Division(s): NA

CABINET – 13 MARCH 2012

ACADEMIES AND PENSION COSTS

Report by the Assistant Chief Executive and Chief Financial Officer

Introduction

1. In December 2011, the Secretaries of State for Education and Communities & Local Government issued a joint letter to Local Authority Leaders and Chief Executives regarding academies and the Local Government Pension Scheme (LGPS). This letter set out concerns regarding the calculation of contribution rates for some Academies across the Country.

2. The letter set out the Minister's wishes for a consistent approach to the calculation of contribution rates for Academies, and that no Academy would pay an unjustifiably higher rate than maintained schools in the area. The Ministers set out that their preferred approach was to allow Academies to be pooled with their former local authority for LGPS purposes. The letter acknowledges there is no power at present to impose a pooled solution, but notes that Ministers will consider regulatory changes at a later date if deemed necessary.

3. The approach to pooling employers within the LGPS is set out in the Funding Strategy Statement for each Pension Fund. This Statement is determined by the Pension Fund Committee following consultation with appropriate stakeholders. The purpose of this report is to seek the Cabinet's view on the option to allow Academies within Oxfordshire to be pooled with the County Council, so that these views can be taken into account when the Pension Fund Committee consider the matter at its meeting on 16 March 2012.

Background

4. Under the Local Government Pension Scheme (Administration) Regulations 2008, all Academy schools are defined as Scheme employers within the LGPS. This means that all non-teaching staff are automatically eligible for membership of the LGPS, and all existing scheme members retain their scheme membership on conversion.

5. Within Oxfordshire, each of the five Academies established at the time of writing this report have been treated as standalone employers when assessing their liabilities and assets within the Fund. The contribution rates set have therefore reflected the characteristics of their specific scheme membership.

6. For each Academy, the Fund Actuary has determined a share of the existing pension fund deficit attributable to the County Council. The deficit has been

determined in proportion to the liabilities of the active members of the Academy staff to the liabilities of the active members of the Council as a whole. As such, if the membership profile for all schools and the remainder of the Council was consistent, the total contribution rate calculated would be equal for each employer. The Actuary considers this the fairest basis for undertaking the calculation. It also reflects the basis of the transfer of funding to each Academy.

7. Consistent with the Regulatory requirement to maintain as near constant contribution rates as possible, as well as the approach employed for all employers at the 2010 Valuation, the Actuary has varied the period over which any deficit can be repaid (up to a maximum of 25 years) to produce contribution rates for the Oxfordshire academies as close as possible to the 19.3% paid by the County Council and therefore the maintained schools.

8. It is understood that elsewhere in the Country, Administering Authorities and their Actuaries have determined that recovery periods should be restricted to much shorter periods, reflecting the lack of certainty over the future funding and therefore existence of any particular Academy. In particular, some authorities have restricted the recovery period to 7 years reflecting the minimum notice period required by either party to end the Funding Agreement. It is believed that this restriction on recovery period is the major reason for the increase in contribution rates facing some academies elsewhere in the Country.

Issues Associated with Pooling

9. Where an Administering Authority chooses to treat a number of employers as pooled for the purposes of the calculation of contribution rates, all actuarial assumptions are shared across the employers in the pool, and all employers share the implications of the different characteristics and experience of the employee membership. As such all employers within the pool have the same contribution rate.

10. The Oxfordshire Pension Fund currently pools together all small scheduled bodies, and separately all small admitted bodies. A number of transferree admission bodies where the pension costs are under-written by the sponsoring employer under the terms of their service contract are pooled with their sponsoring employer.

11. The main purpose of pooling is to maintain a near stable contribution rate for the smaller bodies, where a variation in membership profile or experience could have a disproportionate impact on the contribution rate. For example, a tier 1 ill-health retirement of a scheme member in their 20's would require the employer to fully fund an additional forty years of pension provision.

12. The County Council has chosen to pool with a number of its contractors where the staff were TUPE'D from the Council and the pension costs are underwritten through the service contract. In these cases though the Service Contract limits the extent that the pension costs are under-written to exclude

any costs arising from the actions or inactions of the contractor, outside the agreement of the County Council.

Academies and Pooling

13. Since the joint letter from the Secretaries of State a small number of schools have contacted Pension Services expressing a wish to be pooled with the Council for pension purposes. Two formal requests have been received. In both cases, the stand alone valuation completed by the Actuary set a contribution rate of 19.3%, equal to the Council's current rate, but with a shorter recovery period. Based on today's circumstances, both schools would therefore be better off as standalone employers.

14. The request to pool with the Council would therefore appear to reflect concerns from the schools regarding the risk of future increases relating to changes in the characteristics or experience of their own scheme members. By pooling with the Council, these risks would be shared, significantly reducing the likelihood of a large change to their future contribution rate.

15. Whilst pooling with the County Council reduces the risks faced by individual academies, the County Council will be taking on new risks. This is because the freedom granted to each academy to vary the terms and conditions of its staff, means they are in a position to significantly impact the level of pension liabilities going forward. This risk does not exist under the Council's current pooling arrangements, whereby the contractor retains responsibility for all pension costs incurred as a result of their decisions outside the agreement of the Council.

16. As the numbers of academies within Oxfordshire grows, the County Council's own contribution rate under a pooled arrangement would become increasingly determined by the independent decisions of the Academy Trusts.

17. If the County Council was to determine not to support an option to allow the Oxfordshire academies to pool with the County Council, then there are alternative options which the Pension Fund Committee will be able to consider.

18. Elsewhere in the Country, where the number of academies is significantly higher, Administering Authorities have agreed to establish a separate pool to specifically cover all academies. This option (once the numbers of academies is significant) has the benefit of spreading the pension costs so each individual academy has a reduced risk of a significant variation in its contribution rate, whilst protecting the Council from risks outside its control.

19. As the pattern of academies grows within Oxfordshire it will be possible to consider further alternative options e.g. allowing all academies set up under a single umbrella trust to be grouped for pension purposes.

20. It should be noted though that given the small number of academies in Oxfordshire currently, there is no real short term pooling option outside of

pooling with the County Council. In the absence of a pooled option, all academies will continue to be treated as standalone employers, with their contribution rates calculated on a consistent basis with all other employers in the Fund.

21. The Actuary would continue to target a contribution rate as close as possible to the current 19.3% payable by the schools whilst maintained by the Council. For some schools the contribution rate has been set above 19.3% reflecting the characteristics of the current scheme members, and the Fund limit of 25 years on the recovery period. All schools though would carry the risk of increased costs in future as a direct consequence of their decisions around pay, retirement, etc.

Financial and Staff Implications

22. If the Cabinet was to support the pooling of academies with the County Council, it is likely that the Pension Fund Committee would adopt the option. This would increase the financial risk to the County Council as the number of academies grows, in that the Council's pension costs would become increasingly determined by the independent decisions of each Academy.

RECOMMENDATION

23. **In light of the future financial risk to the Council, and the availability of alternative options open to the Pension Fund Committee, the Cabinet is RECOMMENDED not to support the option of allowing academies to be pooled with the County Council for LGPS purposes, and to inform the Pension Fund Committee accordingly.**

SUE SCANE
Assistant Chief Executive and Chief Financial Officer

Background papers: Letter from Secretaries of State for Education and Communities & Local Government – December 2011
Contact Officer: Sean Collins, Service Manager (Pensions, Insurance & Money Management) – 01865 797190

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