

Local Government Pension Scheme – Factsheet for Existing and Prospective Scheme Employers

This factsheet aims to provide information and guidance for scheme employers who participate in the Local Government Pension Scheme (LGPS) through the East Riding Pension Fund (ERPF) and also for employers who may be considering becoming a scheme employer.

The factsheet covers several key areas where it is important that scheme employers understand and are aware of LGPS and statutory requirements and their responsibilities. The areas covered are:

- **Pension Obligations for Outsourcing and Employee Transfers**
- **Academy Conversion**
- **Parish and Town Councils – Auto Enrolment**
- **Employer Contacts and Payroll Provision**
- **Reporting breaches to The Pensions Regulator (TPR)**
- **Employer Discretions – Statement of Policy**

Should you require any further information about any of the information provided in this factsheet or any other aspect of the LGPS please contact the ERPF. Contact details for key staff at the ERPF can be found at the end of this factsheet.

Pension Obligations for Outsourcing and Employee Transfers

Many scheme employers find themselves considering the option of outsourcing a function of their organisation to a contractor. When this occurs it is imperative that consideration is given at an early stage to the pension obligations and that the scheme employer understands its responsibilities, both to affected employees who are members of the LGPS and to the Fund.

Admitted Body Status

Admitted body status provisions were introduced into the LGPS in 1999 to allow contractors, who take on local authority services or functions, to offer transferring employees continued eligibility for the LGPS during the contract.

Local authorities as best value contracting authorities (including police and fire) are required to comply with The Best Value Authorities Staff Transfers (Pensions) Direction 2007. This means that a best value authority **must** secure pension protection for each TUPE transferring best value authority employee which must be the same as, broadly comparable to, or better than, those they had a right to acquire prior to the transfer.

The Fair Deal guidance published by HM Treasury applies to all other employers (including academies) and sets out how pension issues should be dealt with when employees who are members of the LGPS are compulsorily transferred to an independent contractor by way of a transfer to which TUPE applies. It is the existing employer's responsibility to ensure that affected employees are provided with access to the LGPS in their new employment while they continue to be employed on the transferred service or function.

Existing scheme employers who plan to award a contract which will involve a compulsory transfer of employees should make the Fair Deal guidance clear at an early stage to potential contractors. It is good practice for the outsourcing scheme employer to obtain an indicative employer contribution rate and bond amount from the actuary to include in the tender documentation before commencing a procurement exercise.

An employee affected by outsourcing whose employment is transferred to the successful contractor cannot continue to be a member of the LGPS if an admission agreement is not in place. In many cases the application to become an admitted body can take several months and where applications are not submitted early enough this can result in employees losing their right to be a member of the LGPS for that period of time. It is strongly recommended that no employees are transferred until an agreement is in place.

Existing scheme employer's responsibilities

As the outsourcing employer you have a number of responsibilities throughout the process:

- Seek legal advice on pension protection for transferring employees;
- Contact the East Riding Pension Fund at the earliest opportunity to make us aware of the potential outsourcing arrangement;
- Procure a mini valuation and obtain an indicative employer contribution rate to be included in the tender document, and an actual contribution rate once a contract has been agreed;
- Consider any guarantee or bond needed to cover the liabilities of the contractor should they be unable to meet their obligation for any reason;
- Consider whether the successful contractor will seek admission to the ERPF or a broadly comparable scheme. If they will be seeking admission to the ERPF establish whether;
 - I. this will be on a fully funded basis or will the contractor have a share of the deficit. Fully funded is where the letting authority retains the deficit at the date of transfer but any future changes to the past service deficit will be the responsibility of the new employer. Share of deficit is where the new employer takes on part of the past service deficit prior to the date of transfer;
 - II. the admission agreement is to be based on an open or closed agreement. A closed agreement is where only the TUPE transferred employees are eligible to remain in the LGPS. An open agreement allows new employees to join the LGPS provided they are working on the outsourced contract.
- Act as a guarantor and a party to the admission agreement, if the contractor seeks admission in the ERPF;
- Notify the pension fund of employees affected by the transfer.

Potential Costs

The actuarial fees for an initial valuation to obtain an employer contribution rate and bond calculation will be approximately £2500 to £3000.

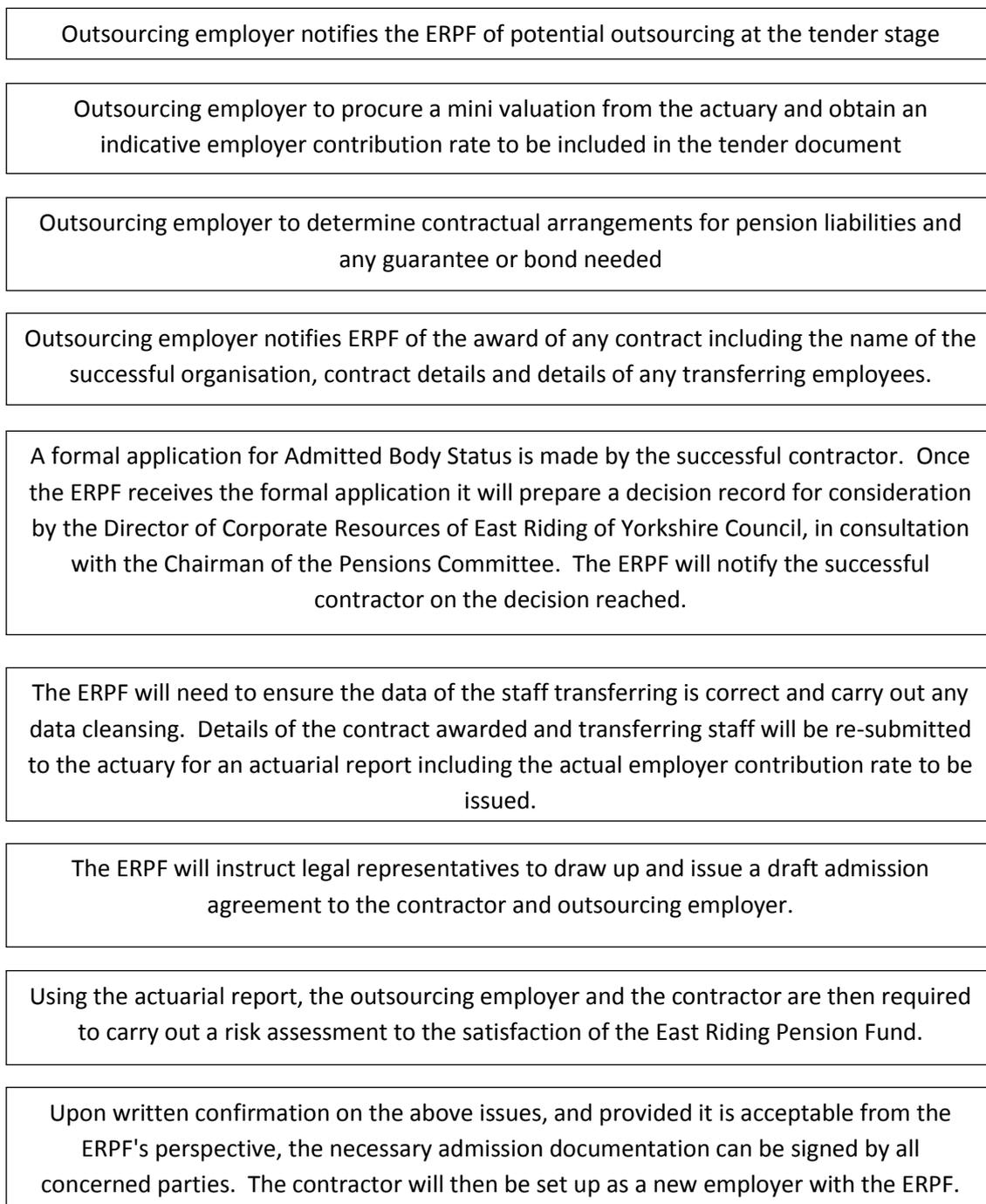
At the end of the contract there are cessation fees to be met by either the outsourcing employer or the contractor, in the region of £5000.

These fees quoted will apply even if the successful contractor is already an admitted scheme employer with the ERPF. This is because each admission agreement is treated as a new agreement.

Please be aware that there may also be charges under the Fund's Service Level Agreement to recover the cost of any work carried out by the Fund in the arrangement of the admission agreement. The Fund will always advise in advance if there are likely to be any charges.

Action Steps

The flowchart below illustrates the process that needs to be followed for any outsourcing which will affect employees who are existing LGPS members. It is impossible to determine how long it will take for an organisation to achieve admission body status to the ERPF as it varies. The stages are described briefly below and further information can be provided upon request.



All queries in respect of pension obligations for outsourcing and employee transfers should be directed to Graham Ferry, Pensions Manager, or Liz Vollans, Principal Pensions Officer.

Academy Conversion

Academies are treated as scheduled bodies under the LGPS 2013 Regulations. This means that a school converting to an academy is automatically a LGPS employer from the date of conversion and therefore does not need to apply to become an employer with the ERPF but there is still some information which must be provided as early as possible. It is important that the ERPF is made aware of any changes to employers so that members' records are kept up to date so that we know who to contact.

Schools who are converting to an academy need to provide the following information to the East Riding Pension Fund as soon as available:-

- DfE Statement of Intent to the school agreeing in principle that they can become an academy and the academy Order;
- DfE letter to the school confirming the funding agreement in place and the date of conversion into an academy;
- Commercial Transfer agreement signed by the Council with the academy Trust;
- The Employer contribution rate being paid by the academy from the date of conversion.

Any transferred employees not currently members of the LGPS but who are eligible to join the LGPS, must automatically be brought into the LGPS from the date of conversion to academy.

The academy must also provide a list of all the employees who have transferred.

The Fund will need to know who the academies payroll and HR provider will be after conversion and who will complete pension administration forms on the academies behalf. This information can be provided on the Employer Contact Details form which can be obtained by emailing EmployerWeb@eastriding.gov.uk, or on the website.

If an academy is considering outsourcing any services or functions it is imperative that they refer to the information 'Pension Obligations for Outsourcing and Employee Transfers' detailed in this factsheet. Under Fair Deal guidance academies are advised to ensure a contractor enters into an admission agreement with the ERPF. As this process can take some time it is strongly recommended that no employees are transferred until an agreement is in place.

Parish and Town Councils – Auto Enrolment

Parish Councils and Town Councils are eligible to participate in the LGPS administered by the East Riding Pension Fund. Recently, there has been a surge of interest from Parish and Town Councils who have considered the LGPS for meeting their auto enrolment requirements. However, there are a number of formalities to go through first.

The Parish or Town Council would have to pass a resolution stating the Parish or Town Council employees that may be members of LGPS, for example, this could be any employee or just a designated post such as Clerk to the Parish or Town Council.

The resolution should be passed in the manner in which an ordinary resolution of the Parish or Town Council may be passed, for example, some Parish Councils may use a period of notice so that parishioners have the opportunity to put forward any objections.

This may involve giving notice –

- of the meeting at which the resolution was passed,
- of the terms of the resolution,
- of the fact that it was to be proposed at that meeting,

You therefore may wish to use the period of notice, for example, 28 days that is used to convene ordinary meetings of the Parish or Town Council.

In terms of cost for the Parish or Town Council, the main cost is the employer contribution rate which varies and is calculated every 3 years, the last valuation being in 2013. The Parish or Town Council may elect to pay an individual rate, which would be determined by the actuary, or a pooled rate which is currently 25.8% (2015/16) and increasing to 27.3% in 2016/17. The pooled rate is subject to Fund approval to join the Parish and Town Councils pool.

If you wish to pursue an application to join the LGPS, please contact Graham Ferry, Pensions Manager, or Liz Vollans, Principal Pensions Office for further information.

Employer Contacts and Payroll Provision

Communication between the administering authority and its scheme employers plays a vital role in ensuring that the scheme is administered effectively and efficiently. It is therefore very important that the ERPF has correct contact details for all its scheme employers.

It is an employer's responsibility to keep the ERPF informed of the correct contact details for the:-

- Organisation for the main point of contact for the scheme employer;
- Payroll provider for completion of pension administration forms;
- Human Resources for retirement, ill health and employer discretionary matters;
- Internal Disputes Resolution Procedure for the stage 1 contact officer.

An 'Employer Contact Details' form is available from the ERPF and must be completed in all cases for any new scheme employers or for any changes to employer contacts. When a new employer joins the ERPF as a scheme employer this form is issued automatically by the ERPF for completion and return.

One of the main concerns is when a scheme employer changes its payroll provider but fails to notify the ERPF of the change. This means that the ERPF will continue to contact the old payroll provider to request information and this leads to delays in obtaining pension data and consequently delays in processing the members pension benefits. This also has a negative impact on resources at the ERPF.

The organisation contact, the main point of contact for the scheme employer will also receive regular updates from the ERPF regarding any changes to the LGPS or any information specific to the ERPF.

Where a scheme employer fails to provide correct contact details or fails to notify the ERPF of any changes to the contact details then the ERPF may impose charges under the Fund's Service Level Agreement.

Reporting breaches to The Pensions Regulator (TPR)

There are many and various laws relating to the LGPS which place a statutory duty on certain people including you and your colleagues as officers of an employer who participates in the ERPF to report material breaches of the Law to the Regulator. In April 2015, the Regulator published its Code of practice no. 14 (the Code) on the governance and administration of public service pension schemes to assist schemes to establish a procedure so that those with a responsibility to report breaches are able to meet their legal obligations.

The ERPF has prepared a procedure for reporting breaches of the law to the Pensions Regulator and this document is available on the website www.erpf.org.uk.

This procedure relates to all of the ERPF's areas of operation and it explains who is required to report breaches of the Law to the Regulator where they have reasonable cause to believe that a legal duty, which is relevant to the administration of the LGPS has not been, or is not being, complied with and the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.

Please read the procedure which sets out the key issues of establishing "reasonable cause" and deciding "material significance" in relation to a breach. A decision tree is included to show the process for deciding whether the breach is materially significant and the process for reporting the breach to the Regulator.

As an officer of an employer participating in the ERPF, you will find that the e-learning program "Reporting Breaches of the Law" on the Regulator's website very useful in helping you understand your legal obligations.

Employer Discretions – Statement of Policy

The LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 require scheme employers to prepare, maintain and keep under review a statement of policy concerning a number of discretions made available to them throughout the regulations. Scheme employers have many decisions to take with regard to numerous discretions and requirements made of them as outlined in the statutory legislation and it is important that each scheme employer takes full responsibility for ensuring that their obligations are fulfilled appropriately and in accordance with the statutory instruments laid by Parliament.

Some statements of policy in respect of certain scheme regulations are compulsory as in the main they can carry significant cost implications for an employer and this is the minimum policy requirement made of scheme employers. However, it is generally recognised that there is considerable value in scheme employers making statements of policy in respect of other regulations where discretion is available to them for ease of administration and consistency of approach even though it is not compulsory to do so.

You can view the Discretions Statement of Policy Template and the complete list of all discretions on the ERPF website using the link <http://www.erpf.org.uk/employers/employer-discretions/>. The template is in two parts. Part A contains the five discretions you must have a policy on. Part B is for any other discretions you wish to have a policy on.

Should you need to speak to someone regarding employer discretions, please contact Simon Goddard, Senior Pensions Officer at the ERPF.

ERPF contact details

Main Correspondence Address

Address:	East Riding Pension Fund, PO Box 118, Council Offices, Church Street, Goole,		
	East Riding of Yorkshire	Postcode:	DN14 5BG
Website Address:	www.erpf.org.uk		
Email Address	erpf@eastriding.gov.uk		

Member Maintenance Team: New Joiners; Early Leavers; Transfers; Change of Details

Email Address:	erpf@eastriding.gov.uk	Telephone No:	01482 394103
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Retirement, Estimates and Deaths:

Full name:	Cherryl Smithson (for queries only)	Job Title:	Senior Pensions Officer
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Employer Discretions / Staff Training

Full name:	Simon Goddard	Job Title:	Senior Pensions Officer
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Financial Control: Employee and employer contributions; FRS17 reports; employer contribution rate

Email Address:	fct@eastriding.gcsx.gov.uk	Telephone No:	01482 394127
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Internal Disputes Resolution Procedure (IDRP)

Full name:	Suzanne Firth	Job Title:	Principal Pensions Officer
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ERPF Online Service and ERPF Website

Full name:	Teresa Eaton-Watts	Job Title:	Senior Pensions Officer
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Pension implications of TUPE transfers and outsourcing staff

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