Policy for Employers Leaving the Fund

EAST SUSSEX PENSION FUND

Effective: 1st April 2017

1. INTRODUCTION

This is the policy of the East Sussex Pension Fund ("the Fund") as regards the treatment of employers leaving the Fund.

It has been prepared by the Administering Authority to the Fund, East Sussex County Council, in collaboration with the Fund's actuary, Hymans Robertson LLP. This policy replaces all previous policies on employer termination and is effective from 1st April 2017.

These procedures and policies apply to employers participating in the Fund.

1.1 Regulatory Framework

The Local Government Pension Scheme Regulations 2013 outline the general framework for employees and employers participating in the Local Government Pension Scheme in England and Wales. The regulations that are relevant to employers leaving the scheme are as follows:

- **Regulation 64 (1) & (2) – these regulations state that, where an employing authority ceases to be a scheme employer, the Administering Authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the termination date. Further, it requires the rates and adjustments certificate to be amended to show the revised contributions due from the ceasing employer.**
- **64 (2a), (2B & 2C) – these regulations state that, where in the reasonable opinion of the administering authority an exiting employer might be expected to have one or more active members contributing, a "suspension notice" can be issued by the administering authority to that employer. Any such notice can suspend the exiting employer's liability to pay any exit payment for a period of up to 3 years. During the period of any such notice the exiting employer is still required to make such contributions in respect of its liabilities as the administering authority reasonably requires.**
- **Regulation 64 (3) – this regulation states that in instances where it is not possible to obtain additional contributions from the employer leaving the Fund or from the bond/indemnity or guarantor, the contribution rate(s) for the appropriate Scheme employer (in the case of Transferee Admission Bodies) or remaining Fund employers may be amended.**
- **Regulation 64 (4) – this regulation states that where it is believed a scheme employer may cease at some point in the future the Administering Authority may obtain a certificate from the Fund actuary revising the contributions for that employer, with a view to ensuring that the assets and liabilities of the employer are broadly expected to be in balance when the admission agreement ends.**

These regulations relate to all employers in the Fund.

1.2 Reviews of Policy

This policy will be reviewed at least every three years following triennial valuations or following changes in the Regulations pertaining to employers leaving the Fund.

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 Wendy Neller, Pensions Strategy and Governance Manager, in the first instance at Wendy.Neller@eastsussex.gov.uk or on 01273 481 904.

2. PRINCIPLES

2.1 Overriding Principles

The purpose of a cessation valuation is to determine the level of any surplus or deficit in an employer's share of the Fund as at the date the employer leaves the Fund. Unless the cost of doing so is deemed to outweigh the likely recovery to the Fund, the Fund will pursue an outgoing body (including the liquidator, receiver, administrator or successor body if appropriate) for any deficit. The Fund will also pursue any bond or indemnity provider and guarantor, for payment where appropriate.

It is the Fund's policy that the determination of any surplus or deficit on termination should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

Section 4 of this document sets out the bases currently in use for cessation valuations. These bases may be updated or withdrawn at the discretion of the Administering Authority on the advice of the Fund Actuary and will expire no later than 31 March 2020.

2.2 Interaction with Funding Policy

It is the Fund's policy that each employer is responsible for the funding of all Fund benefits of its own members, including current and previous employees. The Funding Strategy Statement sets this out in more detail and addresses the issue of cross-subsidies between employers. Whilst employer contributions may be pooled in the interests of stability and administrative ease for the purpose of triennial funding valuations under Regulation 62, the individual funding position for each employer is tracked by the Actuary at each triennial valuation. Any cessation valuation will be carried out using assets and liabilities allocated to the employer at the last triennial valuation as a starting point. This position will be updated to allow for membership movements and market conditions as at the cessation date.

Note j of section 3 of the Funding Strategy Statement sets out funding policy for admission bodies leaving the Fund.

2.3 Principles for Determining Payment

East Sussex County Council will determine the deficit / surplus attributable to the employer on cessation having taken actuarial advice.

If the employer is in surplus, there is currently no mechanism by which this surplus can be repaid by the Fund. If an employer is aware that it will be leaving the Fund in future, it should alert the Administering Authority and request a valuation under Regulation 64 (4). If this valuation indicates that a surplus position is likely, then the Actuary will be able to advise the Administering Authority whether a contribution reduction (before the employer ceases) is appropriate.

If it is determined that there is a deficit and the employer is required to make a payment to the Fund, East Sussex County Council will advise the employer of the amount required.

The County Council will consider issuing a "suspension notice" where in its reasonable opinion the employer is likely to have one or more active members during the period of that notice. Where this is

the case the County Council will liaise with the employer, confirming any ongoing employer contributions required during the period that any "suspension notice" is in force.

The Fund's policy is for any deficit on cessation to be recovered through a single lump sum payment to the Fund, where possible. The Fund may consider permitting an employer to spread the payment over an agreed period where it considers that this does not pose a material risk to the solvency of the Fund.

If the payment is to be spread, East Sussex County Council will consult with the Actuary to determine the appropriate payments to be made.

In the normal course of events (i.e. where the process below has been adhered to), the outgoing body will not be exposed to interest rate, investment or other funding risks after the cessation date. However the final deficit payment may be adjusted, at the Administering Authority's discretion, by the addition of interest at the level of the base rate between the cessation date and the final payment date(s).

2.3 Post cessation funding agreement

The Administering Authority may, at its discretion, agree to set up a funding agreement with the ceasing employer which would allow it to continue to pay contributions towards its cessation deficit after the date of cessation. Depending on circumstances, the Administering Authority may allow the ceasing employer to be exposed to interest rate, investment or other funding risks during the course of the agreement.

Any such agreement would be tailored to the ceasing employer's specific circumstances and be subject to the following principles:

- **Demonstrable evidence e.g. such as financial accounts and forecasts and other business planning information, which shows that the employer is unable to meet the deficit payment as a single lump sum and allows the Administering Authority to form a view on the employer's financial covenant.**
- **Contingent security being lodged by the employer in a form that is satisfactory to the Administering Authority to cover the amount of the deficit in the event of the employer becoming insolvent or otherwise ceasing trading.**
- **An appropriate time period set by the Administering Authority based on its assessment of the risk of the cessation debt not being met in full. It is very unlikely that the time period would exceed the longest period (currently 20 years) given to Fund employers to recover deficit, as set out in the Funding Strategy Statement**
- **A legally binding document outlining the terms of the agreement, signed by the Administering Authority and the ceasing employer (and any guarantor, if relevant).**
- **All costs (e.g. legal, actuarial, administrative) associated with setting up and running the agreement to be met by the ceasing employer.**

3. PROCESS

3.1 Responsibilities of ceasing employers

An employer which is aware that its participation in the Fund is likely to come to an end must:

- **advise the Fund, in writing, of the likely ending of its participation (either within the terms of the admission agreement in respect of an admission body (typically a 3 month notice period is required) or otherwise as required by the Regulations for all other scheme employers). It should be noted that this includes closed employers where the last employee member is leaving (whether due to retirement, death or otherwise leaving employment);**
- **provide any relevant information on the reason for leaving the Fund and, where appropriate, contact information in the case of a take-over, merger or insolvency;**
- **provide information, where appropriate, on the likelihood that it will have one or more active members contributing to the fund within the next three years; and**
- **provide all other information and data requirements as requested by East Sussex County Council which is relevant, including in particular any changes to the membership which could affect the liabilities (e.g. salary increases and early retirements) and an indication of what will happen to current employee members on cessation (e.g. will they transfer to another Fund employer, will they cease to accrue benefits within the Fund, etc.).**

3.2 Responsibilities of Administering Authority

The Administering Authority will:

- **gather information as required, including, but not limited to, the following:**
  - **details of the cessation - the reason the employer is leaving the Fund (i.e. end of contract, insolvency, merger, machinery of government changes, etc.) and any supporting documentation that may have an effect on the cessation;**
  - **complete membership data for the outgoing employer and identify changes since the previous formal valuation; and**
  - **the likely outcome for any remaining employee members (e.g. will they be transferred to a new employer, or will they cease to accrue liabilities in the Fund).**
- **identify the party that will be responsible for the employer's deficit on cessation (i.e. the employer itself, an insurance company, a receiver, another Fund employer, guarantor, etc.);**
- **commission the Fund actuary to carry out a cessation valuation under the appropriate regulation;**
- **where applicable, discuss with the employer the possibility of paying adjusted contribution rates that target a 100% funding level by the date of cessation through increased contributions in the case of a deficit on the cessation basis or reduced contributions in respect of a surplus;**
- **where applicable, liaise with the original ceding employer or guarantor and ensure it is aware of its responsibilities, in particular for any residual liabilities or risk associated with the outgoing employer's membership;**

- **where applicable liaise with the employer regarding the issue of a “suspension notice” under regulation 64 (2A), confirming any ongoing contributions to be made by the employer during the period that the “suspension notice” remains in force; and**
- **having taken actuarial advice, notify the employer and other relevant parties in writing of the payment required in respect of any deficit on cessation and pursue payment.**

3.3 Responsibilities of the Actuary

Following commission of a cessation valuation by the Administering Authority, the Fund Actuary will:

- **calculate the surplus or deficit attributable to the outgoing employer on an appropriate basis, taking into account the principles set out in this policy;**
- **provide actuarial advice to East Sussex County Council on how any cessation deficit should be recovered or where applicable "suspension notice" be applied, giving consideration to the circumstances of the employer and any information collected to date in respect to the cessation; and**
- **where appropriate, advise on the implications of the employer leaving on the remaining Fund employers, including any residual effects to be considered as part of triennial valuations.**

4. CESSATION VALUATION BASIS

The following bases will apply from 1 April 2017 to 31 March 2020, the date by which the next valuation is signed off, unless otherwise withdrawn or updated by the Administering Authority on the advice of the Fund Actuary.

4.1 Gilts Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index as at the date of cessation, rounded to the nearest 0.1% per annum.

4.2 Ongoing Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index plus 1.8% per annum (calculated geometrically) at the date of cessation, rounded to the nearest 0.1% per annum.

4.3 Pension Increases

The pension increase assumption is determined in line with the Consumer Prices Index (CPI). The CPI assumption is based on the assumption for the Retail Prices Index (RPI) less 1.0% per annum.

RPI is calculated as the geometric difference between the annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index and the annualised gross redemption yield on the FTSE Actuaries Over 15 Years Index-Linked Gilts (3% Inflation) Index as at the cessation date, rounded to the nearest 0.1% per annum.

4.4 Salary Increases (Where Applicable)

As determined in the most recent valuation of the Fund, assumed salary increases will be 0.6% per annum below RPI.

4.5 Post-Retirement Mortality

Post-retirement mortality for all members is determined in line with Club Vita analysis which is carried out on behalf of the Fund at the triennial formal valuation. These are a bespoke set of Vita Curves that are specifically tailored to the individual membership profile of the Fund. Future improvements are in line with CMI Projections assuming the current rate of improvements has reached a 'peak' and that a long term rate of 1.25% per annum will apply.

Further details are set out in the most recent formal valuation report of the Fund.

Under the gilts cessation basis, an allowance is made for further improvements to life expectancies by adjusting the value of liabilities upwards by 5%.

4.6 Other Demographic Assumptions

As set and outlined in the report on the most recent formal valuation of the Fund.