

Local Government Pensions Scheme DfE briefing note

1. Non-teaching staff in a maintained school converting to academy status are likely to belong to the Local Government Pension Scheme (LGPS) and have their pension dealt with by the administering authority applicable to schools in that Local Authority (LA). The pensions authority is sometimes the same local authority as that maintaining the school, but in London there is a separate pensions authority, and in areas affected by local government reorganisation there is often a lead authority which acts as pensions authority for several LAs. **When a school is about to convert to academy status, the relevant pensions authority should be contacted at the earliest possible stage.**

2. Academies are separate scheme employers under the LGPS. Academies are 'scheduled body' employers, being listed in Part 1 of Schedule 2 to the LGPS Administration Regulations 2008 [SI2008/239] (as amended). They are not 'admitted bodies'.

3. Academies' funding agreements require them to offer LGPS membership to all non-teaching staff. Where maintained schools apply to convert to Academies under section 3 of the Academies Act 2010 and an Academy order is made under section 4, those existing staff who are already members of the LGPS by virtue of the Administration Regulations would not be affected by the conversion. Their membership of the LGPS would continue unaffected. After conversion, new non-teaching staff will be eligible to join the LGPS and will be automatically enrolled in the Scheme when employed, but will have the option to opt out of the Scheme if he or she gives notice within three months. It is also open to an Academy to pay contributions into private pension schemes, but this normally happens only if an academy was previously an independent school and some staff wish to remain in the private scheme.

4. The pensions authority should be asked for a calculation of the employer contribution rate for the academy. The actuarial assessment will be done by the LGPS administering authority's fund actuary but the school may wish to have their own assessment performed by an independent actuary. The employer contribution rate will be calculated on the basis of the academy's staff profile and relates only to the academy, whereas nearly all maintained schools in an LA pay the same pooled rate. This means the rate can be higher than the rate which applied to the school when maintained. There is likely to be a charge for the actuarial calculation.

5. Unlike the Teachers Pension Scheme (TPS), LGPS is a funded scheme and can be in surplus or deficit according to investment performance. Most pension funds are currently managing a deficit, and the deficit in respect of pensionable service prior to conversion transfers from the LA to the academy through the transfer agreement signed prior to conversion. The actuarial calculation of the employer contribution rate will take into account the amount needed to pay off any past service deficit and meet future accruals over a specified period, which is normally taken to be 20 years for Academies, although it is for the actuary to take a view on this.

6. Whatever arrangements apply currently for remitting contributions as a maintained school, the academy will itself be responsible for remitting employer and employee contributions to the pensions authority, although a payroll provider may do this on its behalf. The LA may itself be the payroll provider if the academy decides to use its services.

7. If there is a deficit in the relevant pension fund, the Charities Statement of Recommended Practice (SORP) requires that the academy's statutory accounts show the deficit as a liability in the balance sheet. The total deficit can be substantial. However, the Charity Commission has advised that this liability, even if it exceeds the academy's assets, does not mean that the academy is trading while insolvent, because the deficit is being reduced by the contributions made, using the grant payable to the academy. See the advice at

http://www.charitycommission.gov.uk/Charity_requirements_guidance/Charity_governance/Managing_resources/pensions.aspx#2

especially paragraphs 2 and 3.

Conclusion

8. When a school is converting, it is therefore vital to obtain details of the pension authority contacts as quickly as possible (usually from the HR/pay department of the maintaining LA), to ensure that staffing information required by the pension authority's actuary can be supplied by the school or the maintaining authority, and to ensure that the implications for the academy have been fully discussed with the pensions authority.

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