

<p>Non-Executive Report of the:</p> <p>Pensions Board</p> <p>Monday, 20 November 2023</p>	
<p>Report of: Julie Lorraine Corporate Director Resources</p>	<p>Classification: Open</p>
<p>Funding Strategy Statement Update and Policy on Academy Funding Update</p>	

Executive Summary

This report covers updates to the Funding Strategy Statement's and Academy Funding Policy in light of recent policy issued by the Education & Skills Funding Agency (ESFA) regarding the operation of the DfE Academy Guarantee and its application to academy outsourcings issued in May 2023.

The Board received the Funding Strategy Statement in September 2022 and the final post employer consultation in March 2023 following completion of the triennial valuation.

Recommendations:

The Pensions Board is recommended to:

1. Note the content of this report; and
2. Note the revised Funding Strategy Statement as asset out in Appendix A which includes the updates to Academies; and
3. Note the revised policy on Academy Funding Appendix B.

1. REASONS FOR THE DECISIONS

- 1.1 Regulation 58 of the Local Government Pension Scheme (Administration) Regulations 2013 (as amended) together with the guidance issued by CIPFA provides the statutory framework from which the Administering Authority is required to prepare a Funding Strategy Statement (FSS).
- 1.2 The FSS will be revised and published whenever there is a material change to the policy on the matters set out in the FSS.

- 1.3 The revised FSS should be completed and approved by the Pensions Committee (or equivalent) prior to the completion of each valuation.

2. ALTERNATIVE OPTIONS

- 2.1 There is no alternative because there is a requirement for Members of the Pensions Committee to approve any significant changes to the Funding Strategy Statement and associated policies.

3. DETAILS OF THE REPORT

- 3.1 The Education & Skills Funding Agency (ESFA) recently released a policy paper regarding the operation of the DfE Academy Guarantee and its application to academy outsourcings. The key updates from the new policy are:

- i) An explicit statement that pension liabilities associated with academy outsourcings in the below scenarios are now guaranteed by the DfE. This is an important development as previously not all outsourcings were covered by the previous guarantee.
- ii) The scenarios covered are set out below. This is only applicable to staff who are eligible for LGPS and if the admission is operating under a 'pass-through' arrangement.
 - a. Staff currently working for an academy transfer to an outsourced contractor under TUPE.
 - b. Staff who transfer to an outsourced contractor under TUPE before the academy converted (ie when it was still a maintained school) and the outsourcing contract passes to the academy following conversion.
 - c. Staff who currently work for the local authority which is providing services to the academy under a contract, but the contract is then awarded to another third-party contractor and the staff transfer to the contractor under TUPE.
- iii) Academies do not need to request ESFA approval in the above scenarios. If the outsourcing is not covered under the scenarios, then academies still must contact ESFA for approval.
- iv) ESFA's view is that this now removes the need for a bond for outsourcings in these scenarios. If an administering authority still insists on a bond then the contractor has to provide it as academies cannot provide bonds for LGPS liabilities.
- v) The policy is retrospective in its application.

- 3.2 The scheme actuary has suggested updating the wording in the FSS, or any associated policy, to ensure that this new guidance is reflected.

Other considerations

- 3.2 Consider making pass-through the default arrangement for all academy outsourcings to ensure they are covered by this new guarantee policy.
- 3.3 Review if the changes affect any existing outsourcings and if changes are needed to security arrangements/admission agreements.

Review internal processes for administering academy outsourcings to ensure that it falls under the scenarios covered by the guarantee policy and what action needs to be taken if it does not.

- 3.4 In light of these considerations, officers have informed the actuary of the need to arrange a short meeting with academies to discuss implications of these changes. Officers feed back to the Committee and Board any concerns raised by academies although these changes are much welcomed.

4. EQUALITIES IMPLICATIONS

- 4.1 The Funding Strategy Statement aims to ensure all employers are treated fairly.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

Risk Management

- 5.2 All material, financial and possibility of risks have been considered and addressed within the report and its appendices and the FSS will provide the Pension Fund with a solid framework in which to achieve a full funding status over the long term. Risks are monitored quarterly via the Risk Register.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no direct financial implications arising from this report. The Fund is required to produce an FSS which sets out the underlying assumptions and principles that are adopted when valuing the Fund's liabilities and setting contribution rates. Appropriate contribution rates by the various employers are necessary for the Pension Fund to approve its funding level.

7. COMMENTS OF LEGAL SERVICES

- 7.1 Regulation 58 (1) of the Local Government Pension Scheme Regulations 2013 requires an administering authority must, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out its funding strategy.
- 7.2 Regulation 58(3) requires the Fund to keep the statement under review and, after consultation with such persons as it considers appropriate, make such revisions as are appropriate following a material change in its policy set out in the statement, and if revisions are made, publish the statement as revised.
- 7.3 The review of the funding strategy statement has been undertaken by the Fund Actuary and Fund officers with reference to 7.2 above as required.

Linked Reports, Appendices and Background Documents

Linked Report

- List any linked reports
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- State NONE if none.

Appendices

- List any appendices [if Exempt, Forward Plan entry MUST warn of that]
- Funding Strategy Statement (FSS) (Appendix 1)
- Academy Funding Policy (Appendix 2)

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- These must be sent to Democratic Services with the report
- State NONE if none.

Officer contact details for documents:

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