

SCOTTISH BORDERS COUNCIL PENSION FUND

PENSION ADMISSION POLICY

**HR Shared Services
Chief Executives Department
Version 2019 3.0**

Approved: Joint Pension Fund Committee and Pension Board [12 September 2019]

1. Introduction

- 1.1 Scottish Borders Council administers the Local Government Pension Scheme in Scotland (LGPS) on behalf of Employers participating in the Scheme through Scottish Borders Council Pension Fund. The administration of the Scheme is governed by statutory regulations¹.
- 1.2 Scottish Borders Council will welcome new employers to the LGPS and this document sets out the process for an employer to be admitted to the Fund.
- 1.3 This policy document is supplementary to the Funding Strategy Statement and Pensions Administration Strategy, which are available from the Fund and will form part of any admission agreement entered into.
- 1.4 Scottish Borders Council Pension Fund will take into consideration the guidance provided by Scottish Ministers when it comes to outsourcing for Local Authorities, the basic premise being that employees affected by outsourcing from a Council will be offered either access to a broadly comparable scheme or continued access to the LGPS via an admission agreement.
- 1.5 The overriding principles that Scottish Borders Council Pension Fund take into account in considering any application for admission are:
 - The employer must meet the requirements of the Regulations
 - The admission is not expected to have any detrimental impact on any existing employers or other stakeholders in the Scheme.
- 1.6 As stated above, an employer must be able to satisfy the requirements of the Regulations in order to be considered for admission to the Scheme. The fundamental requirement is that the employer meets the definition of an eligible admission body and has the appropriate security in place.

2. Definition of Admission Body

- 2.1 The Regulations only allow Scottish Borders Council Pension Fund to enter into an Admission Agreement where the employer meets the definition of the admission body as contained in Schedule 2 of the 2018 Regulations.
- 2.2 Full details of the criteria required by an employer to be considered as an admission body are detailed in Schedule 2, Part 2 for the 2018 Regulations, which must be referenced as part of the application and decision making process. In summary, the following bodies may be accepted as admission bodies:
 - (A) a body which provides a public service in the UK which operates otherwise than for the purposes of gain and has sufficient links with a Scheme employer for them to be regarded as having a community of interest
 - (B) a body, to the funds of which a Scheme employer contributes
 - (C) a body representative of (i) any Scheme employers, or (ii) local authorities or officers of local authorities

¹ The Local Government Pension Scheme (Scotland) Regulations 2018 as amended, The Local Government (Transitional Provisions and Savings) (Scotland) Regulations 2014 as amended.

(D) a body that is providing a service/assets in connection with the exercise of a function of a Scheme employer as a result of (i) the transfer of the service/assets by means of a contract or other arrangement, or (ii) any provision in any enactment

(E) a body which provides a public service in the UK and is approved by the Scottish Ministers for admission to the Scheme.

These are referred to as 'Admission Categories' in this policy.

3. No Detrimental Impact

- 3.1 Using the principles of good governance, it is important that a robust approval process is in place when determining whether an employer should be allowed to enter into an admission agreement. Scottish Borders Council Pension Fund will consider each application on its own merits and has the right to approve or reject any such application.
- 3.2 Scottish Borders Council Pension Fund is responsible for determining whether or not the admission is expected to have any detrimental impact on any employers or other stakeholders in the Scheme, having taken account of the appropriate legal and actuarial advice. Any application where the admission is expected to have a detrimental impact will not be accepted.
- 3.3 The following outline factors that will be taken into consideration when determining whether or not to approve an application for admission:
 - Whether the employer meets the criteria for its proposed Admission Category
 - The Funding Strategy Statement and the financial position of the prospective Admission Body
 - The requirement for a Bond, Indemnity or Guarantee
 - Any actuarial or legal advice
 - Any individual circumstances that are deemed to be relevant to the application

4. Funding Strategy Statement and Financial Position

- 4.1 Scottish Borders Council Pension Fund will take account of the objectives of the Funding Strategy Statement when considering every application for admission. The objectives of the Funding Strategy are to:
 - set levels of employer contribution that will build up a fund of assets that will be sufficient to meet all future benefit payments from the Fund
 - build up the required assets in such a way that produces levels of employer contribution that are as stable as possible, with consideration of the long-term cost efficiency objective
 - ensure effective and efficient management of employers liabilities
 - allow the return from investments to be maximised within reasonable risk parameters.
- 4.2 Scottish Borders Council Pension Fund will not admit an employer as an Admission Body in the Scheme where it considers that the admission would be a risk to the stability or solvency of the Fund.

- 4.3 Therefore, Scottish Borders Council Pension Fund will consider the financial position of any employer applying for admission and its ability to meet its contributions under the Scheme. Additional information may be requested by the Fund to enable it to properly consider its financial circumstances.
- 4.4 Scottish Borders Council Pension Fund will monitor the financial position of admission bodies from time to time to ensure that each body remains able to meet its liabilities to the Fund and to ensure that the Fund's position is adequately protected. Admission Bodies may be required to provide financial and commercial information to the Fund (on a confidential basis) as required by the Fund for these purposes.

5. Admission Procedure

- 5.1 An employer who wishes to join the Scheme may apply to Scottish Borders Council Pension Fund for admission. Within the application the employer should state the Admission Category which would form the basis of its admission under the Regulations. The application can be made by letter or email.
- 5.2 Scottish Borders Council Pension Fund will acknowledge receipt and request any additional information required to support the application.
- 5.3 Scottish Borders Council Pension Fund will engage with the Scheme Actuary to determine an appropriate employer contribution rate, including an indicative employer contribution rate. Where fees are incurred with this activity they will be recharged to the Admission Body.
- 5.4 The risk assessment will be based on actuarial advice, where the Scheme Actuary will assess the quantum of any deficit that may be left in the Fund if the Admission Body were to leave the Scheme prematurely by reason of insolvency, winding up or liquidation. However, the assessment does not generally provide any indication of the likelihood of such an event occurring. The risk assessment should be completed to the satisfaction of the Administering Authority and, where Admission Category D applies, the attached Scheme Employer. Where fees are incurred with this activity they will be recharged to the Admission Body.
- 5.5 The parties, as appropriate shall include Admission Body, Sponsoring Employer and Scottish Borders Council Pension Fund, will enter into formal legal agreements including:
- (1) **Admission Agreement**
This is a formal agreement setting out the rights and responsibilities of the new Admission Body and Scottish Borders Council Pension Fund.

In the instance of Admission Category (D) (an outsourcing of service), the Sponsoring Employer will also be a party in the Admission Agreement and under the Regulations the Sponsoring Employer will be liable for any deficit by the new Admission Body, in circumstances where the exit payment cannot be recovered from the Admission Body or through the relevant guarantee, indemnity or bond.

(2) **Guarantee Agreement**

This will normally have three parties involved, the guarantor, the Admission Body and Scottish Borders Council Pension Fund.

In the instance of Admission Category D (an outsourcing of service), the Sponsoring Employer will usually be a party in the Guarantee Agreement.

Any Guarantee Agreement entered into will be entered into will be reviewed on a regular basis, the timeframe for which will be clearly stated in the Admission Agreement.

Please note that Scottish Borders Council Pension Funds admission and guarantee agreements will generally be standard and non-negotiable, having been drawn up on advice from the Scheme Actuary and the Funds legal advisors, having been tailored to the particular circumstances. In the event of a Bond being provided by a financial institution it will likely be necessary to utilise the template provided by said institution, subject to review by the Fund.

- 5.6 In circumstances such as a merger, where one or more parties is an existing employer in the Scheme, it may be necessary to deal with prior liabilities in the Scheme. This can be achieved by transferring the liabilities to the new Admission Body by entering into a formal legal agreement, known as an apportionment agreement, or by payment of any deficit on respect of those liabilities. Scottish Borders Council Pension Fund will obtain any necessary actuarial or legal advice, with any fees incurred being charged to the new Admission Body, unless previously agreed to split between the Sponsoring Employer and the new Admission Body.
- 5.7 In an outsourcing it will normally be the requirement of the Scottish Borders Council Pension Fund that the new Admission Body commences on a fully funded basis. This will be negotiated between the parties at the outset of the outsourcing arrangement. Where it has been agreed that the Admission Body will commence on a fully funded basis, the Scheme Actuary will determine any sum that is due from the Sponsoring Employer to the Fund and it is then the responsibility of the Sponsoring Employer to pay this sum, where a risk assessment has not occurred. Any actuarial fees incurred in this instance would be recharged to the Sponsoring Employer.
- 5.8 A formal paper will be prepared by Scottish Borders Council Pension Fund staff, circulated for consultation in the normal manner, and presented to the next available quarterly meeting of the joint Pension Fund Committee and Pension Fund Board.
- 5.9 The Pension Fund Committee and Pension Fund Board may approve or reject the application. An approval will be subject to the following conditions: -
 - (1) Completion of Admission Agreement, as required by the Regulations.
 - (2) A risk assessment based on Actuarial Advice, as required by the Regulations, which is satisfactory to the Committee and Board.
 - (3) The provision of a guarantee, indemnity or bond, where the risk is such that one is required, which is satisfactory to the Pension Fund and required by the Regulations.
 - (4) Other conditions considered necessary to protect the interests of the Pension Fund and participating employers.
 - (5) The Fund should also be looking to meet the general principal of Scottish Ministers working towards satisfying, where applicable, the pension protection rights of affected outsourced employees.
- 5.10 Arrange for the formal sign off of the Admission Agreement and Bond, Guarantee or Indemnity following approval to admit from Pension Fund Committee and Pension Fund Board.
- 5.11 Please note, the above is the outline of a typical admission process that will be followed. However, each application is treated individually and there may be additional or alternative steps that are required. Scottish Borders Council Pension Fund officers will be

happy to answer any further queries that you may have as a prospective applicant and offer you the appropriate support and guidance to take you through this application process.

6. Bond, Indemnity or Guarantee

- 6.1 It is imperative to minimise the risk that a new Admission Body might create for the Fund and the other Scheme employers. This risk will be taken into account by Scottish Borders Council Pension Fund in considering the application for admission to the Fund. This risk will be reviewed on a regular basis, with the timeframe clearly stated in the Admission Agreement. Any Bond, Indemnity or Guarantee entered into must be done so to the satisfaction of the Scottish Borders Council Pension Fund.

- 6.2 If there is a deficit in the funding of an Admission Body's liabilities at the point when it leaves the Fund, the Scheme Actuary may determine that an exit payment is payable by the Admission Body to the Fund, in terms of the Regulations.

A risk assessment is required for all admissions, to assess the amount of any deficit that may be left in the Fund if the Admission Body were to leave the Scheme prematurely by reason of insolvency, winding up or liquidation. Where required, a Bond or Indemnity must be put in place.

- 6.3 Where for any reason, it is not desirable (or possible) for an admission body to enter into a bond or indemnity, the admission agreement must provide that the admission body secures a guarantee in a form satisfactory to Scottish Borders Council Pension Fund.

The guarantee may be given by the Scheme employer (Sponsoring Employer), in the case of admission bodies falling under Admission Category B or D (and the Scheme employer must provide a guarantee in certain circumstances which are set out in the Regulations)

It may also be given by a person who funds the Admission Body, owns it or exercises control over its functions

It may be given by the Scottish Ministers in the case of an admission body –

- (1) Which is established by or under any enactment; and
- (2) Where the enactment enables Scottish Ministers to make financial provision for that admission body.

- 6.4 Where any exit payment cannot be recovered from the Admission Body itself, and the liabilities cannot be fully met by a guarantor or insurer (Bond), the Regulations provide that:
- The Sponsoring Employer will be liable to pay revised contributions to make good the deficit where the Admission Body was admitted under Admission Category D, and
 - In all other cases the liabilities will fall on all the other employing authorities within the Scheme.

7. Actuarial and Legal Advice

- 7.1 Scottish Borders Council Pension Fund will obtain advice from the Scheme Actuary and/or from external legal advisers. It will take all such advice into account in determining

whether or not the application for admission may have a detrimental impact on any employers or stakeholders in the Scheme.

- 7.2 All costs incurred in connection with the admission process for actuarial or legal advice will be recharged to the prospective Admission Body.

8. Initial Employer Contribution Rate

- 8.1 Where a new employer is admitted to the Scheme the Scheme Actuary has responsibility for determining the initial employer contribution rate in accordance with the Funding Strategy Statement.
- 8.2 The initial rate will remain in force until the next triennial valuation of the Scheme, with the exception of a new employer where there is no employee information available from the outset, in this instance the Pension Fund reserves the right to complete a mid-valuation review at a point where employee information, including any transfers, is available. As part of the triennial valuation, as required by the Regulations, the contribution rates paid by each employer in the Scheme are reviewed and may be increased or reduced.
- 8.3 In the event of an employer changing the status of the admission agreement, from open to closed or vice-versa, the employer contribution rate will be reviewed at this time and may result in an increase or reduction in the rate.

The contribution rate may also be increased, with a view to making good any deficit, where the Fund considers there are circumstances which make it likely that the Admission Body will exit the Fund.

9. Advise Scottish Ministers

- 9.1 In accordance with the Scheme Regulations Scottish Borders Council Pension Fund are required to advise Scottish Ministers written notice that there has been an Admission Agreement established to the Fund.

VERSION CONTROL TABLE

Version	Nature of Amendment	Date of Change	Author
2019 1.0	Creation of Pension Admission Policy	14 August 2019	Ian Angus
2019 2.0	Amendments following review by Hymans Robertson, Scheme Actuary	23 August 2019	Ian Angus
2019 3.0	Amendments following review by Pinsent Mason, legal advisors	29 August 2019	Ian Angus

You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ian Angus can also give information on other language translations as well as providing additional copies.

Contact us at Ian Angus, HR Shared Services Manager, Old School Building, Newtown St Boswells, TD6 0SA
01835 826696, iangus@scotborders.gov.uk