



Contribution Review Policy 2023



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Introduction

This document sets out the East Sussex Pension Fund's (the Fund's) policy on amending the contribution rates payable by an employer (or group of employers) between formal funding valuations.

The Fund is part of the Local Government Pension Scheme (LGPS), a defined benefit statutory scheme administered in accordance with the Local Government Pension Scheme Regulations 2013 (the Regulations) as amended.

Under Regulation 62, East Sussex County Council, as the administering authority for the Fund, is required to obtain a formal actuarial valuation of the Fund and a rate and adjustments certificate setting out the contribution rates payable by each Scheme employer for three year period beginning 1 April following that in which the valuation date falls.

It is anticipated for most Scheme employers that the contribution rates certified at the formal actuarial valuation will remain payable for the period of the rates and adjustments certificate. However, there may be circumstances where a review of the contribution rates payable by an employer (or a group of employers) under Regulation 64A is deemed appropriate by the administering authority. This policy document sets out the administering authority's approach to considering the appropriateness of a review and the process in which a review will be conducted.

This policy has been prepared by the administering authority following advice from the Fund Actuary, and following consultation with the Fund's Scheme employers. In drafting this policy document, the administering authority has taken into consideration the statutory guidance on drafting a contribution review policy which was issued by the Ministry of Housing, Communities and Local Government, and the Scheme Advisory Board's guide to employer flexibilities.

Throughout this document, any reference to the review of a Scheme employer's contribution rates will also mean the single review of the contribution rates for a group of Scheme employers (for example if the employers are pooled for funding purposes).

Note that where a Scheme employer seems likely to exit the Fund before the next actuarial valuation then the administering authority can exercise its powers under Regulation 64(4) to carry out a review of contributions with a view to providing that assets attributable to the Scheme employer are equivalent to the exit payment that will be due from the Scheme employer. These cases do not fall under this contribution review policy.

The review process

The events that may trigger a review are set out in the Triggering a contribution review section. The general process for assessing and conducting a review is set out below. Timescales may vary in practice depending on each individual circumstance but the timeline below provides a rough guide of the administering authority's general expectation.

Following completion of the review process, the administering authority may continue to monitor the Scheme employer's position in order to ensure the revised contribution rate remains appropriate (where a review was completed) or to ensure the Scheme employer's situation does not change such that a review previously deemed not appropriate becomes appropriate. As part of its participation in the Fund, any Scheme employer is expected to support any reasonable information requests made by the administering authority in order to allow effective monitoring.

Timeline where initiation is made by the administering authority

Where the review is initiated by the administering authority (i.e. under conditions (i) and (ii) in the Triggering a contribution review section), the first stage after the administering authority has conducted its analysis is to engage with the Scheme employer and provide written evidence for requiring the review.

The Scheme employer will be given 45 days from the later of the date of receipt of the evidence provided by the administering authority and the date of receipt of the results of the formal contribution review to respond to the administering authority on the proposal. Should no challenge be accepted within this period then the administering authority will treat the proposal as accepted and the revised contribution rates will come into effect from the proposed review date.

Should the Scheme employer challenge the administering authority's proposal, then the administering authority will continue to engage with the Scheme employer in order to reach an agreeable decision. If no decision has been agreed within 3 months of the initial proposal, then the administering authority may proceed with the revised contribution rates. Further details of the appeals process for the Scheme employer is set out in the Appeals process section.

Although the ultimate decision for review belongs to the administering authority, the administering authority is committed to engaging with any Scheme employer following the initial proposal to ensure that any change is agreeable to all relevant parties.

Timeline where initiation is made by the Scheme employer

Where the review is initiated by the Scheme employer, the process begins once the Scheme employer has provided all the relevant documents required as set out in the Triggering a contribution review section.

The administering authority will aim to provide a response to the Scheme employer within 45 days from the date of receipt. This will depend on the quality of the documents provided and any need from the administering authority to request further information from the Scheme employer. The administering authority will provide a written response setting out the issues considered in reviewing the request from the Scheme employer, together with the outcome and confirming the next steps in the process.

Responsibility of costs

Where the review of contributions has been initiated by the administering authority, any costs incurred as part of the review in relation to the gathering of evidence to present to the Scheme employer and the actuarial costs to commission the contribution review will be met by the Fund. This is with the exception of any costs incurred as a result of extra information requested by the Scheme employer which is not ordinarily anticipated to be incurred by the administering authority as part of the review. These exception costs would be recharged to the Scheme employer.

Any costs incurred as a result of a review initiated by the Scheme employer will be the responsibility of the Scheme employer, regardless of the outcome of the review proceeding or not. This may include specialist adviser costs involved in assessing whether or not the request for review should be accepted and the costs in relation to carrying out the review.

Triggering a contribution review

As set out in Regulation 64(A)(1)(b), a review of an employer's contribution rate between formal actuarial valuations may only take place if one of the following conditions are met:

- (i) it appears likely to the administering authority that the amount of the liabilities arising or likely to arise has changed significantly since the last valuation;
- (ii) it appears likely to the administering authority that there has been a significant change in the ability of the Scheme employer or employers to meet the obligations of employers in the Scheme; or
- (iii) a Scheme employer or employers have requested a review of Scheme employer contributions and have undertaken to meet the costs of that review.

Conditions (i) and (ii) are triggered by the administering authority and (iii) by the Scheme employer. The key considerations under each of the conditions are detailed below.

It should be noted that the conditions are as set out in the Regulations therefore do not allow for a review of contributions where the trigger is due to a change in actuarial assumptions or asset values.

(i) change in the amount of the liabilities arising or likely to arise

Examples of changes which may trigger a review under this condition include, but are not limited to:

- Restructuring of a council due to a move to unitary status
- Restructuring of a Multi Academy Trust
- A significant outsourcing or transfer of staff
- Any other restructuring or event which could materially affect the Scheme employer's membership
- Changes to whether a Scheme employer is open or closed to new members, or a decision which will restrict the Scheme employer's active membership in the fund in future
- Significant changes to the membership of an employer, for example due to redundancies, significant salary awards, ill health retirements or a large number of withdrawals
- Establishment of a wholly owned company by a scheduled body which does not participate in the LGPS.

As part of its participation in the Fund, Scheme employers are required to inform the administering authority of any notifiable events as set out in the Fund's Pension Administration Strategy, service agreements and/or admission agreements. Through this notification process, the administering authority may identify events that merit a review of contributions.

In addition, the administering authority may initiate a review of contributions if they become aware of any events that they deem could potentially change the liabilities of the Scheme employer; this could arise from a covenant assessment. This also applies to any employers for whom a review of contributions has already taken place as a further change in liabilities may merit another review.

(ii) change in the ability of the Scheme employer to meet its obligations

Examples of changes which may trigger a review under this condition include, but are not limited to:

- Change in employer legal status or constitution
- Provision of, or removal of, security, bond, guarantee or some other form of indemnity by a Scheme employer
- A change in a Scheme employer's immediate financial strength
- A change in a Scheme employer's longer-term financial outlook
- Confirmation of wrongful trading
- Conviction of senior personnel
- Decision to cease business
- Breach of banking covenant
- Concerns felt by the administering authority due to behaviour by a Scheme employer's, for example, a persistent failure to pay contributions (at all, or on time), or to reasonably engage with the administering authority over a significant period of time.

The administering authority monitors the level of covenant of its Scheme employers on an ongoing basis. In particular, the administering authority will commission an employer risk review report from the Fund Actuary or a covenant consultant on a regular basis, and usually at least every three years. Through this analysis, the administering authority can identify any Scheme employers that might be considered as high risk and whether any Scheme employers have had a significant change in riskiness. This in turn may affect the administering authority's views on whether the ability of a Scheme employer to meet its obligations to the Fund has changed significantly and therefore whether this change may merit a contribution review. This also applies to any employers for whom a review of contributions has already taken place as a further change in an employer's ability to meet its obligations may merit another review.

(iii) request from the Scheme employer for a contribution review

A request can be made by a Scheme employer for a review of contribution rates outside of the formal actuarial process. This must be triggered by one of the following two conditions:

- There has been a significant change in the liabilities arising or likely to arise; and/or
- There has been a significant change in the ability of the Scheme employer to meet its obligations to the Fund.

Any requests not arising from either of these conditions will not be considered by the administering authority.

Requests by a Scheme employer are limited to one review per calendar year.

With the exception of any cases where the Scheme employer is expected to cease before the next rates and adjustments certificate comes into effect, the administering authority will not accept a request for a review of contributions with an effective date within the 12 months preceding the next Rates and Adjustments certificate. It is expected in these cases that any requests can be factored into the formal review and any benefits of carrying out a review just prior to the commencement of a new Rates and Adjustments certificate are outweighed by the costs and resource required. If a

request is made with an effective date within the 12 months preceding the next Rates and Adjustments certificate, the administering authority will instead reflect these changes in the actuarial valuation and the rates being certified and taking effect the year following the valuation date.

Information required from the Scheme employer

In order to submit a request for a review of contribution rates outside of the formal actuarial valuation process, a Scheme employer must provide the following to the Fund:

- Where a review is sought due to a potential change in the Scheme employer's liabilities:
 - Membership data or details of membership changes to evidence that the liabilities have materially changed, or are likely to change
- Where a review is sought due to a potential change in the ability of the Scheme employer to meet its obligations:
 - The most recent annual report and accounts for the Scheme employer
 - The most recent management accounts
 - Financial forecasts for a minimum of three years
 - The change in security or guarantee to be provided in respect of the Scheme employer's liabilities

The administering authority may require further evidence to support the request and this will be requested from the Scheme employer on a case by case basis.

Assessing the appropriateness of a review

The following general considerations will be taken into account by the administering authority, regardless of the condition under which a review is requested:

- the expected term for which the Scheme employer will continue to participate in the Fund;
- the time remaining to the next formal funding valuation;
- the cost of the review relative to the anticipated change in contribution rates and the benefit to the Scheme employer, the Fund and/or the other Scheme employers; and
- the anticipated impact on the Fund and the other Fund employers, including the relative size of the change in liabilities and contributions and any change in the risk borne by other Fund employers.

Where the review has been requested by the Scheme employer, the administering authority will also consider the information and evidence put forward by the Scheme employer. This may be with advice from the Fund Actuary where required, and will include an assessment of whether there is a reasonable likelihood that a review would result in a change in the Scheme employer's contribution rates. The administering authority will also consider whether it is necessary to consult with any other Scheme employer e.g. where a guarantee may have been provided by another Scheme employer.

Whether any changes require the administering authority to exercise its powers to carry out a contribution review will be assessed on a case by case basis and with advice from the Fund Actuary and may involve other considerations as deemed appropriate for the situation. The final decision of whether a review of contribution rates will be carried out rests with the administering authority after, if necessary, taking advice from the Fund Actuary. Should a Scheme employer disagree with the administering authority, then details of the Appeals process is set out later in this document.

Appropriateness of a review due to change in liabilities

This will be subject to the following considerations in addition to the general considerations set out above:

- the size of the Scheme employer's liabilities relative to the Fund and the extent to which they have changed;
- the size of the event in terms of membership and liabilities relative to the Scheme employer and/or the Fund; and
- the administering authority's assessment of the ability of the Scheme employer to meet its obligations.

Appropriateness of a review due to change in ability to meet its obligations to the Fund

In assessing whether or not an administering authority will exercise its powers to review a Scheme employer's contribution rates under this condition, the administering authority will take into account the general considerations set out earlier in this section and:

- The results of any employer risk analysis provided by the Fund Actuary or a covenant specialist
- The perceived change in the value of the indemnity to the administering authority, relative to the size of the Scheme employer's liabilities

It is acknowledged that each Scheme employer's situation may differ and therefore each decision will be made on a case by case basis. Further considerations to that set out above may be relevant and will be taken into account by the administering authority as required.

Decision Making

Final decision making as to a change in revised contribution rates will be made by the S151 officer in liaison with the Fund Actuary and Head of Pensions.

Method used for reviewing contribution rates

If a review of contribution rates is agreed, or if an indicative review is required to help inform the review process, the administering authority will take advice from the Fund Actuary on the calculation of the Scheme employer's revised contribution rates. This will take into account the events leading to the anticipated liability change and any impact of the changes in the Scheme employer's ability to meet its obligations to the Fund.

The starting point for reviewing a Scheme employer's contribution rates will in some cases be the most recent actuarial valuation. The table below sets out the general approach that will be used when carrying out this review.

Once a review of contribution rates has been agreed, unless the impact of amending the contribution rates is deemed immaterial by the Fund Actuary, then the results of the review will be applied with effect from the agreed review date.

	General approach
Member data	<p>In some cases, where the review is happening during or shortly after the valuation, the most recent actuarial valuation data will be used as a starting point.</p> <p>In most cases, given the review is due to an anticipated change in membership, the administering authority and Scheme employer should work together to provide updated membership data for use in calculations. There may be instances where updated membership data is not required if it is deemed proportionate to use the most recent actuarial valuation data without adjustment.</p> <p>Where the cause for a review is due to a change in a Scheme employer's ability to meet its obligations to the Fund, updated membership data may not need to be used unless any significant membership movements since the previous Fund valuation are known.</p>
Approach to setting assumptions	This will be in line with that adopted for the most recent actuarial valuation, and in line with that set out in the Fund's Funding Strategy Statement.
Market conditions underlying financial assumptions	Unless an update is deemed more appropriate by the Fund Actuary, the market conditions will be in line with those at the most recent actuarial valuation.
Conditions underlying demographic assumptions	Unless an update is deemed more appropriate by the Fund Actuary, the conditions will be in line with those at the most recent actuarial valuation.
Funding target	The funding target adopted for a Scheme employer will be set in line with the Fund's Funding Strategy Statement, which may be different from the approach adopted at the

	most recent actuarial valuation due to a change in the Scheme employer's circumstances.
Surplus/deficit recovery period	The surplus/deficit recovery period adopted for a Scheme employer will be set in line with the Fund's Funding Strategy Statement, which may be different from the approach adopted at the most recent actuarial valuation due to a change in the Scheme employer's circumstances.

The Fund Actuary will be consulted throughout the review process and will be responsible for providing revised rates and adjustments certificate. Any deviations from the general approaches set out above will be agreed by the administering authority and the Fund Actuary.

Appeals process

If a scheme employer does not believe that the Employer Contribution Rate set under this contribution review policy is appropriate the scheme employer has the right to ask for a review of the decision.

Any employer appealing against the rate should be made within 2 calendar months of being sent your final Employer Contribution Rate and include all the evidence you wish to submit to support the request. The appeal should explain the reason the Contribution Rate is not considered appropriate. This should demonstrate at least one of the following:

- 1) Why you believe the decision is so unreasonable that a reasonable person would not have made the decision
- 2) That the Administering Authority has deviated from its published policy
- 3) New information is now available that would alter the original decision

If such a request is received it will be considered by the Chief Finance Officer and the Pension Committee, which acts as the delegated Scheme Manager on behalf of East Sussex County Council. The Fund will provide a response within 4 months to allow for the Pension Committee meeting cycle .