
This bulletin from the Staffordshire Pension Fund, focuses on Outsourcing a service to an external provider

Issue July 2020

Background

Schools and Academies continue to explore different service models.

Where the outsourcing of services involves the TUPE transfer of any employees who are members of or are entitled to be members of the Local Government Pension Scheme (LGPS), there will be Pension implications which should be considered as part of the tender process.

The Pension Fund has, unfortunately, experienced a handful of cases where Schools and Academies have let contracts and the Pension implications have not been considered at all or, if they have, it was too late in the process and led to unnecessary delays and complications.

Before going to tender

If you are considering letting a contract to an external provider, you must contact the Pension Fund who will advise on the contractor's admission basis and potential Employer contribution rate.

This will enable the School / Academy and contractor to factor in the pension costs into the procurement process, so that all bidders are aware of pension risks and the requirements to be an admitted body in the LGPS.

This will allow bidders to correctly price pension costs into their bid



The pension implications and costs that Schools and Academies must consider before outsourcing staff

Legal Requirement – to protect employee’s pension entitlement

- Employees who are outsourced to an external provider are protected under the HM Treasury legislation which means the Schools / Academies must ensure the staff transferred have continued membership of the Local Government Pension Scheme. Continued membership of the LPS is achieved by the external provider becoming an **admitted body** of the Staffordshire Pension Fund by entering into an **Admission Agreement**.

Admission Agreement

Successful contractors who wish to be admitted to the LGPS will be required to enter into a formal admission agreement. The admission agreement is a tripartite agreement between the Academy or School, the contractor and the Pension Fund. The contractor and those employees covered by the agreement will be subject to the standard LGPS legislation and all existing employees who provide the current service will be required to be enrolled into the LGPS by the new contractor.

There is a charge for setting up an Admission Agreement which are set out below for the admission to the Fund.

Other Considerations

Re- Letting an existing outsourced contract

The same pension protection must be provided if employees transfer to another employer as a result of re-letting the contract. The re-let service with the new contractor must provide that the new contractor must secure continued membership of the LGPS for each transferring original employee. Once again this is achieved by the contractor becoming an **admitted body** of the Staffordshire Pension Fund by entering into an **Admission Agreement**



Actuarial and Legal Costs borne by the School /Academy and the New Employer (contractor)

The Fund is mindful that the legal / actuarial costs are borne by the letting Employer / new Employer (Contractor) and therefore explored ways to reduce and cap the legal costs. Following this review and with the approval of the Pension Committee standard legal / actuarial charges were introduced.

TUPE transfer of 10 or more Employees

Legal Costs

Description	Cost
Non – negotiable Standard Admission Agreement	£1,500 + vat
Complex / Negotiated Admission Agreement	£2,250 + vat

Initial Actuarial Costs

Description	Cost
Pension Information Memorandum (Employer pension contribution rate and risk assessment)	£2,300 + Vat

TUPE transfer of less than 10 employees – small Employer / Contractor

A small Employer / Contractor being admitted to the Fund is deemed to be one that has less than 10 active members and a contract length of less than 5 years

Legal Costs

Description	Cost
Non – negotiable Standard Admission Agreement	£1,500 + vat
Complex / Negotiated Admission Agreement	£2,250 + vat

Actuarial Costs

Description	Cost
Employer Pension Rate Calculation	£500 + vat

In these circumstances, this type of Admission will be treated as a “pass through” arrangement, whereby the assets and liabilities remain with the letting Employer at the end of the contract period. This will be the default option for small Employers unless we are advised that ‘standalone’ Admission arrangement is preferred in which



case the costs will be in line with those outlined under TUPE transfer of 10 or more Employees.

External Service Providers – LGPS Pension contribution rate.

It is important to note that the new providers LGPS pension contribution rate is set following advice from the Fund’s Actuary and **not** assessed on the same basis as the existing employer contribution rate that you currently pay to the Staffordshire Pension Fund.

Pension Contribution Rate for TUPE transfer of 10 or more Employees

- This is set based of actuarial assessment of the profile of the employees TUPE transfer and their ongoing pension liabilities.

Pension Contribution Rate for TUPE transfer of less than 10 Employees (Pass-through funding applies)

This is normally “Primary Rate” (not adjusted for stabilisation) of the organisation letting the contract calculated by the Scheme Actuary at the previous triennial Fund valuation. If your organisation is considering letting a contract on this basis, please contact Pensions Services to advise the potential contract start date. We will then be able to confirm the Employer Contribution Rate which will apply.

Please note that different contribution rates may apply to some scheme members where a contract is let over multiple sites.

Outsourcing Employer LGPS Checklist

Employers

- Liaise with the Fund to obtain pension costs to be include in the tender and bidder information and contract information pack
- Ensure that those bidding for your contract are made fully aware of their responsibilities and on-going costs in respect of pensions, including the need to apply for Admission Body status to enable continued access to the LGPS for transferring staff
- Liaise with your legal adviser to ensure that pensions information (including costs) is included in the tender and contract
- Keep the staff transferring to the new contractor informed about the impact of the transfer on their pensions
- Acknowledge and understand that the ultimate responsibility for pension matters relating to the transferring staff, and unpaid liabilities to the pension fund, remains with you



- Liaise with your legal adviser in preparation for checking the admission agreement
- Be prepared to provide pay details to the Fund for affected LGPS members to the date of transfer

