, though not limited to, the following circumstances:

- Where no further active members exist; or
- Where the employer is wound up, merged or ceases to exist.

When a designating body ceases, the employer's assets should equal its liabilities on an appropriate basis. A provisional cessation valuation will be carried out on premature termination of a designating body as soon as the Fund become aware of this likelihood unless the termination is likely to take place in the immediate future.

3.6 Basis of termination valuation

The purpose of a termination valuation is to assess how much the Fund should hold based on current assumptions to meet the future expected benefit payments. The amount required is predominantly influenced by the basis used for the calculation of the liabilities, which in turn will ultimately depend on the circumstances of the cessation. The range of bases can include the ongoing funding basis and a buy-out or cessation basis.

The Fund will ask the departing employer will make additional contributions to the Fund to ensure any deficit is extinguished on payment of the termination deficit calculated on an appropriate basis.

The Fund's policy in relation to the calculation of cessation valuations in various circumstances is shown below, albeit each case will be considered on its own merits in accordance with the Scheme of Delegation.

Designating bodies - the cessation liabilities and final deficit will normally be calculated using a gilts basis with an allowance for further future mortality improvements. If for some reason the Fund is not able to recover the full amount of the final deficit, then together with any future deficit arising in respect of the membership it will be the responsibility of all the employers in the Fund. In some circumstances (e.g. where employees are transferring to another LGPS employer such as the local authority), an ongoing valuation approach may be adopted for any transferring liabilities.

The approach used to carry out a provisional or indicative cessation valuation should be the same as would be used if the body were ceasing on the calculation date.

The administering authority reserves the right to use different funding assumptions if they are deemed to be appropriate.

3.7 Payment of cessation deficit

When an employer ceases to have any active Members within the scheme then the Fund's actuary carries out a cessation valuation to certify the contributions due to the Fund. The LGPS regulations do not specify if this exit payment should be paid as a lump sum or whether it is paid in instalments but it is the Fund policy to collect the exit payment by way of a lump sum where it is the academy that is making the payment.

When the fund actuary carries out a cessation valuation, he or she is also required to certify the contributions due to the Fund. The LGPS regulations do not specify if this exit payment should be paid as a lump sum or whether it is paid in instalments.

Designating employers, subject to meeting the requirements of the LGPS regulations, can allow some or all their staff to be eligible for membership of the LGPS. Under Part 2 of Schedule 2 to the Local Government Pension Scheme Regulations 2013 a body listed in this Part can designate which employees, or class of employees, are eligible for membership of the LGPS.

All designating employers will be entitled to join the Fund on passing an appropriate resolution confirming which workers or category of workers are eligible for membership of the LGPS. All designating employers that pass a resolution will be classified as an individual scheduled body within the Fund.

However, the designating employer must still make the Fund aware of their creation by writing to pensions@lbbd.gov.uk.

All notifications will be reported to the Pension Panel for information only.

3.8 Pooling

There may be circumstances where a designating employer is created from an existing scheme employer and the links between both employers remain strong, at least at the outset of the arrangement. In these circumstances, the scheme employer may consider that they are willing to share some pension risks with the designating employer as if the employees were part of their own workforce. In these circumstances, the scheme employer and the designating body may both agree that a pooling arrangement is appropriate. In simple terms, this will allow the two bodies to effectively be treated as if it were one employer. As a result the same employer contribution rate and other funding arrangements will apply (generally equally) in relation to all members.

Where the number of members under a proposed designating employer is eight or less, the scheme employer and the Fund will allow that employer to be pooled with the scheme employer. The new designating body and the scheme employer would need to agree in writing to this arrangement and confirm that they understand the pros and cons compared with being a standalone body outside of the pool. Whilst the designating body is in the pool:

- its contribution rate will be the same as the pool except for any additional contributions required due to excessive pay awards to its own employees;
- its ill-health experience will be shared with that of the pool; and
- it will pay strain costs in respect of non-ill-health early retirements.

In the event of exit from the pool it will not be required to pay any cessation shortfall. The designating body would be removed from the pool and be treated as a stand-alone scheme employer if the number of members increases above eight.

It is important that monitoring of a designating body is carried out throughout the term of its participation of the Fund and, where considered necessary, appropriate remedial action taken to safeguard all employers within the Fund. This can be carried out in many ways, including:

- Regular reviews of the employer funding level;
- Regular reviews of the potential risk on early termination (incl. redundancy costs);

- Requirements on the designating body to notify changes in their circumstances;
- Assessment against actuarial assumptions in areas such as pay growth; and
- Checks to see whether an employer has failed to notify the Fund of relevant changes.

The Fund reserves the right to review contribution rates for bodies annually or more frequently. Furthermore, the Fund will carry out ongoing monitoring and/or put in place processes to assist with ongoing monitoring. If it appears that the liabilities relating to a body have increased more than had been allowed for at the preceding triennial valuation, the Fund may review the employer contribution rate (i.e. out with the formal triennial valuation cycle).

3.9 Academy Pooling

To avoid the risks and additional costs to the various academies of cross-subsidy the Fund does not allow Pooling by academies and multi-academy trusts.

This position will be reviewed as and when guidance and regulations change.