

CORNWALL PENSION FUND – CESSATION POLICY

1. Introduction

This is the policy of the Cornwall Pension Fund (“the Fund”) as regards the treatment of employers on termination of their participation in the Fund. It covers the methodology for calculation and payment of any deficit on leaving the Fund (via a “cessation valuation”).

It has been prepared by the Administering Authority, in collaboration with the Fund’s Actuary, Hymans Robertson LLP. This policy replaces all previous policies on employer termination and is effective from July 2020.

This policy applies to all past, current and future employers participating in the Fund.

2. Regulatory framework

The Local Government Pension Scheme Regulations 2013 (“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 (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.

3. Policy reviews

This policy will be reviewed at least every three years following triennial valuations or following changes to 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. Any queries should be directed to Professional Lead of Pensions and Treasury, in the first instance at pensions@cornwall.gov.uk or on 01872 322322.

4. Cessation events

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.

4.1 Current cessations

There are a number of scenarios that may lead to an employer leaving the Fund;

Contractors participating in the Fund under an admission agreement (previously referred to as Transferee Admission Bodies).

- A cessation event will occur when either a contract comes to a pre-arranged end date (the period of which will be defined in the admission agreement), a contract is terminated early or the employer has no remaining active members in the Fund.
- Following payment of any cessation debt, all active, deferred and pensioner liabilities will automatically transfer back to the Awarding Authority, along with the notional value of assets held by the ceased employer.
- If the contract is re-let, a new admission agreement will be set-up between the Awarding Authority and the new employer which may lead to some or all of the active members transferring from the Awarding Authority to the new employer.

4.2 Academies and Multi-Academy Trusts (MATs)

- A cessation event will occur if a current Academy or Multi-Academy Trust (MAT) ceases to exist as an entity or as an employer with the Fund.
- If the cessation event occurs due to an academy or MAT merging with or being taken over by another academy or MAT within the Cornwall Pension Fund, all active, deferred and pensioner liabilities from each of the merging entities will be combined, along with the notional value of assets held by the bodies concerned, and the responsibility for the payment of all current and future liabilities will become the responsibility of the newly merged entity. In these circumstances the Actuary, in consultation with the Fund, will determine the future employer's contributions relating to the newly merged entity.
- If the MAT is split into more than one either new or existing employers with the Cornwall Pension Fund then the Actuary will split the notional assets and liabilities relating to all active, deferred and pensioner liabilities of the exiting employer between the employers which are inheriting responsibility for the ceasing MAT. In consultation with the administering authority, the Actuary will use his or her professional judgement to determine an appropriate and fair methodology for undertaking this split and determine

the future employers' contributions for those employers inheriting the ceasing MAT's liabilities.

- If, for any reason, the Fund is unable to recover any cessation debt from an academy or MAT then it will seek to recover the debt from the Department for Education (DfE) as outlined in the DfE's parliamentary minute from 2 July 2013.
- In all other circumstances, following the payment of any cessation debt or the receipt of any cessation surplus, responsibility for all the remaining deferred and pensioner liabilities will be ring-fenced until the final liability ceases and then the liabilities and assets will be shared amongst all remaining active employers in the Fund, unless another Scheme Employer (or group of employers) provides a guarantee that requires them to inherit responsibility for the exiting employer's notional assets and liabilities.

4.3 All other employers.

- A cessation event will typically occur due to an employer having no remaining active members in the Fund.
- Following payment of any cessation debt, responsibility for all remaining deferred and pensioner liabilities will be shared amongst all remaining active employers in the Fund, unless another Scheme Employer (or group of employers) provides a guarantee that requires them to meet any future shortfall arising in respect of the ceased employer.

The calculation of the cessation position will depend on which scenario applies. See section 5 for details.

4.4 Suspending payment of exit amounts

At the absolute discretion of the Administering Authority, a suspension notice may be awarded to an exiting employer. This may be for a period of up to three years (the maximum period permitted by the Regulations).

Any application for the Administering Authority to grant a suspension notice will normally only be considered if the following criteria apply;

- The employer can provide evidence that it is likely to admit one or more new active members to the Fund within the period of the suspension notice
- The employer is not a closed Admitted Body, as under the existing admission agreement, no new active members would be permitted to join the Fund.

- any application for the Administering Authority to grant a suspension notice is made within three months of the cessation event.

The Administering Authority reserves the right to withdraw a suspension notice if it is of the opinion that the terms of any agreement to award a suspension notice are not being upheld by the employer.

If a suspension notice is awarded, the cessation valuation will be deferred until the earlier of 1) the end of suspension period or 2) the point at which the suspension notice is withdrawn (for any reason). If one or more new active members are admitted to the Fund the employer's full participation in the Fund will resume.

During the period of any suspension notice, the employer must continue to make such contributions to the Fund as certified in the Rates and Adjustments certificate.

4.5 Future cessations

If an employer is aware that it will be leaving the Fund in the future, it should alert the Administering Authority at least six months prior to the expected leaving date and request an indicative cessation valuation.

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. Alternatively, if this calculation indicates a deficit position is likely then the Actuary will be able to advise of the increase in contributions required over the remaining period of membership. In either case, the Administering Authority has discretion over the funding basis to be used for this calculation.

4.6 Historic cessations

As required under Regulation 25A of the Transitional Regulations, the Administering Authority reserve the right to levy a cessation debt on employers who have ceased participation in the Fund under previous LGPS regulations, but for whom a cessation valuation was not carried out at the time.

5. Basis of Calculations

It is the Fund's policy that (unless a suspension notice has been awarded) the determination of any surplus or deficit on termination will be carried out as at the date that the final active member leaves/retires and should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in the future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

5.1 If there is a 'guarantor' in place (e.g. for short term contractors)

The Fund's policy is to carry out the cessation valuation in this situation in line with the 'ongoing' actuarial valuation basis from the previous valuation (updated for market conditions at the date of exit).

The Regulations require that the contribution rate for the Scheme Employer who awarded the original contract is amended on termination should there be any unfunded liabilities remaining. This may occur if the certified cessation debt payable by the ceased employer has not been paid and any payment made to the Fund from any bond in place has not been sufficient to meet the full cessation debt.

In this case, the original awarding employer is the 'guarantor' for any legacy liabilities on cessation and any remaining deficit falls to that employer alone. This 'guarantor' is also considered responsible for any deficit which arises on these liabilities after the date of cessation.

If the ceased employer is an Admission Body and the admission agreement is terminated earlier than the contract period set out in the agreement, then the Administering Authority reserves the right to perform the cessation valuation on an alternative basis as agreed with the original awarding authority.

5.2 All other employers (including Scheme Employers and Designated Bodies)

In the case of an employer where no guarantor exists, since the Regulations suggest that any unfunded liabilities (at the point of cessation or after the cessation date) should be met via increased contributions from all other employers in the Fund, the Administering Authority wishes to protect the interests of the other unconnected employers.

The cessation valuation in such a case will be performed on a 'gilts' basis (i.e. a basis which does not allow for any outperformance above gilts from other assets such as equities, with an increased allowance for future mortality improvements above those adopted at the last actuarial valuation).

If a guarantor does exist and is prepared to absorb the departing employer's responsibilities (and the employer is able to obtain a legally binding guarantee from another Scheme Employer on cessation) then the cessation valuation may, subject to the agreement of the guarantor and the Administering Authority, be carried out on a basis more akin to the 'ongoing' assumptions.

6 Payment of any Deficit

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.

Unless the cost of doing so is deemed to outweigh the likely recovery to the Fund, the Administering Authority will pursue an outgoing body (including the liquidator, receiver,

administrator or successor body if appropriate) for any deficit. In the event of non-payment, the Administering Authority will also pursue any bond or indemnity provider or guarantor, for payment where appropriate.

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 Administering Authority may consider permitting an exiting 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. This repayment period will not exceed the deficit recovery period that applies for any guarantor, or in the absence of a guarantor, a period of five years. If, however the proposed repayment period is to exceed five years then the Professional Lead of Pensions and Treasury must obtain the agreement of the Chairman and Vice Chairman of the Pensions Committee and Cornwall Council's Section 151 Officer.

In the normal course of events (i.e. where the process above has been adhered to), the outgoing body will not normally be exposed to interest rate, investment or other funding risks after the cessation date. The final deficit payment will be calculated by the addition of interest at the level of 4.1% between the cessation date and the final payment date(s) as calculated by the Fund's actuary. However, exceptions to this may need to be made depending on the circumstances of the cessation and must be agreed by the Chairman and Vice Chairman of the Pensions Committee and Cornwall Council's Section 151 Officer.

Where however the participation of the exiting employer has been subject to a "pass-through" arrangement then, the funding deficit will revert back to the Scheme Employer who awarded the service contract to the exiting employer.

7 Payment of any Exit Credit

Assessment of Amount of Exit Credit

In order to determine the amount of any potential exit credit, the Fund will instruct an exit valuation under Regulation 64 to be carried out by the Fund's actuary in order to determine whether there is an excess of assets over the liabilities, known as a surplus, or a shortfall in assets relative to the liabilities. The exit valuation will be carried out according to the principles set out in the Funding Strategy Statement. If an excess or surplus is determined, the actuary will also calculate the proportion of the excess which has arisen because of the value of the employer's contributions. If instructed by the Fund the actuary may also carry out further calculations to determine the impact of any other relevant factors on the amount of the excess. In particular, the Fund may exercise its discretion in the amount of excess that would be payable where the surplus has arisen as a result of individual membership transfers between employers.

7.1 Admitted bodies

- a) No exit credit will be payable in respect of admission bodies who joined the Fund before 14 May 2018. Prior to this date, the payment of an exit credit was not

permitted under the Regulations and the Fund will assume that this will have been reflected in the commercial terms agreed between the admission body and the letting authority. This will also apply to any pre-14 May 2018 admission which has been extended or 'rolled over' on the same terms that applied on joining the Fund.

- b) The Fund will make an exit credit payment in line with any contractual or risk sharing agreements which specifically covers the ownership of exit credits/cessation surpluses or if the admission body and letting authority have agreed any alternative approach (which is consistent with the Regulations and any other legal obligations). This information, which will include which party is responsible for which funding risk, must be presented to the Fund in a clear and unambiguous document with the agreement of both the admission body and the letting authority and within one month of the admission body ceasing participation in the Fund.
- c) If there is any dispute from either party with regards interpretation of contractual or risk sharing agreements as outlined in b), the Fund will withhold payment of the exit credit until such disputes are resolved.
- d) The Fund will also consider any representations made by the letting authority regarding monies owed to them by the admission body in respect of the contract that is ceasing or any other contractual arrangement between the two parties. The letting authority must make such representations in a clear and unambiguous document within one month of the admission body ceasing participation in the Fund.
- e) Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the admission body during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.
- f) If the admission agreement ends early, the Fund will consider the reason for the early termination, and whether that should have any relevance on the Fund's determination of the value of any exit credit payment. In these cases in particular, the Fund will consider the difference between employers' contributions paid and the size of any cessation surplus.
- g) The decision of the Fund is final in interpreting how any arrangement described under b), d), e) and f) applies to the value of an exit credit payment.
- h) If an admitted body leaves the fund and the cessation valuation is carried out using a low-risk cessation basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

7.2 Scheduled bodies and resolution bodies

- a) Employers within the Minor Employers Pool will not receive an exit credit on leaving the Fund.
- b) Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the scheduled or resolution body during its participation in the Fund reflects

which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

- c) Where no formal guarantor or risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the scheduled or resolution body during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.
- d) The decision of the Fund is final in the interpreting how any arrangement described under b) and c) applies to the value of an exit credit payment.
- e) If a scheme employer or resolution body becomes an exiting employer due to a reorganisation, merger or take-over, then no exit credit will be paid.
- f) If a scheme employer or resolution body leaves on a gilts-based cessation (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

7.3 General

- a) The Fund will advise the exiting employer as well as the letting authority and/or other relevant scheme employers of its decision to make an exit credit determination under Regulation 64.
- b) The Fund will also factor in if any contributions due or monies owed to the Fund remain unpaid by the employer at the cessation date. If this is the case, the Fund's default position will be to deduct these from any exit credit payment.
- c) The final decision will be made by the Profession Lead of Pensions and Treasury, Cornwall Pension Fund, in conjunction with advice from the Fund's Actuary and/or legal advisors where necessary, in consideration of the points held within this policy.
- d) The Fund accepts that there may be some situations that are bespoke in nature and do not fall into any of the categories above. In these situations, the Fund will discuss its approach to determining an exit credit with all affected parties. The decision of the Fund in these instances is final.
- e) The Fund will advise the exiting employer of the amount due to be repaid and seek to make the payment within six months of the exit date. In order to meet the six-month timeframe, the Fund requires prompt notification of an employer's exit and all data and relevant information as requested. The Fund is unable to make any exit credit payment until it has received all data and information requested.
- f) This policy sets out the ways in which the Fund will exercise its discretion in the payment of an exit credit, and in particular the other relevant factors that will be considered in the payment of an exit credit as stated by the Regulations.
- g) Please note that these are guidelines only and the Fund will also consider any other additional factors that are relevant on a case-by-case basis. These considerations may result in a determination that would be different if the above guidelines were

rigorously adhered to. In all cases, the Fund will make clear its reasoning for any decision.

- h) At the time of this policy, the Fund understands that any Exit Credits are not subject to tax and are considered authorised payments however, all exiting employers must seek their own advice on tax and accounting treatment of any Exit Payment.

8 Other Cessation Arrangements

The methodology set out in this policy is the Fund's preferred treatment of exiting employers. Alternative arrangements for cessation valuations including delaying the calculation or payment of a cessation debt beyond the date the last active leaves the Fund, other than in the circumstances set out in Section 4.2, will only be considered in exceptional circumstance, and must be agreed by Chairman and Vice Chairman of the Pensions Committee and the Cornwall Council's Section 151 Officer. Exceptional circumstances will include situations where immediate payment of a cessation debt would result in an insolvency event for the exiting employer.