

Outsourcing



Legislation Governing Outsourcing

Type of Organisation \ Letting Authority	Applicable Government Legislation	Description
Unitary Authorities Town and Parish Councils Police Authorities Fire and Rescue Authorities	The Best Value Transfer (Pensions) Direction 2007	Following outsourcing must offer either continued LGPS access or actuarially assessed broadly comparable scheme
Academies Following reclassification FE Colleges may now also be included however further Government clarification is still required	New Fair Deal Guidance	Continued LGPS access must be offered
Others (not included in the above)	Not applicable, but relevant statutory guidance should be followed, Standard TUPE principles apply	Under the LGPS Regulations, the successful bidder can be admitted to the LGPS \b \b0 subject to agreement from Staffordshire Pension Fund



Introduction to Outsourcing



Catering



Cleaning

Introduction to Outsourcing (continued)

- **There are a number of services that can be outsourced. However, the most common Admission Agreements the Fund deals with relate to the outsourcing of catering and cleaning services usually let by Academies or LEA schools.**
- **Since the onset of academisation in Staffordshire, the Fund has seen a large increase in the number of private contractors entering the Fund.**
- **As a Letting Authority you should not proceed with a TUPE transfer of staff until you have ensured that the transferring staff will still have continuing membership entitlement of the LGPS. This continued membership can only be achieved by the contractor entering into an Admission Agreement and becoming an Admitted Body of the Staffordshire Pension Fund.**
- **It is important to bear in mind that until the contractor has completed the admission process and has officially become an Admitted body in the Fund, that the employees attached to the admission agreement are not technically members of the scheme and have no protection of their LGPS benefits.**
- **So it is important to remember that as a letting authority you need to consider the pension implications when undertaking an outsourcing exercise.**

What To Do Before Outsourcing

- ❖ **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 or academy together with the 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.**



Pension Costs and implications to be considered before Outsourcing

- ❖ **Legal cost of preparing an Admission Agreement**
- ❖ **Monthly contribution rate**
- ❖ **This will allow bidders to correctly price pension costs into their bid.**



Admission Agreements



What is an Admission Agreement?

- **An admission agreement is a legal document that enables contractors who take on local authority services or functions through a transfer of employees to access to the LGPS during the period of that service contract.**
- **As a result of the admission agreement the transferring employees will remain in the LGPS and continue to accrue benefits, for so long as they remain employed in connection with the delivery of that outsourced service.**
- **There are three parties required for an admission agreement: the Contractor, the letting authority, and Staffordshire County Council in its capacity as the administering authority of the Fund. All three parties will need to be a signatory on the admission agreement.**
- **The Scheme regulations require that an admission agreement should be dated and in place either before or on the start date of the contract.**
- **If a contractor is successful when tendering for more than one contract, a separate admission agreement will need to be entered into for each service contract.**
- **Admission agreements in the Staffordshire Pension Fund are usually on a “Closed” basis, a closed admission agreement is one which is limited to the employees who transferred from the letting Authority, these employees will normally be listed in a schedule at the end of the admission agreement.**

Pass-Through Admission Agreements

- ❖ **Letting employer retains all the pensions funding risk for the transferring staff.**
- ❖ **This arrangement typically has a fixed contribution rate for the duration of the contract and can be attractive for contractors as it introduces certainty for pension costs.**
- ❖ **Set up costs are much lower for a “pass through” agreement and are less administratively complex**

Stand Alone Admission Agreements

Reason	Cost	Consideration
Opening funding position	£1,200 + VAT	100% funded from day 1
Bespoke Admission Agreement	Up to £2500 + VAT	Bespoke Clauses from letting authority or contractor
Bond Calculation	£800 + VAT	
Bond	Potential significant value	Difficulty sourcing a bond provider and additional burden
Cessation Calculation	£2200 + VAT	Potential Deficit/Surplus payments due

Liabilities Under LGPS As Employees Change Throughout Contract



Pension Liabilities Under a Pass-through admission agreement

- **As previously discussed, our pass-through agreements are on a closed basis, which limits the pension protections to those employees who transferred from the letting Authority only.**
- **Using the example on the previous slide, the letting authority may see 8 employees TUPE transfer over to the new contractor, so under the pass through the letting authority remains responsible for the accrued pension liability of these 8 employees.**
- **Let's say during the period of contract with the new service provider, 3 of those original 8 employees leave or retire, and the contractor takes on new employees to replace them. Those new employees will be under the terms and conditions of the contractor, and will not be entitled to join the LGPS, so the letting authority will bear no responsibility for their pension arrangements.**
- **When the contract ends and maybe a retender exercise is carried out and a new provider is put in place, a new admission agreement will be required, this time the closed agreement will now be limited to the 5 remaining employees that were part of the original transfer.**
- **This pattern could continue until eventually no employees from the original admission agreement remain employed for the purpose of servicing your contract, at this stage no future admission agreements will be required, should the service remain outsourced.**

Assests & Liabilities



Pension Liabilities & Valuation

- **You should (hopefully) not notice any impact on the funding valuation results. This is because the liability for these employees has historically been with you, so even when these members transfer employment to the new contractor, that liability remains with you, as it always has.**
- **Under the pass-through arrangement we require the contractor to pay a contribution rate that is in line with the rate that would have been paid if the employees had remained with the letting authority.**
- **The contributions we receive from the contractor are allocated directly to your asset pot, so as far as your funding position is concerned, the member liabilities remain the same, and the contributions paid to offset those pension liabilities remain the same.**
- **The majority of admission agreement we process only cover a few employees, so the liability in scope for an admission agreement is quite small, especially compared to the overall liability of the letting authority who's total LGPS membership may be in the hundreds.**

New Admission Agreement Process

Inform of TUPE

- Initial email sent out by LGPS requesting further information
- Admission Agreement information sheet & staffing list sent by Contractor to LGPS
- Letting authority and Contractor both agree if happy with “Pass Through” agreement

Admission Agreement Contract

- Draft Contract sent out to letting authority and Contractor by email to confirm happy to proceed
- Engrossed Contract sent out to Contractor & letting authority by email to sign and have witnessed through Adobe sign.
- SCC legal Seal Engrossed Contract and copies are distributed

Next Steps

- Contractor informed of new Employer code
- Contractor invoiced for Legal works

Key Takeaways

- **Refer to relevant Legislation**
- **Contact the Fund as part of tender preparation process**
- **Contact the Fund once successful Contractor is confirmed to begin admitted body application**
- **Respond in timely manner to the Admission Agreement documents**
- **Admission Agreement must be in place as the new contract starts**
- **Outsourcing guide available on our website:**
<https://www.staffspf.org.uk/Employers/Guides-and-factsheets/Outsourcing-Services-and-New-Admissions-to-the-LGPS.aspx>

Questions

