



**Unclassified**

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Date: 4 April 2019  
My ref: KG  
Your ref:

Dear Sirs

**Local Government Pension Scheme (LGPS); Fair Deal – Response to Policy Consultation**

I write in relation to the above topic; this response is from the Dorset County Pension Fund, on the proposed amendments to the LGPS, introducing Fair Deal protections into the Scheme.

Please find general comments and relevant regulation responses to the questions proposed in the Consultation.

**Question 1: Do you agree with the definition of Protected Transferees?**

*In principle we agree with the definition.*

*Further clarity will be required in regard to the retention of the protection. The term 'wholly or mainly' needs clear definition. The definition needs also to protect members, in that this should not be open to misinterpretation or manipulation, otherwise the policy intention may not be met. We should also ensure that any new definition provides equal or better protection than under previous regulations.*

**Question 2: Do you agree with the definition of a Fair Deal Employer?**

*In principle we agree with the definition.*

*It would be preferable to include higher and further education establishments, firstly because it seems right to protect the pension entitlements of as many LGPS members as possible, and also to retain access to the LGPS for future employees. This not only provides good pension provision but ensures overall membership does not decrease.*

*DofE guidance for academies is crucial, as is confirming the position of foundation and voluntary schools.*

### **Question 3: Do you agree with these transitional measures?**

*We are in agreement with, and supportive of the proposed transitional measures.*

### **Question 4: Do you agree with the calculation of inward transfer values?**

*We are in agreement with the proposed calculation of inward transfer values.*

### **Question 5: Deemed Employer Status proposals**

*In principle we agree with the proposals on deemed employer status.*

*Whilst this may appear a good solution to the current problems faced within funds with increasing numbers of admission agreements, and the difficulty sometimes faced by employers finding contractors to bid for contracts within local authorities because of the high pension risks and costs, there are a number of problems with this solution which I have summarised below.*

- There is a choice about this option, and out-sourcing authorities may not want the deemed employer approach because of the additional administrative burden on them, and potential financial risks.*
- My experience is that employers rarely fully understand the LGPS, its provisions and financial risks. I am therefore concerned that they will not adequately understand this option. How would we define 'full regard'? And what would the consequences be where full regard was not given?*
- In out-sourcing contracts, employers generally want as little further involvement as possible. In general, resources within local government are stretched to breaking point, and where there is a choice between the two, they may simply want the option with the least impact on them, (less on-going administration, resource etc) i.e a traditional admission agreement. We could therefore find it's not a popular choice.*
- Please note the current position for us is that despite enormous efforts in terms of employer communications, we still have employers (usually schools) who do not consult us ahead of out-sourcing services and for who setting up an admission agreement is an after-thought. The ambition to achieve prior engagement at the tender stage, and in discussions over financial contracts etc is unlikely to be achieved in all cases. The change in the LGPS (Amendment) Regulations 2018 which permits an admission agreement to be backdated to the start of a contract where for example, late notification caused a delay in completing the admission agreement process, was not helpful in this respect. It effectively said this was acceptable.*
- It is not clear that this change will decrease the administrative burden, or current challenges in this area, faced by administering authorities.*
- It is not clear where the division of responsibility lies between the contractor and out-sourcing employer. Does this extend to decisions made by the deemed employer? I am thinking about possible IDRPs cases, Discretion policies, provision of data etc. Who would be responsible for data provision and poor quality data?*

### **Question 6: What should advice from the scheme advisory board contain to ensure that deemed employer status works effectively?**

*This is key to these proposed changes achieving positive change from these regulations. I have listed some key areas of concern for us that we would expect to see covered;*

- Clear definition of Deemed Employer*
- Clear, and detailed, definition of the pension responsibilities of the Deemed Employer, the Fair Deal Employer and the administering authority. This would include data provision,*

*financial reporting, contribution payments, application of discretion policies, clear roles for IDRPs and all other day to day activities and processes associated with LGPS administration*

- *The requirements on the Fair Deal employer in relation to tender exercises and contracts so that it is clear what considerations need to be given to the LGPS from the start of the process. This would include financial details of the pass-through arrangement, contribution rates, pension responsibilities etc*
- *What would be really helpful is some form of consequence to parties involved in not complying with the regulatory requirements*

*It would also be helpful to include admission bodies equally within any guidance.*

*Finally, I would like to understand if this is purely guidance, in which case our ability to ensure compliance may be limited. It is important to consider the type of employers taking on local authority contracts, some of whom present administering authorities with issues affecting data, member benefits and the soaring costs to us of legal advice.*

**Question 7: Should the LGPS Regulations 2013 specify other costs and responsibilities for the service provider where deemed employer status is used?**

*We think it would be helpful for the responsibilities of service providers to be specified within the regulations as this gives strength to our position, but not necessarily costs.*

**Question 8: Is retention of admitted body status and inclusion of risk sharing within admission agreements the right approach?**

*It would be very helpful to administering authorities that where an admission agreement is entered into, any risk sharing agreement is included.*

*We remain concerned that employers will not be keen to use the Deemed Employer route for reasons set out previously. Ideally the Deemed Employer would be the only option.*

*Consideration may be given to admission agreements only being available to employers over a certain size and/or contract length.*

**Question 9: What further steps can be taken to encourage early consideration of pension issues?**

*As mentioned previously, this remains an issue for us despite concerted efforts to educate employers. The primary area where issues arise is with schools and especially academies.*

*It is our view that early engagement with the administering authority is essential and helps to ensure contracts remain operational and problem free. We have pushed this message home repeatedly, and we offer an excellent level of support to our employers, with partial but not total success.*

*A stronger approach is therefore needed and the only route to prevent and deter is financial penalties where the regulatory requirements have not been sufficiently met. Key to this being achieved is clearly defined responsibilities, and a clear method of determining when requirements have not been met.*

*Could the regulations be changed to include a requirement on employers to inform the administering authority of the out-sourcing of services?*

**Question 10: Are you aware of any other equalities impacts or of any particular groups with protected characteristics who would be disadvantaged by our Fair Deal proposals?**

*It would be preferable to ensure all LGPS employees are covered by these new provisions. Currently certain groups are excluded. This may be unavoidable, but we should be satisfied that those not able to benefit from this better level of protection are not predominantly female and/or lower paid as this might be the case.*

**Transferring Pension Assets and Liabilities**

**Question 11: Is this the right approach?**

*Yes, this approach is right and addresses several immediate issues for us.*

**Question 12: Do the draft regulations effectively achieve our aims?**

*We consider the draft regulations to broadly achieve the aims.*

**Question 13: What should guidance issued by the Secretary of State state regarding the terms of asset and liability transfer?**

*We feel an actuarial perspective is required in relation to this, our only comment is that consideration must be given to equitable treatments of Funds.*

Yours faithfully,

A handwritten signature in black ink that reads "K Gibson". The signature is written in a cursive style with a long horizontal stroke at the end.

Karen Gibson  
Pensions Manager  
Dorset County Pension Fund