Appendix 2 – Questions and response for Department of Education

Hi Joshua,

Thank you for consulting the Department for Education (DfE) on East Sussex Pension Fund's Draft Funding Strategy Statement (FSS).

As the guarantor for the academy and college sector within LGPS, DfE has a responsibility to ensure that funding strategies applied to these institutions are transparent, equitable, and consistent with those applied to other secure scheduled bodies. In considering individual pension fund FSS's, DfE's response to this consultation is from the position that there is:

- Full recognition of both DfE Guarantees: The DfE expects administering authorities to fully recognise the DfE guarantees when setting employer contribution rates and deficit recovery periods.
- Equitable treatment of academies and bodies in the FE sector: The DfE expects administering authorities to treat academies and colleges equitably with local authority-maintained schools, ensuring consistency in the approach to rate setting and deficit recovery periods.

Questions regarding East Sussex's FSS:

1. Removal of Stabilisation Rate

   We note that in your 2022 FSS, Academies had a stabilisation rate of a maximum of 1% increase or 1% reduction in contributions over the next three years. In the 2025 FSS, this stabilisation rate no longer applies to academies. Please could you clarify the rationale for this change? In particular, we are interested to understand whether the removal of the stabilisation rate related to the level of surplus within the academies pool, and would the mechanism have affected the level of contributions in the absence of its removal?

ESPF response –*The stabilisation mechanism was an approach introduced by the previous actuary as this supports the model they use to set contributions. We kept this in place at 2022 to help us transition from the previous actuary's model to our current actuary's model smoothly to avoid too much volatility in the contribution rates being set at 2022. At the 2025 valuation we saw a decrease in the primary rate across all employers. Our preference was for employers to see the benefits of the reduced contributions immediately and so removing the stabilisation mechanism allowed us to move employers straight to the reduced total contribution rates, rather than stepping at 1% p.a. towards this rate.*

The removal of the stabilisation mechanism was removed for all employers, so this decision was not based on the surplus of the academy pool. If we had not removed the stabilisation mechanism, the academies would be paying higher contributions in the years 2026/27 and 2027/28 than we have proposed.

2. Target Funding Level

   We note that your target funding level is set at 115%, which we consider both excessive and unnecessary in light of the two DfE Guarantees. The introduction of a 115% target comes at a time when employers are already in a stronger funding position than in 2022. Taken together with past instances where surpluses were not returned to academies, we believe this approach presents a significant concern.

ESPF response – *Taking each point in turn, the 115% referred to is not a funding target but is a mechanism used to keep contributions stable and to avoid unnecessary volatility. For example, if an employer was 105% funded the actuary would not be certifying a contribution rate with the aim to increase their funding level to 115%, they would simply pay the primary rate and this would continue until they either fell into deficit, in which case a positive secondary contribution would be certified, or the funding level increased to 115%, in which case we would certify a negative secondary contribution rate.*

This mechanism is used consistently across all employers in the Fund and so the DfE Guarantee protects the academies and FE bodies in the same way that a council guarantee protects contractors. Academies are not exempt from these protections solely because of the DfE guarantee.

To pick up on the second point, the East Sussex Pension Fund, and the Academy Pool in particular, are not in a stronger position at 2025 compared to 2022. The funding level of the Academy Pool has actually fallen from 120% to 111%. Furthermore, this buffer existed at the 2022 valuation and so is a continuation of an existing approach as opposed to a new approach being introduced.

On the third point, we would need more information on the past instances that you are referring to but:

- *if you are referring to surpluses not being returned in instances of academy cessations this may have been the case because the cessation would be carried out on a stronger basis than that used at the funding valuation and so no surplus existing on that basis, or;*
- *If the instance is regarding the return of surplus through negative secondary contributions, the Academy Pool, as a whole, was certified with negative secondary contributions at the 2022 valuation because the funding level of the Pool was 120% (i.e. in excess of 115%). Since the Academy Pool was only established at the 2022 valuation we had to step individual academies towards the Academy Pool, rate as per the stabilisation mechanism in place at the time, and so there was a range of rates certified for academies at 2022.*

3. Member contribution rate

   We note that the 2025 member contribution rate is set at a minimum of 12.5%, with employer contributions aligned to this rate. In our view, employer contributions should be set based on achieving and maintaining appropriate funding levels, and there should therefore be no minimum, as it depends on funding level.
   We are concerned that this structure may result in some employers paying more into the fund than required, simply because they must meet the 12.5% minimum. Could you confirm whether any education employers are therefore contributing more than is necessary to fund their pension obligations?

How will the fund address the issue of overfunding for employers subject to the 12.5% minimum contribution rate, where their assessed contribution rate would fall below this threshold?

ESPF response – *In response to your first question, no one knows if an employer is paying more than necessary to fund their pension obligations, as the cost of meeting these obligations won't be known until the last pension payment is made.*

We can confirm that neither the academies nor any of the FE bodies are impacted by this minimum employer contribution rate since all their proposed contribution rates are in excess of 12.5%.

4. Surplus upon Conversion

   We note that according to your FSS, when a maintained school converts to an academy, its assets are capped at 100%.
   Historically, when schools converted, Local Authorities often retained a significant portion of their assets to protect the authority's position. This meant that schools entered conversion in a weaker funding position, frequently carrying a deficit. As a result, they were disadvantaged at the point of conversion and, under the current approach, remain disadvantaged when the Fund is in surplus. We expect a proportionate share of any surplus to be allocated upon conversion. Since the converting school will have contributed to the Fund's surplus, it should reasonably benefit from the surplus generated by its prior contributions.

ESPF response – *This is an approach taken across the LGPS Funds and is not a funding strategy specific to East Sussex Pension Fund. The rationale is to protect the ceding local authority as they remain responsible for the risks associated with the deferred and pensioner members related to the school; the new academy does not bear any responsibility, and therefore no future risk, for these members going forward. These risks are significant and very long-term and the Fund would not be comfortable distributing any surplus to the converting school, as doing so would reduce the Local Authority's security in relation to the retained liabilities and the Local Authority would not be able to ask for further contributions to meet any future shortfall in the event of adverse experience.*

This approach of transferring assets equal to liabilities is consistent with any other new employer being established within the Fund and so academies are not disadvantaged in the context of other new employers. Furthermore, in the East Sussex Pension Fund each new academy converting begins with the funding level of the Academy Pool, which at 31 March 2025 was 111%, and so they are benefitting from the surplus that has been generated in the Academy pool.

We look forward to your response on our comments.

Department for Education

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