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General Purposes Committee

Monday 8 April 2024 at 9.30 am
Conference Hall - Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ

Please note this will be held as a physical meeting which all Committee members will be required to attend in person.

The meeting will be open for the press and public to attend or alternatively can be followed via the live webcast. The link to follow proceedings via the live webcast is available HERE

Membership:

Members	Substitute Members
Councillors:	Councillors:
M.Butt (Chair) M.Patel (Vice-Chair) Donnelly-Jackson Georgiou Grahl Knight Krupa Sheth Tatler	Afzal, Akram, Crabb, Farah Nerva, Rubin and Southwood. Councillors: Lorber and Matin.

For further information contact: James Kinsella, Governance Manager
Tel: 020 8937 2063, Email: james.kinsella@brent.gov.uk

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Notes for Members - Declarations of Interest:

If a Member is aware they have a Disclosable Pecuniary Interest* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest** in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

*Disclosable Pecuniary Interests:

(a) **Employment, etc. -** Any employment, office, trade, profession or vocation carried on for profit gain.

(b) **Sponsorship -** Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.

(c) **Contracts -** Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.

(d) **Land -** Any beneficial interest in land which is within the council's area.

(e) **Licences-** Any licence to occupy land in the council's area for a month or longer.

(f) **Corporate tenancies -** Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.

(g) **Securities -** Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

**Personal Interests:

The business relates to or affects:

(a) Anybody of which you are a member or in a position of general control or management, and:

- To which you are appointed by the council;
- which exercises functions of a public nature;
- which is directed is to charitable purposes;
- whose principal purposes include the influence of public opinion or policy (including a political party of trade union).

(b) The interests a of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

Agenda

Introductions, if appropriate.

Item		Page
1	**Apologies for absence and clarification of alternate members**	
2	**Declarations of interests** Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary or personal interests in the items on this agenda and to specify the item(s) to which they relate.	
3	**Deputations (if any)** To hear any deputations for which requests have been received from members of the public in accordance with Standing Order 67.	
4	**Minutes of the previous meeting** To approve the minutes of the previous meeting held on Monday 11 March 2024 as a correct record.	1 - 4
5	**Matters arising (if any)** To consider any matters arising from the minutes of the previous meeting.	
6	**Administration of the Brent Pensions Payroll** This report seeks approval from General Purposes Committee to extend the existing shared service arrangements for pensions administration to include pensions payroll administration.	5 - 10
7	**Pass-through Policy** This report outlines the preferred arrangements for contractors participating in the Brent Pension Fund. Brent Pension Fund's actuary, Hymans Robertson, have prepared a discussion document outlining the	11 - 42

principles, benefits and risks of using 'pass-through' approach for its admission agreements and a comparison with the current 'traditional' approach which the Committee is being asked to consider and approve.

8 Appointments to Sub-Committees / Outside Bodies

No membership changes have been identified in advance of the agenda publication for consideration by the Committee.

9 Exclusion of Press and Public

No items have been identified in advance of the meeting that will require the exclusion of the press and public.

10 Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Head of Chief Executive and Member Services or their representative before the meeting in accordance with Standing Order 60.

Please remember to set your mobile phone to silent during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public. Alternatively, it will be possible to follow proceedings via the live webcast **HERE**

Brent

LONDON BOROUGH OF BRENT

MINUTES OF THE GENERAL PURPOSES COMMITTEE
Held in the Conference Hall, Brent Civic Centre on Monday 11 March 2024 at 9.30 am

PRESENT: Councillor M Butt (Chair), Councillor M Patel (Vice-Chair) and Councillors Donnelly-Jackson, Georgiou, Grahl, Knight and Krupa Sheth and Tatler.

Also present: Councillors Farah and Nerva.

1. **Apologies for absence and clarification of alternate members**

Following her return from maternity leave, Councillor Muhammed Butt (as Chair) formally welcomed Councillor Mili Patel back in her role as Vice-Chair on the Committee.

The opportunity was also taken to thank Councillor Tatler for her support in covering the role of Vice-Chair during Councillor Mili Patel's period of maternity leave.

No apologies for absence were received.

2. **Declarations of interests**

There were no declarations of interest made during the meeting.

3. **Deputations (if any)**

No deputations were received.

4. **Minutes of the previous meeting**

RESOLVED that the minutes of the previous meeting held on Wednesday 21 February 2024 be approved as a correct record.

5. **Matters arising (if any)**

There were no matters arising.

6. **Appointment of Director of Housing Services**

Peter Gadsdon (Corporate Director Resident Services) introduced a report from the Head of Paid Service providing details (in accordance with Standing Order 76 (i) and (ii) – Interim appointments to senior management posts) of the recent interim appointment of Spencer Randolph as Acting Director Housing Services along with the proposed timetable for permanent recruitment to the position.

Members noted that the arrangement had been agreed following departure of the Council's Director of Housing and subsequent creation of the Director Housing Services position as part of the senior officer realignment. The new position had been designed to include Private Housing Services and Housing Management of the Council's housing stock and provide enhanced focus on improving landlord services to tenants and leaseholders along with those residents in the private rented sector with the interim arrangement providing stability pending a permanent appointment being made.

Having considered the report, it was **RESOLVED:**

(1) To note the appointment by the Chief Executive of Spencer Randolph as Acting Director of Housing Services.

(2) To note the timetable set out in section 3 of the report for the appointment to the Director Housing Services post on a permanent basis.

(3) To delegate to the Chief Executive any amendment to the proposed appointment process and timetable, for operational reasons, in consultation with Chair of the General Purposes Committee.

7. Brent's Workforce Equalities Report 2022-23 and Gender Ethnicity and Disability Pay Gap Report - March 2024

Musrat Zaman (Director Human Resources & Organisational Development) introduced a report from the Corporate Director of Governance providing the Committee with an overview of Brent's annual workforce equalities data and pay gap data relating to gender, ethnicity and disability. Members noted that the 2022-23 annual workforce equalities data had been published in January 2024, as detailed within Appendix 1 of the report. In addition, the Gender, Ethnicity and Disability Pay Gap report provided a further breakdown of data (as detailed within Appendix 2 of the report) that was due to be published at the end of March 2024. Members were provided with a summary of the main headlines within the workforce equalities data analysis, as detailed within section 5.1 of the report. These included a breakdown of the age, gender, disability and ethnicity profile of the workforce based on working age population.

Members also noted the pay gap analysis over the past 3 years up to the period ending March 2023 broken down between gender, ethnicity and disability, as detailed within section 5.2 of the report. It was noted that for the first time this had included a split between sub-categories of data for Black, Asian, Mixed/Other employees and employees for whom ethnicity was unknown. Details were also provided on the proportion of females, Black, Asian and Minority Ethnic (BAME) and disabled employees in each pay quartile during 2023, as detailed in section 5.3 of the report and as a percentage of the Council's workforce, as detailed in section 5.13 of the report. Alongside the priority actions identified within the published Workforce Equalities report, the Pay Gap report had also identified several priority actions designed to address the pay gap issues during 2024-25, which had been set out within Appendix 2 of the report. The identified priorities included the following:

- To continue monitoring both internal promotions and external appointments.

- Quarterly and ongoing monitoring of new joiners' starting salary for grades PO5 and above.

- To gather and analyse recruitment data by gender and disability, in addition to ethnicity.

- To adapt the London Council Race Equality Statement and Framework to create a bespoke Anti-Racism Action Plan for Brent in promoting equality, diversity, and inclusion (EDI) best practice in the workforce by April 2024.

- To review the EDI related learning and development in light of the EDI Strategy (April 2024) and stakeholder feedback to support the Council's inclusion agenda including (for example) a review of recruitment and selection training for managers.

In addition to the priority areas identified, members were also advised of the establishment of an Equity, Diversity and Inclusion (EDI) Board which had been established as a means of co-ordinating and reviewing progress on all EDI related activity and actions across the organisation.

Members recognised the positive progress made and acknowledged the good practice in Brent in terms of the transparency arising from inclusion of details relating to ethnicity and disability within publication of the gender pay gap report. The establishment of the EDI Board was also welcomed as part of the wider work being undertaken to champion and steer the organisation's priorities on all matters relating to equity, diversity, and inclusion with members keen to receive a further 6-month update on the Board's work in reviewing delivery of the priority actions identified within both the Workforce Equalities and Pay Gap reports. In addition, members supported the work being undertaken to increase knowledge and engagement in relation to data disclosure by employees in relation to both ethnicity and disability with the importance also highlighted in relation to the work being undertaken to monitor the internal career progression of staff through the organisation and support being provided for the Staff Equality Networks.

In commending the progress being made, it was **RESOLVED** to:

(1) Note and endorse the findings from the Brent Workforce Equalities Report April 2022 – March 2023.

(2) Note and endorse the findings from the Gender, Ethnicity and Disability Pay Gap Report prior to its publication in March 2024.

(3) To endorse the action plans contained in both the Brent Workforce Equalities & Gender, Ethnicity and Disability Pay Gap Reports.

(2) Appointments to Sub-Committees / Outside Bodies

There were no appointments to be considered in relation to any of the General Purposes Sub Committees.

9. **Exclusion of Press and Public**

There were no items that required the exclusion of the press or public from the meeting.

10. **Any other urgent business**

None.

The meeting closed at 9.43 am

COUNCILLOR MUHAMMED BUTT
Chair

Brent	**General Purposes Committee** 8 April 2024
	Report from the Corporate Director, Finance and Resources

Administration of the Brent Pensions Payroll

Wards Affected:	All
Key or Non-Key Decision:	Not Applicable
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	One Appendix 1: Timeline of Payroll onboarding
Background Papers:	N/A
Contact Officer(s): (Name, Title, Contact Details)	Ravinder Jassar, Deputy Director of Finance 020 8937 1487 ravinder.jassar@brent.gov.uk Sawan Shah, Head of Finance 020 8937 1955 sawan.shah@brent.gov.uk Janine Nell, Head of Transactional Finance 020 8937 4034 janine.nell@brent.gov.uk

1.0 Executive Summary

1.1 This report seeks approval from General Purposes Committee to extend the existing shared service arrangements for pensions administration to include pensions payroll administration.

2.0 Recommendation(s)

That the General Purposes Committee:

2.1 Approve the extension to the existing shared service arrangements for pensions administration with Local Pensions Partnership Administration to include pensions payroll administration.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The work of the Pension Fund is critical in ensuring that it undertakes statutory functions on behalf of the Local Government Pension Scheme and complying with legislation and best practice. Efficient and effective performance and service delivery of the Pension Fund underpins all Borough Plan priorities.

3.2 Background

3.2.1 The responsibility for the administration of the Local Government Pension Scheme (LGPS) for the Brent Pension Fund lies with Brent Council. The current pension administration arrangements are delivered through a shared service arrangement which was agreed in 2017 with Local Pensions Partnership Administration (LPPA) and commenced in October 2018. The service includes workflow and document imaging functionality, member and employer online systems, provision of information and calculation of pensions in line with statutory requirements and a dedicated website and customer liaison team.

3.2.2 Officers are recommending further expansion of the current agreement with LPPA by also transferring the administration of the Brent Pensions payroll to the LPPA. If agreed by the committee, the proposed transfer date is yet to be finalised however it is expected to be between October and December 2024.

3.2.3 General Purposes Committee is asked to approve this extension as it is proposed to vary the current shared service arrangement pursuant to a delegation. Therefore, governance have determined that approval by GPC is the most appropriate channel for this decision.

3.2.4 Currently, calculation of pension benefits is completed by LPPA as the Brent Pension Fund's pensions administration partner using the Civica Universal Pensions Management (UPM) system. Subsequently, LPPA pass one-off and payroll payments to the Brent internal Pensions and Payroll teams respectively for processing through Oracle.

3.2.5 Civica's UPM system has built-in payroll functionality however this is currently not utilised by Brent. This proposal seeks to use UPM for the payroll process, which will facilitate the end-to-end processing of calculation of pension benefits and payment of pensions to be carried out on the same system.

3.2.6 From a member's perspective, an integrated pension payroll and pension administration system will enable an improved service and all administration related to pensions will be contained within a single team and all pensioner data will be visible on the existing PensionPoint portal. There are also significant process benefits for Brent because pension payroll data is currently maintained across two systems (UPM and Oracle). Transferring payroll to LPPA will avoid the resource allocated to maintenance of data on both systems.

3.2.7 Additionally, pensioners will benefit with access to an online self service portal for important payroll documents such as payslips and P60's which is currently not available. Members will be able to opt into paper communications if desired.

3.2.8 LPPA have significant experience in running the monthly pensions payroll for their other local authority clients, they currently run the payroll for 6 of their 10 local authority clients. Therefore, the Brent Pension Fund is in minority of Fund's running a separate payroll. By moving the payroll function we would be utilising their in-house expertise and using a payroll system that is already available and tested.

3.2.9 The LPPA payroll offer is a comprehensive service including running the month payroll on the last working day of each month, handling of all pensions payroll calls through the LPPA helpdesk, submissions of BACS and overseas payments to the bank, administration of queries/complaints/FOI's and a general ledger interface to Brent's finance systems.

3.2.10 The Fund is currently undertaking a data cleanse exercise to review pensioner payroll records between the internal Oracle system and LPPA's UPM system as this was flagged by the actuary as a data issue at the 2022 tri-annual valuation of the pension fund. This project would have to be completed prior to any transfer of the payroll taking place.

3.2.11 If this proposal is agreed, a comprehensive transition and implementation plan will be agreed between officers at Brent and LPPA. As with all aspects of pensions administration, the project will be overseen by the Brent Pension Board and provided with updates on key milestones.

3.2.12 An indicative timeline of payroll onboarding is attached in Appendix 1. Additionally, there are expected to be no staffing implications as other payroll related work will be re-distributed within the team to help manage particularly busy periods, such as the mid month payroll.

4.0 Stakeholder and ward member consultation and engagement

4.1 There are no direct considerations arising out of this report.

5.0 Financial Considerations

5.1 The anticipated cost for implementation is expected to be in region of £85k and an ongoing additional cost of c. £12k - £15k per annum. This will be funded by the Brent Pension Fund and is expected to deliver a saving relative to existing payroll contribution.

6.0 Legal Considerations

6.1 The Local Government Acts 1972 and 2000, the Localism Act 2011 and the Local Authorities (Arrangement for the discharge of Functions) (England)

Regulations 2012 give local authorities the authority to delegate (arrange for the discharge) of their functions by:-

- Another local authority;
- The executive of another local authority; or
- A joint committee.

6.2 The Council has delegated its pension administration function to the LPPA and now proposes to extend the delegation to pensions payroll.

6.3 In agreeing any arrangement for extension of the delegation, Officers should have regard to the Council’s fiduciary responsibilities to secure best value and value for money.

6.4 The council’s statutory pension functions are non-executive functions and are generally exercised by the General Purposed Committee through the Pension Fund Sub-Committee. It can be argued that the decision to expand the shared service pension administration services to include pensions payroll is a non-executive function and that the decision falls to the General Purposes Committee.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 There are no equality considerations arising out of this report.

8.0 Climate Change and Environmental Considerations

8.1 There are no climate change or environmental considerations arising out of this report.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 There are not expected to any staffing implications arising from the expansion of delegations as pensions payroll makes up a small part of payroll services. Other payroll related work will be re-distributed within the team currently dealing with pensions payroll.

9.2 There are no property considerations arising out this report.

10.0 Communication Considerations

10.1 There are no communication considerations arising out of this report.

<u>Report sign off:</u>

Minesh Patel
Corporate Director, Finance and Resources

APPENDIX 1 - TIMELINE OF PAYROLL ONBOARDING

Month	Activity
February	LPPA to understand Brent's existing payroll arrangements incl overseas member's position
April	Brent to agree overall proposal
	LPPA to understand & agree payments requirements / terms with Brent
	LPPA to provide Civica with 1st Brent Data cut
May	LPPA to identify & address 1st data cut actions with Brent
	Create communication plan
June	LPPA to provide Civica with 2nd Brent data cut
	LPPA to identify & address 2nd data cut actions with Brent
July	LPPA & Brent to prepare for 1st parallel payroll run
August	LPPA & Brent to fix any 1st parallel run actions
	LPPA & Brent to prepare for 2nd payroll run
September	LPPA & Brent to fix any 2nd parallel run actions
	LPPA & Brent to prepare for 3rd payroll run
October	First full payroll run completed by LPPA
November	LPPA & Brent post go live review & identification of any follow up action requirements
December	LPPA & Brent complete any post go live actions

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Brent	**General Purposes Committee** 8 April 2024
	Report from the Corporate Director, Finance and Resources

Pass-through Policy

Wards Affected:	All
Key or Non-Key Decision:	Not Applicable
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	Two: Appendix 1: Pass-through for new contractors – discussion document Appendix 2: Pass-through table
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Minesh Patel, Corporate Director, Finance and Resources 020 8937 4043 minesh.patel@brent.gov.uk Ravinder Jassar, Deputy Director of Finance 020 8937 1487 ravinder.jassar@brent.gov.uk Sawan Shah, Head of Finance 020 8937 1955 sawan.shah@brent.gov.uk John Smith, Pensions Manager 020 8937 1985 (john.smith@brent.gov.uk)

1.0 Executive Summary

1.1 This report outlines the preferred arrangements for contractors participating in the Brent Pension Fund. Brent Pension Fund's actuary, Hymans Robertson, have prepared a discussion document outlining the principles, benefits and risks of using 'pass-through' for its admission agreements and a comparison with the current 'traditional' approach. This report considers the advantages and disadvantages of the proposed course of action.

2.0 Recommendation(s)

That the General Purposes Committee:

2.1 Notes that the proposed pass-through approach in respect of pensions risk on the outsourcing of services detailed in this report was considered by the Pension Fund Sub-Committee at its meeting on 21 February 2024 who recommended that the approach is approved at the next meeting of the General Purposes Committee.

2.2 Approve the proposed pass-through approach in respect of pensions risk on the outsourcing of services as set out in paragraph 3.2.19.

2.3 Notes that the Corporate Director, Finance and Resources pursuant to paragraph 9.5 of Part 3 of the Constitution will consider whether Brent Council as administering authority for the Pension Fund enters into pass-through agreement in respect of pensions risk on the outsourcing of services when considering the form of admission agreement to be entered into.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The work of the London Borough of Brent Pension Fund (the “Fund”) is critical in ensuring that it undertakes statutory functions on behalf of the Local Government Pension Scheme and complying with legislation and best practice. Efficient and effective performance and service delivery of the Fund underpins all Borough Plan priorities.

3.2 Content

Foreword

3.2.1 Hymans Robertson, in their capacity as actuary to the Fund, have prepared a discussion document, attached as Appendix 1, to set out the key factors for the Fund to consider with regards to allowing new admission bodies to participate in the Fund on a ‘pass-through’ basis.

3.2.2 It is important to note that these proposals will affect new admission agreements and any contracts that have already been advertised will proceed on the basis set out in the tender documents. Officers may consider applying pass-though to outstanding admission agreements that have not yet been agreed on a case-by-case basis where the operational benefits can be justified and to do so would not impact on the result of the procurement process. Any existing agreed admission agreements will not be modified.

Background

3.2.3 Brent Pension Fund is required to enter into admission agreements when letting authorities outsource a service to a contractor. The Fund's current approach is the traditional approach where the following principles apply:

- all past service pension benefits in respect of outsourced members are transferred from the letting authority to the new contractor,
- the contractor is set up on a "fully funded" basis using ongoing assumptions,
- the starting contribution rate is the cost of future service benefits only,
- the contribution rate is reviewed and adjusted at every formal valuation,
- any early retirement strains and augmentation costs that arise are met by the contractor via additional lump sum contribution(s),
- a bond or other form of indemnity where considered appropriate is taken out by the contractor and
- at the point of cessation, the resulting cessation valuation may lead to the payment of a cessation debt by the employer (or an exit credit by the Fund).

3.2.4 The paper advocates changing Brent's approach to risk sharing utilising the flexibility in the Funding Strategy Statement (FSS). This involves moving away from the conventional approach to admission agreements, where the contractor bears all the pension risk, and introducing pass-through agreements where the letting authority would agree to retain some of the pension risk.

3.2.5 The main drivers for this change of policy are the practical challenges of setting up conventional admission agreements, the contractors' difficulties in sourcing bonds and the expansion of the Department of Education's pension guarantee for academy trusts on 17th May 2023.

3.2.6 Although it may appear counterintuitive for a letting authority to volunteer to bear more risk, there are sound reasons for believing that risk sharing will deliver better outcomes for everyone concerned.

Legislation, Directions and Guidance

3.2.7 When councils, maintained schools and academies let contracts, they are required to ensure that staff with entitlement to access the LGPS that are transferred pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) have access to suitable pension arrangements.

3.2.8 Schedule 2 part 3 of the Local Government Pension Scheme Regulations 2013 (LGPS Regulations 2013) sets out the entities that can be admitted to the scheme.

3.2.9 If a council or a maintained school outsources a function, The Best Value Authorities Staff Transfers (Pensions) Direction 2007 requires the letting authority to offer the TUPE transferred staff the same, a broadly equivalent or a better pension scheme than the one they had a right to participate in before the change of employer.

3.2.10 New Fair Deal 2013 requires academies and multi academy trusts (MATs) to offer transferring staff access to the same defined benefit pension scheme (Teachers' Pensions Scheme/LGPS).

Pass-through approach

3.2.11 The philosophy behind conventional admission agreements is to pass the investment and moral hazard risks to the contractor.

3.2.12 Pass-through covers a spectrum of risk sharing between letting authorities and contractors but the key feature is to pass significantly less pension risk to the contractor and reduce the costs of participation. This means that more of the pension risk remains with the letting authority.

3.2.13 Additionally, the traditional outsourcing approach can lead to a great deal of uncertainty over costs for contractors during volatile market conditions and bidders are increasing aware about such risks therefore by passing less of the pension risks to the contractor, the letting authority should expect that more bidders are encouraged to respond and to receive more competitive bids when tendering services.

3.2.14 For the avoidance of doubt, Brent is recommending a balanced hybrid approach with the letting authority taking the investment, ill-health retirement and excess salary accrual (within reason) risks, and the contractor any costs relating to early retirement and pension enhancement. The employer's contribution would be equal to the letting authority's primary contribution (future accrual) rate and it will be reviewed in the light of experience at each triennial valuation.

3.2.15 It should be noted that in the absence of outsourcing, the letting authority would retain all of the pension risk, therefore pass-through agreements seek to obtain the correct balance of transferring risks within their control to the contractor while retaining risks which have significant uncertainty with the letting authority that would otherwise be built into the quote.

3.2.16 It is proposed that the new policy will be the default for contacts with up to fifteen transferees and an option for larger contracts at the Administering Authority's discretion with the letting authority's agreement.

Analysis of risk

3.2.17 The discussion paper attached in Appendix 1 prepared by the Fund Actuary, Hymans Robertson, provides an overview of the benefits and risks together with the key design factors. Appendix 2 further sets out the risks in a table.

3.2.18 In summary, pass-through offers several administrative benefits compared to traditional agreements:

- Simplified approach to admitting new bodies and of cessation of contractors.

- No requirement for a market rate bond which can be difficult for contractors to obtain.

- Potentially better pricing for letting authorities because contractors have greater certainty over pension risk.

- Removes the requirement to pay an exit credit if there is a surplus at the end of the contract. This is caveated with the letting authority being responsible for a deficit, should one materialise, at the end of the contract.

3.2.19 The table below outlines the proposed pass-through policy for the Brent Pension Fund:

Application	Pass-through will be the default for admission agreements with fewer than 15 transferring members. For new contractors with 15 or more transferring members, the administering authority will agree the most suitable arrangement (pass through or traditional approach) with the letting authority.
Investment risk	If the investment risk is passed to the contractor, it is likely that the downside risk will be priced into the contract. Conversely, the letting authority is likely to be able to negotiate a better price for the contract if they retain the investment risk.
Positive investment fluctuation	In the past, the letting authority would retain any surplus and the contractor would pay an exit payment if they were in deficit. That changed when regulation 64B was inserted in the LGPS Regulations 2013 on 23rd September 2020 and the contractor may be paid an exit credit if the contract is in surplus and the requirements in the FSS are satisfied. This change has complicated pensions administration and it is not unheard of for contractors to try to terminate admission agreements early to realise a substantial surplus. Under pass-through, the contractor would pay a fixed employer's contribution rate and there would be no exit payments or exit credits when an admission agreement ends. The net effect would be that the letting authority retains any investment growth.
Ill-health retirement	Brent intends to pool ill-health experience with the letting authority. It believes it can minimise the risk of moral hazard by insisting that the contractor uses Brent's independent registered medical practitioner (IRMP) as it is entitled to do under regulation 36(3) of the LGPS Regulations 2013.

Early retirement	Brent proposes that the risks of early retirement under regulation 30(7) LGPS Regulations 2013, waiving actuarial reductions and switching on the 85-year rule should be passed to the contractor to mitigate the risk of moral hazard. The contractor would be required to pay any strain costs flowing from its decisions.
Pension enhancement	The contractor should bear any costs related to shared cost APCs, shared cost AVCs and meet any strain costs in relation to membership awarded under regulation 31 of the LGPS Regulations 2013.
Excessive salary increases	Brent proposes tolerating this risk and taking reasonable steps to mitigate it. The main risk is final salary membership that was accrued before 2014 and it is partly self-limiting as members with substantial membership (say 20 years) will be entering their 50s. It recommends that salary growth should be one of the factors taken into consideration when reviewing employers' contribution rates at the triennial valuation. There are also other levers for controlling salary growth as; (1) most contracts are small cleaning/catering contracts where the employer has an interest in restraining the transferred staffs' salaries and (2) contracts with large numbers of staff, of long duration or where the workforce includes high-earners can be earmarked for conventional admission agreements and (3) housing associations/ companies, large maintenance contracts and arms-length companies etc. are suitable for conventional admission agreements as there will be ample advance notice, the professional fees will be modest in comparison the size of the contract and they tend to be longer contracts.
Bonds	Brent will only ask for a bond or other security if the contract is perceived to be high risk or the letting authority insists on one. In these circumstances the contractor will have to make a cash deposit, offer an unencumbered asset or post a bond for a sum equal to six months' employer's and employees' pension contributions.
Employer contribution rate	Brent will set an employer contribution rate that is equal to the letting authority's primary contribution (future accrual) rate. Employer contribution rates can be

	reviewed in the light of experience at the triennial valuations, thereby minimising the risks of employer excess.
Changes in the underlying actuarial assumptions	Will be borne by the letting authority and mitigated by changes to the employers' contribution rate at each triennial valuation.
Changes in the admitted body's demographic	Will be underwritten by the letting authority. It is inevitable that the average age will rise and there will be fewer contributing members as the admission agreement matures. This may be partially mitigated at the triennial valuations to the extent that its experience is replicated across the fund as whole.
Changes in the scheme's benefit structure	Will be covered by the letting authority. Although the consequences of McCloud and Goodwin will lead to modest improvements in the benefit structure, they will also be taken into consideration in the schemes cost control mechanism. Should there be significant changes that breach the 3% stabilisation window there would be reciprocal reductions in other benefits to restore equilibrium.
Officer's, lawyers and professional advisers	These costs impact on all the stakeholders. Even relatively straightforward conventional admission agreements are very labour intensive and generate large professional fees. One of the advantages of pass-through is that it avoids complex actuarial calculations and a variety of professional fees as we can use a standard template admission agreement. Although the contractor is the prime beneficiary of these savings, the letting authority can take them into account when negotiating the price of the contract.
Accounting for the pension liabilities	They remain the responsibility of the letting authority under pass-through.
The risk of not having simple processes	This affects everyone involved. A pass-through agreement will streamline contract negotiations and there is no reason why an admission agreement cannot be in place as soon as a contract is let. It will remove months/years of uncertainty, ensure that employees' and employer's contributions are paid over and invested promptly and remove unnecessary stress and uncertainty from ill-health retirements and deaths in service.

Summary

3.2.20 Conventional admission agreements require considerable internal administration and legal resource and incur significant actuarial fees.

3.2.21 The advantages of pass-through are that it is transparent, easy to understand and all parties are better informed from the outset. The terms are set out in a template admission agreement that will be disclosed to contractors before they bid.

Conclusion and next steps

3.2.22 Pass-through is not new and there are many reasons why its popularity is growing; however, the catalyst seems to have been the revised guidance issued on 23rd September 2020, which confirmed that the Department of Education's guarantee covered pass-through.

3.2.23 Pass-through can present stark choices in its purist form; however, Brent has opted for a more nuanced hybrid approach based on the principle of utility. It has tried to strike a balance between offering the contractor transparent pension costs and protecting the letting authority from moral hazard.

3.2.24 The proposed policy frees the contractor from the uncertainty of investment risk and the requirement to post a bond while protecting the letting authority from pension enhancement and strain costs. It is not a panacea as it only controls final salary growth indirectly - although this legacy risk will dissipate with the passage of time.

3.2.25 It is important to note that pass-through is not suitable for all admission agreements and it will only streamline future outsourcings. Any outstanding admission agreements will have to be worked on a case-by-case basis where the operational benefits can be justified and to do so would not impact on the result of the procurement process.

3.2.26 The feedback from authorities who have implemented pass-through is very positive. Nonetheless, if Brent has any reservations about implementing pass-through it could consider trialling it for a reasonable period (say three years) and review the decision in the light of experience.

3.2.27 If this proposal is adopted, fund officers will consult with employers in the Fund to explain the pass-through approach, the risks and benefits. This is expected to take 3 weeks. Fund officers will also ensure that the necessary documentation in place to implement pass-though taking legal advice if deemed necessary. The current working assumption is to go live in May 2024.

4.0 Stakeholder and ward member consultation and engagement

4.1 In view of the nature of the report, there has been no consultation or engagement with stakeholders or ward members to date.

5.0 Financial Considerations

5.1 Implementing the pass-through policy will ensure that there is more appropriate risk sharing between letting authorities and contractors, which should result in more competitive pricing for outsourced services, although employers will accept greater risk than under the traditional approach.

5.2 While is not possible to accurately quantify the savings associated with the adoption and implementation of a pass-through policy there will be less of an administrative burden in terms of financial, legal and actuarial resources in maintaining a pass-through policy than the traditional approach. Therefore it is considered that this approach delivers value for money.

6.0 Legal Considerations

6.1 The legal considerations arising from the adoption of pass through of pensions risk are addressed in the body of the report.

6.2 In accordance with Section 3 of the table at paragraph 9.5 of Part 3 of the Constitution, admission agreements in respect of the pension fund may only be agreed by the Corporate Director, Finance and Resources and in accordance with criteria adopted by the General Purposes Committee or the Pension Fund Sub-Committee. The adoption of the proposed pass-through approach will be one element that the Corporate Director, Finance and Resources will need to consider when agreeing an appropriate form of admission agreement.

6.3 Adoption of pass through arrangements for contracts with up to 15 transferees will assist the procurement of such contracts given that providers, particularly smaller providers, often encounter issues in providing bonds and other security in respect of pensions risk.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 There are no adverse equality considerations arising out of this report.

8.0 Climate Change and Environmental Considerations

8.1 There are no climate change or environmental considerations arising out of this report.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 There are no HR or property considerations arising out this report.

10.0 Communication Considerations

10.1 There are no communication considerations arising out of this report.

<u>Report sign off:</u>

Minesh Patel
Corporate Director, Finance and Resources

London Borough of Brent Pension Fund

Pass-through for new contractors

Discussion document

Craig Alexander FFA

Peter MacRae FFA

13 February 2024

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HYMANS ROBERTSON

Section 1
Background

Introduction

Purpose and scope

This paper has been commissioned by and is addressed to Brent Council as the Administering Authority of the London Borough of Brent Pension Fund ("the Fund"). Its purpose is to set out the key factors for the Fund to consider with regards to allowing new admission bodies (specifically, contractors) to participate in the Fund on a 'pass-through' basis.

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Pass-through is a way of participating in the Fund where certain risks are shared between the letting authority and the new contractor.

This paper is not a policy document. It should not be shared with any other party, including Fund Employers. This paper should not be read as providing any recommendation on a particular course of action or the preferred design of such an arrangement.

It is recommended that the Fund prepare and publish a policy document setting out the general approach they will take when admitting new contractors into the Fund.

This paper will be updated (specifically, the checklist in Appendix A) following a discussion with Fund officers around the specific design of the Fund's standard pass-through arrangement.

Current approach

Under the Fund's current admissions policy for new contractors, the following principles typically apply:

- all past service pension benefits in respect of outsourced members are transferred from the letting authority to the new contractor;
- the contractor is set up on a "fully funded" basis using ongoing assumptions;
- the starting contribution rate is the cost of future service benefits only;
- the contribution rate is reviewed and adjusted at every formal valuation;
- any early retirement strains and augmentation costs that arise are met by the contractor via additional lump sum contribution(s);
- a bond or other form of indemnity is taken out by the contractor (if required by the Fund and/or letting authority); and
- at the point of cessation, the resulting cessation valuation may lead to the payment of a cessation debt by the employer (or an exit credit by the Fund.)

Following cessation, the contractor makes a "clean break" from the Fund with no further obligations other than paying any cessation debt (or receiving an exit credit). The assets and liabilities left behind by the departing contractor revert to the letting authority.

What is pass-through?

The defining feature of a pass-through arrangement is to pass significantly less pension risk onto the contractor to reduce the volatility of the contractor's costs of participation. The consequence is that most of the pension risk 'passes through' the contractor to the awarding authority.

Purpose of pass-through

Letting authorities may choose to outsource services to achieve any of the following:

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- Improve service delivery;
- Increase efficiency;
- Reduce service costs; and
- Aid manpower planning.

However, under the current "traditional" approach to outsourcings (set out in the previous page), all of the key pension risks transfer from the letting authority to the contractor for the duration of the contract.

For many contractors, this may be viewed as an unexpected or undesirable by-product, and this leads to additional administrative complexity for the Pension Fund during the contractor's period of participation.

Similarly, the transfer of pension risks from Academies to contractors dilutes the effect of the Academies Guarantee provided by the Department of Education (see Appendix B).

The traditional outsourcing approach can lead to a great deal of uncertainty over costs for contractors during volatile market conditions e.g. large increases to regular contributions, big cessation debts etc. Bidders for contracts are increasingly aware of these problems and may seek to price them into contracts via additional service charges which can undermine the purpose of the outsourcing.

The letting authority will want to obtain the best price for the outsourced service. Offering contractors pass-through as a means for removing some of the uncertainty of the cost for paying for the outsourced member's pension benefits may be a way of helping to achieve this.

Whether using the standard approach or pass-through, the letting authority still retains long term responsibility for the risks as all the members' accrued benefits transfer back to the letting authority at the end of the contract.

Furthermore, the letting authority remains the ultimate guarantor for all pension obligations throughout the contract in the event of the contractor becoming insolvent. This is unchanged whether adopting the standard approach or using pass-through.

Hymans Robertson

Section 2
Benefits and risks

Benefits and risks of pass-through

Benefits of pass-through

For the Letting Authority

- Letting authority may be able to negotiate better contract terms.
- Easier to understand their pension responsibilities.
- Retains upside potential (i.e. retaining surpluses at end of contract).
- Clearer and more consistent tendering process.
- Avoids exit credits

For the Contractor

- The contractor bears less pension risk.
- Greater certainty of contributions
- No potential cessation debt to pay at the end of the contract.
- Reduced administrative costs as no requirement for a market risk bond.

For the Administering Authority

- Ease of administration with stakeholders.
- Reduction in time and costs of monitoring and administering bonds.
- Further protections in respect of academy outsourcings from the newly extended academy guarantee (see Appendix B)

Risks of pass-through

For the Letting Authority

- Responsibility for a potential cessation debt at the end of contract.
- Depending on design, the letting authority may be required to meet the cost of changes to LGPS benefits e.g. any strains relating to early retirements and augmentations.
- Mispricing the contract (eg if fixed rate was too low, in hindsight)
- Assets and liabilities remain on accounting balance sheet.

For the Contractor

- Loss of a potential exit credit at the end of contract.
- Potential for overpaying pension costs during the contract period

For the Administering Authority

- New documentation required, including maintenance of a clear policy on pass-through
- If implemented as a 'default' or 'optional' approach – the benefits may not be realised if letting authorities defer to traditional admission approaches.

HYMANS ROBERTSON

Section 3
Design

Designing a pass-through arrangement for the Fund

Introduction

There are many ways in which a pass-through arrangement can be designed which are specific to the pension fund and to each individual employer in the Fund.

We understand it is the Fund is considering **a default arrangement to be in place for new outsourcings,** in order to realise the full benefits of pass-through and to mitigate against the new risks that may arise from this.

In the absence of a clear policy on pass-through, letting authorities and contractors have, historically, designed these arrangements without the Fund's support. These have typically been documented via a side letter to the Admission Agreement or within the commercial contract for services. Under this approach, the Fund treats the contractor as a 'standalone' scheme employer and the letting authority & contractor are then responsible for ensuring the terms of the side letter or commercial contract are adhered to. The Administering Authority is not a counterparty to this agreement and so is not responsible for ensuring the terms of the side letter are met. However, in practice the existence of a variety of pass-through arrangements in a single fund can create an administrative burden for Administering Authorities.

The remainder of this section looks at the various key design factors to assist the Fund when deciding on the parameters that could under a new pass-through policy.

Design factors

There is no single definition of a 'pass-through agreement'. The following factors distinguish between the various types of pass-through arrangements that can be implemented:

- **Application** (optional / default / mandatory?)
- **Size of contractor** (only apply to smaller admissions - fewer than X members?)
- **Types of risks shared** (between letting authority & contractor)
- **Contribution rates** (how to set and frequency of review?)
- **Bond / indemnity requirements** (redundancy only or waive requirement?)
- **Documentation** (policy documents and admissions agreement)
- **Allocation of assets** (between letting authority & contractor)
- **Legacy admission bodies** (amend old agreements?)

Application

Description

Should pass-through be the **default** approach, will it be one of many **options**, or could it be **mandatory** for all future admissions?

Key design factors

- If pass-through was set as **the default approach** for new admissions, letting authorities may be able to opt-out of this default arrangement (although not encouraged to do so by the Fund). Is it therefore unlikely that letting authorities will elect for contractors to participate on the 'traditional' (non pass-through) basis.
- If pass though was to be offered as an **option to letting authorities**, take-up may be low and specific to the department letting the contract. This may increase the administrative burden on the Fund (i.e. to track which new admissions are on the 'traditional' basis and which are on a pass-through basis).
- It may be difficult for the Fund to **mandate** pass-through for new contractors (as responsibility for the outsourcing and its pricing rests with the letting authority, rather than the Fund). Legal advice may therefore be required if the Fund wish to do this.

Size of contractor

Description

Should the new policy apply to **all contractors**, or only **smaller contractors.** Will **different forms of pass-through** apply to different sizes of employer?

Should pass-through apply to contractors from all **types of ceding employer**, or only apply to specific groups (e.g. Academies and/or Council employers)?

Key design factors

- The Fund may wish to set a cap on the number of active members where pass-through will apply e.g. under 100 active members only. This gives the Fund and the ceding employer the ability to consider applying the traditional, or a more bespoke pass-through, arrangement for larger outsourcings (where the cost and underlying pension liabilities may be significant).
- The Education & Skills Funding Agency (ESFA) has recently confirmed that the existing DfE Academy Guarantee applies to academy outsourcings in specific scenarios where the contractor participates in the Fund on a pass-through basis. See Appendix B for further information.
- We would expect the Fund to consult with affected employers prior to implementation and so, if a particular employer group (eg Council departments) are likely to object to pass-through, it may be appropriate to apply the policy to academies only.

Types of risks shared

Description

Which risks will be **retained by the letting authority** and which **risks will pass to the contractor**?

Key design factors

- The table shown on the right of the page sets out the different risks that could be shared between the letting authority and the contractor in a specific pass-through arrangement.
- The more risks retained by the letting authority, the more straight forward the arrangement, and the greater the potential governance & cost savings that will be achieved by the Administering Authority.
- The more risks passed to the contractors, the more the pass-through arrangement will feel like a 'traditional' admission, and the lower the potential governance and cost savings that will be achieved by the Administering Authority and the contractor.

Risks	Comment
Ill health retirement experience	The calculated cost of strain amounts calculated following ill health early retirements.
Non ill-health early retirements	The calculated cost of strain amounts following early retirements due to redundancy, efficiency or voluntary where actuarial reductions are waived.
Changes to LGPS benefits	Any changes to the LGPS benefits structure, which lead to a change in the costs of the scheme. Could include the effect of rectification events such as McCloud
Additional pension / augmentation	The additional liability arising from any decision taken by the contractor to award additional pension or otherwise augment benefit entitlement, as permitted under LGPS Regulations.
Pre-contract risks, including - Price inflation - Cash commutation - Withdrawal - Pay experience	The effect of member experience, relative to assumptions set at the previous actuarial valuation, leading to an increase in the past service liabilities.

Contribution rates

Description

How will the **pass-through contribution rate** be set and how often will this be reviewed going forward?

Key design factors

- A simple approach would be to set the **rate payable by the contractor equal to that payable by the letting authority**. A variation of this would be for the contractor to pay the letting authority's Primary Rate only ie the expected cost of future service benefits. No actuarial work would be required to calculate the rate payable and this would be known in advance of any tender exercise.
- Alternatively, the contractor could be required to **pay a rate based on its own specific membership** and (possibly) market conditions as at the commencement date. This would require actuarial advice to calculate the contribution rate payable.
- Rates could be **reviewed at triennial valuations**, or, for simplicity, may be fixed for the duration of the contract. If fixed, there is a risk that the cost of LGPS benefits changes significantly over the period of the contract.
- Another simple approach would be to **set a fixed rate** (say 25% of pay) for all pass through admissions. No actuarial advice would be required, but it introduces risk due to the rate not being related to that of the underlying letting authority.
- Other pass-through options include contractor-specific rates that are set and reviewed at each triennial valuation, but are subject to a **floor and/or a cap** over the period of the contract. The management of this over time may be onerous.

Bond / indemnity requirements

Description

Will the new pass-through admission body be required to **obtain a bond or provide an indemnity** in respect of its participation in the Fund, or will this **requirement be waived**?

Key design factors

- LGPS Regulations require a bond or indemnity to be in place for admitted bodies. However the need for a market-risk bond may be waived given the existence of an effective guarantee from the letting authority as per the pass-through arrangement. A redundancy bond may still be appropriate to protect against contractor insolvency costs.
- For Academy outsourcings, the existence of the Academies Guarantee may allow the Fund letting authority to waive the need for a bond, as per the expectations of the Education & Skills Funding Agency (see Appendix B).
- For Council outsourcings, the letting authority may be comfortable waiving the need for a bond given the size of the outsourcing and the ability to recognise this in the contract terms (as removing the bond requirement is likely to make the contract more attractive to potential bidders and would be expected to remove this expense from contract pricing).

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Documentation

Description

A **formal policy document** setting out the Fund's approach to pass-through is necessary. This can be included in the Fund's admission policy.

How will the **terms of the pass-through admission be documented**?

Key design factors

- Historically, pass-through arrangements were documented via a side agreement to the admission agreement.
- A cleaner approach, especially if pass-through were to be set as the default approach for new outsourcings, would be to reflect the pass-through arrangement in the admission agreement.
- Legal support would be required to prepare a new template pass-through admission agreement for use by the Fund.
- The Fund's formal pass-though policy document would form the basis of a consultation with affected employers. This document would be appended to, and referenced in, the Funding Strategy Statement.
- The Fund's internal process around pass-through, including how costs are met and the details of any monitoring framework, should be fully documented the formal policy document.

Allocation of assets

Description

How will **assets be allocated** between the letting authority / contractor during the period of participation?

This may affect the **treatment of surpluses / deficits at cessation** and/or the **accounting treatment** of the contractor's pension obligations.

Key design factors

- The transferring staff will move to the new contractor's location code on the administration system (as is the case currently). Contractor contributions will also be assigned to the new location.
- Assets and liabilities are tracked for the contractor but pooled with the letting authority for future funding (and accounting) valuations.
- The contractor may retain eligibility for an exit credit at the point of cessation, even if the agreement indemnifies the contractor against the need to pay any cessation debt.

Section 4
Next steps

Next steps

There is no single definition of 'pass-through' and the advice provided in this report is designed to assist Fund officers when designing a standard pass-through arrangement for the future admission of contractors to the Fund.

This paper should assist in both the decision to implement pass-through as a potential default admission arrangement as well as with the design of the pass-through arrangement. For completeness, the design factors to be considered are summarised in the **checklist** in Appendix A, alongside some of the comments made in our meeting with fund officers on 24 January 2024.

The Fund will be **asking the Sub-Committee** to approve the pass-through in principle in line with the key design decisions laid out in Appendix A.

Following this, the Fund will **consult with the relevant employers** (specifically, the potential letting authorities that will be affected by this) and work through **the legal documentation** to implement (including a potential formal policy document, updated Funding Strategy Statement and an updated pass-through admission agreement template).

Assuming the Sub-Committee approves, re-approval from Sub-Committee will not be sought unless there are material changes to the key design decision.

HYMANS ROBERTSON

Appendices

Appendix A - Decision checklist

Design factor	Fund comments (following meeting with Hymans Robertson on 24 January 2024)
Application – option / default / mandatory?	**Pass-through will be the default arrangement in the absence of a preferred approach from the letting authority.**
Which employers? - only apply to smaller employers? - apply to Academies / Councils or all types of letting authority?	**Default pass-through will apply to all contractors with fewer than 15 transferring members. For new contractors with 15 or more transferring members, the administering authority will agree the most suitable arrangement with the letting authority.** **Default pass-through will apply to contracts let by all types of letting authority.**
Types of risks shared – between letting authority & contractor?	**The letting authority will retain all risks, except for those brought on by the contractor (i.e. the award of excessive pay increases, additional pension / augmented benefits and the award of unreduced early retirement (non-ill-health)).** **To pass-through ill-health retirements risk to the letting authority, contractors must use the Fund's independent registered medical practitioner (IRMP)**
Contribution rates – how they are set and frequency of review?	**Contribution rate always set equal to the in-force primary rate of the letting authority, which may change at each triennial valuation.**
Bond / indemnity requirements – waive requirement (consider redundancy risk only)?	**Bond in place for "high-risk" contracts at the Fund's discretion or if required by the letting authority.**
Documentation – policy document (and associated comms and process notes) and admission agreement	**Policy principles to be agreed by Sub-Committee at the February meeting and officers to finalise and implement following consultation with employers.**
Allocation of assets – between the letting authority / contractor?	**Liabilities (with corresponding fully funded assets) are assigned to the contractor and tracked for its period of participation. However, for funding and accounting purposes, the contractor assets and liabilities are pooled with the letting authority.**

Appendix B – Academy guarantee and outsourcings

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 statement ("the DfE Academy Trust LGPS Guarantee policy") can be found here: www.gov.uk/government/publications/academies-and-local-government-pension-scheme-liabilities/dfe-local-government-pension-scheme-guarantee-for-academy-trusts-pensions-policy-for-outsourcing-arrangements

The headlines from the new policy are:

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- 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 outsourcings in scenarios 2 and 3 below were not being covered by the guarantee. This meant that the academy could not be a guarantor to the admission agreement. This issue is now resolved.
- 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**.
  1. Staff currently working for an academy transfer to an outsourced contractor under TUPE
  2. 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.
  3. 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.
- 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.
- 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.
- The policy is **retrospective** in its application.

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Reliances & limitations

Reliances and limitations

We have been commissioned by Brent London Borough Council ("the Administering Authority') to provide advice on the benefits, risks and key design considerations relating to the implementation of a standard pass-through arrangement for new contractors.

This report is addressed to the Administering Authority. It has been prepared by us as actuaries to the Fund and is solely for the purpose of setting out the key factors for the Fund to consider with regards to allowing new admission bodies (specifically, contractors) to participate in the Fund on a 'pass-through' basis.

It has not been prepared for any other third party or for any other purpose. We make no representation or warranties to any third party as to the accuracy or completeness of this report, no reliance should be placed on this report by any third party and we accept no responsibility or liability to any third party in respect of it.

The following Technical Actuarial Standards apply to this advice, and have been complied with where material and to a proportionate degree. They are:

- TAS100 – Principles for technical actuarial work

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Risk	Letting authority	Contractor	Shared	Mitigation
Investment risk	Letting authority			The letting authority must extract a good price for the contract. There is no other mitigation for systemic investment risk.
Positive Investment fluctuation		Contractor		The letting authority retains any exit credit.
Ill-health retirement	Letting authority			The contractor will be obliged to use Brent's IRMP.
Early retirement/strain costs		Contractor		There is no mitigation (To remain with the contractor)
Pension enhancement (SCAPCs/SCAVCS/R31)		Contractor		There is no mitigation (To remain with the contractor)
Excess salary awards	Letting authority			This is partially self-limiting and can be managed at the valuation.
Bonds	Letting Authority			It is important to negotiate a good contract price as there is no mitigation if an employer becomes insolvent.
Employer's contribution rate	Letting authority			Reviewed at the valuation in the light of experience.
Changes to underlying actuarial assumptions	Letting authority			The changes will be incorporated in the primary contribution rate at the valuation.
Changes in the admission agreement's demographic	Letting authority		These changes may feed through to the generic employer's contribution rate at the valuation	The average age of active members will inevitably rise in a closed admission agreement.
Fewer contributing members	Letting authority		This is a natural decline in a small subset	Voluntary retirement and employees changing jobs will naturally reduce the contribution pool as a closed AA matures.
Changes to the benefit structure due over/undershooting the 3% cost window			This should be cost neutral as the overall benefits package will be adjusted (up or down) to keep the overall cost within the window	This would only be triggered by significant changes and the latest figures suggest that the cost of the scheme is falling.
Accounting for pension liabilities	Letting authority			The letting authority will have to retain the admitted bodies pension liabilities in their accounts.

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