Bath & North East Somerset Council

Avon Pension Fund

LOCAL GOVERNMENT PENSION SCHEME

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AVON PENSION FUND

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Dear Robert

Academies and pooling in the Local Government Pension Scheme

Thank you for the opportunity to respond to the consultation on pooling arrangements for academies within LGPS funds.

The driver of this consultation is that a *few* funds have prima facie not treated academies fairly in setting the contribution rates for schools converting to academy status. However, the Avon Pension Fund, advised by our Actuary has adopted a fair and consistent approach, even though we were aware of the potential financial risks of such an approach. The letter of guarantee from the DfE has provided some comfort in terms of risk mitigation to the approach adopted but is still short of an absolute guarantee.

Whilst this Fund's approach is fair and consistent to all the employers in the Fund and thus protects all employers in this Fund equally, there may be other reasons why other funds have taken a different approach and one which may it may not be deemed fair and consistent to the government. However given each Fund's statutory responsibility for funding and risk management, the treatment of academies should be left to the discretion of the administering authority who has responsibility, not to particular government departments, but to all the employers and members within the fund.

When converting to academy status the Avon Pension Fund treats the new bodies as it does all other employing bodies. The future service contribution rate payable reflects the membership profile of that body, using the same actuarial assumptions for the rest of the Fund. On conversion, the new academy is allocated a deficit from its ceding local authority which is based on relative payrolls. The deficit recovery period is set at the same as that of the ceding authority. Thus any differences between the initial contribution rate and deficit payments will be due to the membership profile of the new body.

This is reasonable to apply as otherwise the academy would be subsidising the council or vice versa.

At the first valuation post conversion, the academy's position is revised in line with the Funding Strategy Statement (FSS), as are all bodies within the Fund. The overriding objective of the Avon Pension Fund's FSS is to achieve stability in contribution rates. Our FSS sets out different maximum deficit recovery periods for similar groups of employers based on covenant risk. The maximum deficit recovery period for academies cannot exceed that of their ceding employer i.e. they are not treated differently. This policy has been enabled due to the letter of guarantee from the DfE. Had this not been forthcoming, academies would have been assessed with a weaker covenant and the maximum recovery period allowed would have been far shorter.

The DfE has to bear in mind that the majority of employers including academies find pensions matters very challenging and not easily understood. Given that many funds are already putting in place additional resources to deal with the issues arising with new scheme employers, further complicating matters with inequitable pooling arrangements and administrative arrangements would seem to be an unnecessary burden on the tax payer. It would be better if the DfE issues some best practice guidance for those few funds that are not viewed as treating academies equitably. This could be easily achieved via the new national scheme advisory board framework.

Taking the questions posed in the consultation the Avon Pension Fund's views are as follows:

1. The proposal for this consultation is that stability of a converted Academy's scheme employer contributions will be best achieved by pooling the scheme arrangements of academies and the ceding authority. Is this the best way to achieve the stability needed? And, if not what are the other solutions?

   As explained earlier, existing arrangements applied by many funds already treat academies fairly on conversion and do not give rise to "instability" for the academy. In this respect we do not agree with the premise of this consultation.

   Whether pooled or not, funds and actuaries will still have to keep individual employer data, cashflows and asset/liabilities in order to provide IAS 19 calculations.

   Fundamentally, we believe that each scheme employer should be responsible for its own financial position, and therefore pooling arrangements should not be the norm. The key to operating this arrangement is the fair and transparent allocation of deficit at inception and the funding principles applied in light of the DfE guarantee. Being consistent in the allocation/treatment of deficit with the contributions being paid by the LEA schools will give rise to stability at conversion but not necessarily on an on-going basis as contribution requirements will, in part, be determined by the experience of the Academies themselves.

   The issue becomes more complicated as academies merge or further divest themselves of services which in turn become employers within the *scheme. Pooling in these circumstances would add further levels of complication amidst a merry go round of cross subsidy*

2. What bodies should be included in the pool: Academies and local authorities, Academies and local authority maintained schools, or just academies? Please say what other arrangements would achieve this aim?

   As local authorities have no funding relationship with academies and academies have opted out of LEA control, academies should not be pooled with local authorities or local authority schools, in order that there is no cross-subsidising of pension costs (especially where there are significantly different trends in payroll growth) between the separately funded organisations. Therefore, the pooling arrangements should only include academies.

   If LEA schools are pooled with academies there may be practical implications for payroll if different employer contributions rates need to be applied and for funds in maintaining separate member records. This would mean extra administration costs and the creation of historic records. It would require agreement over the funding rules in the event there was a call on the DfE guarantee which does not apply to LEA schools.

3. If pooling regulations are introduced, should an organisation have a choice about membership of the pool and should this choice be permanent?

   If regulations introduce pooling, organisations should ***not*** *have the choice as it would be impractical to manage. However, if they are given the right to choose, then the choice made should be permanent. The pool should have clearly defined rules of operation, especially around exits. Bodies opting in and out of pooling arrangements will add significant extra work for the actuary and fund in managing entries/exits for the pool.*

   Another reason for not allowing the academy to choose is that employers often have limited understanding of actuarial issues and will opt for the approach that generates the lowest initial contribution rate. This could cause the costs for existing pool members to rise as those with higher "standalone" contributions elect to join the pool.

4. Should actuarial assumptions used for employers in the pool be agreed at local level with expert advice from the fund actuary? Or should expert guidance be developed for use by each fund?

   This should be left to local funds to ensure the underlying assumptions are consistent with other bodies in the fund. If determined centrally and not in line with other bodies within the fund, other bodies or groups of bodies would be entitled to having their own tailored assumptions.

   If pooling is introduced, a ***pooling agreement*** *would need to be in place that would set out all parameters for participation, including which discretionary pension costs are outside the pool, i.e. costs which are within the control of the pool member. These could include additional costs of redundancy on grounds of efficiency, pay awards higher than actuarial assumption for the pool. This would also need to be underwritten by the DfE on behalf of the pool, as opposed to the pension fund, since the fund* *would look to recover any shortfall in contributions if an organisation in a pool collapsed.*

5. What provisions might be needed to avoid any additional costs where transfers of assets and liabilities have already been made as a result of academy conversions?

   This is an issue that the actuaries are best placed to answer.

   Retrospective changes to existing deficits could be very complex to achieve, communicate and implement as there will inevitably be winners and losers from the process. ***All costs should be met by the DfE on behalf of the academies if the basis for change is to provide academies with "stability".*** *Administering authorities, local authorities and their LEA schools should not be responsible for the additional costs if implemented.*

   Our main concern would be with re-allocating existing deficits between academies and ceding councils. If the re-allocation results in significant increases for either party, then it would be unreasonable to immediately increase the deficit payment contribution given there will not be a parallel transfer of funding. This increases the Fund's overall risk.

   Point 13e in the consultation document highlights the significant complexity that will occur in pooling arrangements which would bring a disproportionate administrative cost for funds in monitoring the pool members, engaging with employers and risk management, given the significant number of academy conversions and service outsourcings taking place.

6. If any administering authority has satisfactory arrangements already in place, or is in the process of implementing solutions that satisfy all parties, please could you provide a brief description of them? It is not the intention to disrupt successful local solutions, but rather to encourage the sharing of best practise which might best meet Ministers' aims of similar and stable employer rates when a maintained school converts to academy arrangements.

   We believe our existing arrangements treat academies fairly as explained previously. At a time of severe cost pressures, we do not support any costly change in regulations merely to address an issue that a minority of funds have created. The main beneficiaries will be the actuaries in terms of the significant fees they will receive for implementing any changes.

Yours sincerely,

LWoodyard.

Liz Woodyard
Investments Manager