

London Borough of Croydon Pension Fund

Policy for Employers Leaving the Fund
September 2021

1 Introduction

This is the policy of the London Borough of Croydon Pension Fund (“the Fund”) as regards the treatment of employers leaving the Fund.

It has been prepared by the Administering Authority to the Fund, Croydon Council, in collaboration with the Fund’s actuary, Hymans Robertson LLP. This policy replaces all previous policies on employer termination and is effective from

These procedures and policies apply to employers participating in the Fund.

1.1 Regulatory Framework

The Local Government Pension Scheme Regulations 2013 as amended (“the 2013 Regulations”) outline the general framework for employees and employers participating in the Local Government Pension Scheme in England and Wales. The regulations that are relevant to employers leaving the Fund are as follows;

Regulation 64 (1) – this regulation states that, where an employing authority ceases to be a scheme employer, the Administering Authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the termination date. Further, it requires the rates and adjustments certificate to be amended to show the revised contributions due from the ceasing employer

- Regulation 64 (2) – where an employing authority ceases to be a Scheme Employer, the Administering Authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the exit date. Further, it requires the rates and adjustments certificate to be amended to show the exit payment due from the ceasing employer or, the excess of assets over the liabilities in the fund.
- Regulation 64 (2ZAB) – the Administering Authority must determine the amount of an exit credit, which may be zero, taking into account the factors specified in paragraph (2ZC) and must:
 - (a) Notify its intention to make a determination to-
 - (i) The exiting employer and any other body that has provided a guarantee to the exiting employer
 - (ii) The Scheme Employer, where the exiting employer is a body that participated in the Scheme as a result of an admission agreement
 - (b) Pay the amount determined to that exiting employer within six months of the exit date, or such longer time as the Administering Authority and the exiting employer agree.

- Regulation (2ZC) – In exercising its discretion to determine the amount of any exit credit, the Administering Authority must have regard to the following factors-
 - (a) The extent to which there is an excess of assets in the fund relating to that employer in paragraph (2)(a)
 - (b) The proportion of this excess of assets which has arisen because of the value of the employer's contributions
 - (c) Any representations to the Administering Authority made by the exiting employer and, where that employer participates in the scheme by virtue of an admission agreement, any body listed in paragraphs (8)(a) to (d)(iii) of Part 3 to Schedule 2 of the Regulations: and
 - (d) Any other relevant factors
- Regulation 64 (2A) – the Administering Authority, at its discretion, may issue a suspension notice to suspend payment of an exit amount for up to three years.
- Regulation 64 (3) – in instances where it is not possible to obtain additional contributions from the employer leaving the Fund or from the bond/indemnity or guarantor, the contribution rate(s) for the appropriate Scheme employer or remaining Fund employers may be amended.
- Regulation 64 (4) – where it is believed a scheme employer may cease at some point in the future, the Administering Authority may obtain a certificate from the Fund actuary revising the contributions for that employer, with a view to ensuring that the assets are expected to be broadly equivalent to the exit payment that will be due.
- Regulation 64 (5) – following the payment of an exit payment to the Fund, no further payments are due to the Fund from the exiting employer.

In addition to the 2013 Regulations summarised above, the Regulation 25A of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (“the Transitional Regulations”) give the Fund the ability to levy a cessation debt on employers who have ceased participation in the Fund (under the previous regulations) but for whom a cessation valuation was not carried out at the time.

These regulations relate to all employers in the Fund.

1.2 Reviews of Policy

This policy will be reviewed at least every three years following triennial valuations or following changes in the Regulations pertaining to employers leaving the Fund.

It should be noted that this statement is not exhaustive and individual circumstances may be taken into consideration where appropriate.

2 Principles

2.1 Overriding Principles

When an employer ceases active participation in the Fund, the default position of the Fund is that a cessation valuation will be carried out and that pass-through* provision will not be enabled.

**An arrangement between a contracting local authority and a service provider that is an Admitted Body to the LGPS. As the LGPS is a defined benefit scheme, the employer's contribution rate will vary depending on the profile of the workforce and the value of the fund's assets.*

Under a pass-through arrangement, the contracting authority and service agree a fixed rate for the employer's contribution rate. If this amount varies, the service provider can recover the amount of any increase from the contracting authority through an adjustment to the contract price.

If, in exceptional circumstances, a ceasing employer wishes to enter into discussions around pass-through provision, staff time involved on the Fund side will be charged at the rate defined within the Administration Strategy Statement. Additionally any agreement on this will be at the discretion of the administering authority and will need to be authorised by the relevant person as laid down in the scheme of delegation detailed in the governance and compliance statement as required under regulation 55.

The purpose of a cessation valuation is to determine the level of any surplus or deficit in an employer's share of the Fund as at the date the employer leaves the Fund. Unless the cost of doing so is deemed to outweigh the likely recovery to the Fund, the Fund will pursue an outgoing body (including the liquidator, receiver, administrator or successor body if appropriate) for any deficit. The Fund will also pursue any bond or indemnity provider and guarantor, for payment where appropriate.

It is the Fund's policy that the determination of any surplus or deficit on termination should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

Section 4 of this document sets out the bases currently in use for cessation valuations. These bases may be updated or withdrawn at the discretion of the Administering Authority on the advice of the Fund Actuary and will expire no later than 31 March 2023.

2.2 Interaction with Funding Policy

It is the Fund's policy that each employer is responsible for the funding of all Fund benefits of its own members, including current and previous employees. The Funding Strategy Statement ("FSS") sets this out in more detail and addresses the issue of cross-subsidies between employers. Any cessation valuation will be carried out using assets and liabilities allocated to the employer at the last triennial valuation as a starting point. This position will be updated to allow for membership movements and market conditions as at the cessation date.

The cessation valuation for any employer leaving a pool will be based on the funding position of the pool as a whole at the cessation date.

Note h of section 3.3 of the Funding Strategy Statement sets out funding policy for admission bodies leaving the Fund.

2.3 Principles for Determining Payment

Croydon Council will determine the deficit / surplus attributable to the employer on cessation having taken actuarial advice.

If an employer is aware that it will be leaving the Fund in future, it should alert the Administering Authority and request a valuation under Regulation 64 (4). If this valuation indicates that a surplus position is likely, then the Actuary will be able to advise the Administering Authority whether a contribution reduction (before the employer ceases) is appropriate.

Exit Credits

Regulation changes around policy on payments of exit credits came into force with effect from 20 March 2020. Subsequent changes regarding flexibility around employer cessation debts and flexibility for Funds to carry out interim valuations and/or review employer contributions between formal valuations came into force with effect from 23 September 2020.

The FSS has therefore been updated to allow for the Fund's policy on applying these new discretions on determining the payment of exit credits. The following summarises the proposed approach:

Exiting employers should be assessed on a case-by-case basis, and be subject to the principles set out in the revised FSS in order to consistently apply the discretion in assessing the amount of and in paying any exit credit.

In the first instance, the onus is on the exiting employer (and any letting/guaranteeing employer) to provide representations on how they consider any exit credit should be treated.

However, in all cases, the Fund considers that the maximum value of any exit credit is the surplus identified in the Fund Actuary's exit valuation on the exit basis appropriate to the cessation event/employer.

The approach differentiates by the type of body involved. This is a result of Admission bodies being able to terminate their participation in the Fund at any time. On the other hand, Scheduled bodies do not have this ability.

In general, where an admission agreement began prior to 14 May 2018 (the date when exit credits became allowable under the Regulations), the Fund will not pay an exit credit as the potential for an exit credit would not likely have been priced into tenders for service.

Where guarantees, pass-through and risk sharing agreements are clearly set out in admission terms, the Fund will reflect these in its determination. In particular, no exit credit will be payable to any admission body which participates in the Fund via a pass through agreement.

Where pass through or risk sharing agreements are not applicable, the Fund will generally limit any exit credit to the value of employer contributions paid over the employer's contract allowing for investment returns on those contributions. The Fund will ask the actuary to carry out this calculation alongside the cessation valuation. (Noting that a proportionate approach to this calculation may have to be taken when an employer has participated in the Fund over a long period and historic contribution information may not be readily available.)

Deficit at exit

If it is determined that there is a deficit and the employer is required to make a payment to the Fund, the Administering Authority will advise the employer of the amount required.

The Fund's policy is for any deficit on cessation to be recovered through a single lump sum payment to the Fund, where possible. The Fund may consider permitting an employer to spread the payment over an agreed period where it considers that this does not pose a material risk to the solvency of the Fund.

If the payment is to be spread, the Administering Authority will consult with the Actuary to determine the appropriate payments to be made.

Despite the updates for an employer ceasing with a deficit the normal policy within the FSS remains the requirement to pay any debt immediately.

Any variation away from this would be considered in the light of this benchmark and would primarily need to be in the interests of the Fund.

However, the FSS updates allow the Fund to be mindful of the broader objectives and finances of the employer when considering a more flexible exit arrangement.

For example, a flexible approach may in some cases still be appropriate where the employer covenant is weak as it may allow the employer to avoid building up further liabilities.

When entering into any flexible exit arrangement, a continual but proportionate review of the conditional elements will be required to ensure it remains appropriate and in the best interests of all parties.

Greater detail on these arrangements is laid down in the Funding Strategy Statement which should be read in conjunction with this policy.

These flexible exit arrangements will be at the discretion of the administering authority in consultation with the Fund Actuary and will need to be authorised by the relevant person as laid down in the scheme of delegation detailed in the governance and compliance statement as required under regulation 55.

In the normal course of events (i.e. where the process below has been adhered to), the outgoing body will not be exposed to interest rate, investment or other funding risks after the cessation date. The final deficit payment may be calculated by the addition of interest at the level of the base rate between the cessation date and the final payment date(s). Exceptions to this may be made where the Fund is not advised of the employer having left the Fund within a reasonable time period.

3 Process

3.1 Responsibilities of ceasing employers

An employer which is aware that its participation in the Fund is likely to come to an end must:

- advise the Fund, in writing, of the likely ending of its participation (either within the terms of the admission agreement in respect of an admission body (typically a 3 month notice period is required) or otherwise as required by the Regulations for all other scheme employers). It should be noted that this includes closed employers where the last employee member is leaving (whether due to retirement, death or otherwise leaving employment);
- provide any relevant information on the reason for leaving the Fund and, where appropriate, contact information in the case of a take-over, merger or insolvency; and
- provide all other information and data requirements as requested by the Administering Authority which is relevant, including in particular any changes to the membership which could affect the liabilities (e.g. salary increases and early retirements) and an indication of what will happen to current employee members on cessation (e.g. will they transfer to another Fund employer, will they cease to accrue benefits within the Fund, etc.).

3.2 Responsibilities of Administering Authority

The Administering Authority will:

- gather information as required, including, but not limited to, the following:
 - details of the cessation - the reason the employer is leaving the Fund (i.e. end of contract, insolvency, merger, machinery of government changes, etc.) and any supporting documentation that may have an effect on the cessation;
 - complete membership data for the outgoing employer and identify changes since the previous formal valuation; and
 - the likely outcome for any remaining employee members (e.g. will they be transferred to a new employer, or will they cease to accrue liabilities in the Fund).
- identify the party that will be responsible for the employer's deficit on cessation (i.e. the employer itself, an insurance company, a receiver, another Fund employer, guarantor, etc.);
- commission the Fund actuary to carry out a cessation valuation under the appropriate regulation;
- where applicable, discuss with the employer the possibility of paying adjusted contribution rates that target a 100% funding level by the date of cessation through increased contributions in the case of a deficit on the cessation basis or reduced contributions in respect of a surplus;

- where applicable, liaise with the original ceding employer or guarantor and ensure it is aware of its responsibilities, in particular for any residual liabilities or risk associated with the outgoing employer's membership; and
- having taken actuarial advice, notify the employer and other relevant parties in writing of the payment required in respect of any deficit on cessation and pursue payment.

3.3 Responsibilities of the Actuary

Following commission of a cessation valuation by the Administering Authority, the Fund Actuary will:

- calculate the surplus or deficit attributable to the outgoing employer on an appropriate basis, taking into account the principles set out in this policy;
- provide actuarial advice to the Administering Authority on how any cessation deficit should be recovered, giving consideration to the circumstances of the employer and any information collected to date in respect to the cessation; and
- where appropriate, advise on the implications of the employer leaving on the remaining Fund employers, including any residual effects to be considered as part of triennial valuations.

4 Cessation Valuation basis

The following bases will apply from 1 April 2020 to 31 March 2023 the date by which the next valuation is signed off, unless otherwise withdrawn or updated by the Administering Authority on the advice of the Fund Actuary.

4.1 Gilts Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index as at the date of cessation, rounded to the nearest 0.1% per annum. (see Appendix 2 of the 2019 Actuarial Valuation Report – Projection of assets and benefit payments)

4.2 Ongoing Discount Rate

The annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index plus 2.0% per annum (calculated geometrically) at the date of cessation, rounded to the nearest 0.1% per annum. (see Appendix 2 of the 2019 Actuarial Valuation Report- Projection of assets and benefit payments)

4.3 Pension Increases

The pension increase assumption is determined in line with the Consumer Prices Index (CPI). The CPI assumption is based on the assumption for the Retail Prices Index (RPI) less 0.8% per annum.

RPI is calculated as the geometric difference between the annualised gross redemption yield on the FTSE Actuaries Over 15 Years UK Gilts Index and the annualised gross redemption yield on the FTSE Actuaries Over 15 Years Index-Linked Gilts (3% Inflation) Index as at the cessation date, rounded to the nearest 0.1% per annum. (see Appendix 2 of the 2019 Actuarial Valuation Report- salary and benefit increases)

4.4 Salary Increases (Where Applicable)

As determined in the most recent valuation of the Fund, salary increases are assumed to be in line with CPI (see Appendix 2 of the 2019 Actuarial Valuation Report- salary and benefit increases)

4.5 Post-Retirement Mortality

Post-retirement mortality for all members is determined in line with Club Vita analysis which is carried out on behalf of the Fund at the triennial formal valuation. These are a bespoke set of Vita Curves that are specifically tailored to the individual membership profile of the Fund. Future improvements are in line with CMI Projections assuming the current rate of improvements has reached a 'peak' and that a long term rate of 1.25% per annum will apply.

Further details are set out in the most recent formal valuation report of the Fund.

Under the gilts cessation basis, an allowance is made for further improvements to life expectancies. (see Appendix 2 of the 2019 Actuarial Valuation Report)

4.6 Other Demographic Assumptions

As set and outlined in the report on the most recent formal valuation of the Fund. (see Appendix 2 of the 2019 Actuarial Valuation Report)