Greater Gwent (Torfaen) Pension Fund

Cessation Policy
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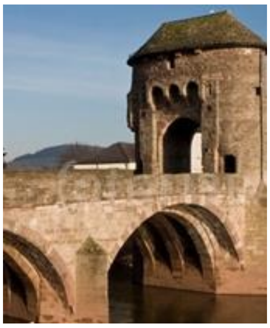


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1 Introduction

The purpose of this policy is to set out the Administering Authority's approach to dealing with circumstances where a scheme employer leaves the fund and becomes an exiting employer (a cessation event).

It should be noted that this policy is not exhaustive. Each cessation will be treated on a case-by-case basis, however certain principles will apply as governed by the regulatory framework (see below) and the Administering Authority's discretionary policies (as described in Section 0).

1.1 Aims and Objectives

The Administering Authority's aims and objectives related to this policy are as follows:

- To confirm the approach for the treatment and valuation of liabilities for employers leaving the fund.
- To provide information about how the Administering Authority may apply its discretionary powers when managing employer cessations.
- To outline the responsibilities of (and flexibilities for) exiting employers, the Administering Authority, the actuary and, where relevant, the original ceding scheme employer (usually a letting authority).

1.2 Background

As described in Section 7 of the Funding Strategy Statement (FSS), a scheme employer may become an exiting employer when a cessation event is triggered e.g., when the last active member stops participating in the fund. On cessation from the fund, the Administering Authority will instruct the Fund Actuary to carry out a valuation of assets and liabilities for the exiting employer to determine whether a deficit or surplus exists. The Administering Authority has full discretion over the repayment terms of any deficit, and the extent to which any surplus results in the payment of an exit credit.

It is important to note that the Fund wants to work with employers in this situation and that generally speaking earlier engagement between parties will lead to better outcomes.

1.3 Guidance and regulatory framework

The Local Government Pension Scheme Regulations 2013 (as amended) contain relevant provisions regarding employers leaving the fund (Regulation 64) and include the following:

- Regulation 64 (1) – this regulation states that, 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 termination date. Further, it requires the Rates & Adjustments Certificate to be amended to show the revised contributions due from the exiting employer

- 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 & Adjustments Certificate to be amended to show the exit payment due from the exiting 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) & (2B)– the Administering Authority, at its discretion, may issue a suspension notice to suspend payment of an exit amount for up to three years, where it reasonably believes the exiting employer is to have one or more active members contributing to the fund within the period specified in the suspension notice.

- 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.

- Regulation 64 (7A-7G) – the Administering Authority may enter into a written deferred debt agreement, allowing the employer to have deferred employer status and to delay crystallisation of debt despite having no active members.

- Regulation 64B (1) – the Administering Authority may set out a policy on spreading exit payments.

In addition to the 2013 Regulations summarised above, Regulation 25A of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 ("the Transitional Regulations") give the Administering Authority 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. This policy document describes how the Administering Authority expects to deal with any such cases.
This policy also reflects statutory guidance from the Department for Levelling Up, Housing and Communities (DLUHC) on preparing and maintaining policies relating to employer exits. Interested parties may want to refer to an accompanying guide that has been produced by the Scheme Advisory Board.

These regulations relate to all employers in the fund.

2 Statement of Principles

This Statement of Principles covers the Administering Authority's approach to exiting employers. Each case will be treated on its own merits but in general:

- it is the Administering Authority's policy that the determination of any surplus or deficit on exit should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

- the Administering Authority's default approach is to request the full payment of any exit debt (an exit payment), which is calculated by the actuary on the appropriate basis (as per Section 7 of the FSS and Section 3.1 below). This would remove any future obligation of an exiting employer and extinguish any liability to the fund in future.

- the Administering Authority's key objective is to protect the interests of the fund, which is aligned to protecting the interests of the members and the remaining employers.

- The Administering Authority is also committed to considering the circumstances of the exiting employer and reviewing all options in line with regulations in determining arrangements for the recovery of the exit debt.

3 Policies

As a matter of principle, the Administering Authority would prefer an employer to engage as soon as it is anticipated that a potential cessation may arise: the earlier the engagement, the greater the range of options, and the greater the likelihood of a mutually satisfactory outcome.

On cessation, the Administering Authority will instruct the Fund Actuary to carry out a cessation valuation to determine whether there is any deficit or surplus as defined in Section 4.3 of the FSS.

Where there is a deficit, payment of this amount in full would normally be sought from the exiting employer. The Administering Authority's normal policy is that this cessation debt is paid in full in a single lump sum within 28 days of the employer being notified.

However, the Administering Authority will consider written requests from employers for alternative treatment of the cessation debt in the exceptional circumstance where payment of the debt in a single immediate lump sum could be shown by the employer to be materially detrimental to their financial situation (see 0 Repayment flexibility on exit payments below).

In circumstances where there is a surplus, the Administering Authority will determine, at its sole discretion, the amount of exit credit (if any) to be paid to the exiting employer (see 0 Exit credits below).

3.1 Approach to cessation calculations

Cessation valuations are carried out on a case-by-case basis at the sole discretion of the Administering Authority depending on the exiting employer's circumstances. However, in general the following broad principles and assumptions may apply, as described in Section 7.2 of the FSS and summarised below:

Type of employer	Cessation exit basis	Responsible parties for unpaid or future deficit emerging
Local Authorities, Police[1]	Low risk basis	Shared between other fund employers
Colleges & Universities	Low risk basis	Shared between other fund employers
Admission bodies (TABs)	Contractor exit basis[2]	Letting authority (where applicable), otherwise shared between other fund employers
Admission bodies (CABs) & Designating employer (no guarantor)	Low risk basis	Shared between other fund employers
Admission bodies (CABs) & Designating employer (with a guarantor)	Same basis as the guarantor (likely to be ongoing)	Guarantor

[1]Cessation is assumed not to be generally possible, as Scheduled Bodies are legally obliged to participate in the LGPS. In the rare event of cessation occurring (e.g. machinery of Government changes), these cessation principles would apply.

[2]Where a TAB has taken, in the view of the Administering Authority, action that has been deliberately designed to bring about a cessation event (e.g. stopping future accrual of LGPS benefits), then the cessation valuation will be carried out on a low-risk basis.

3.2 Repayment flexibility on exit payments

Debt spreading arrangement (DSA)

The Administering Authority will consider written requests from exiting employers to spread an exit payment over an agreed period, in the exceptional circumstance where payment of the debt in a single immediate lump sum could be shown by the employer to be materially detrimental to the employer's financial situation.

In this exceptional case, the Administering Authority's policy is:

- The agreed spread period is no more than three years, but the Administering Authority could use its discretion to extend this period in extreme circumstances.
- The Administering Authority may consider factors such as the size of the exit payment and the financial covenant of the exiting employer in determining an appropriate spreading period.
- The exiting employer may be asked to provide the Administering Authority with relevant financial information such as a copy of its latest accounts, sources of funding, budget forecasts, credit rating (if any) etc. to help in this determination.
- Payments due under the DSA may be subject to an interest charge.
- The Administering Authority will only consider written requests within 28 days of the employer receiving notice of its cessation debt after exiting the fund. The exiting employer would be required to provide the Administering Authority with detailed financial information to support its request.
- The Administering Authority would take into account the amount of any security offered and seek actuarial, covenant and legal advice in all cases.
- A binding document, setting out the terms of the exit payment agreement, would be prepared by the Administering Authority and signed by all relevant parties prior to the payment agreement commencing.
- The terms of the document should include reference to the spreading period, the annual payments due, interest rates applicable, other costs payable and the responsibilities of the exiting employer during the exit spreading period.
- Any breach of the agreed payment plan would require payment of the outstanding cessation amount immediately.
- Where appropriate, cases may be referred to the Pensions Committee for consideration and considered on its individual merit. Decisions may be made by the Head of Pensions in consultation with the Chair if an urgent decision is required between Committee meetings.

Deferred debt agreement (DDA)

The Administering Authority's preferred policy is for a DSA (as detailed above) to be used in the exceptional circumstances where an exiting employer is unable to pay the required cessation payment as a lump sum in full. However, in the event that spreading of payments will create a high risk of bankruptcy for the exiting employer, the Administering Authority may exercise its discretion to set up a deferred debt agreement as described in Regulation 64 (7A)).

The employer must meet all requirements on scheme employers and pay the secondary rate of contributions as determined by the Fund Actuary until the termination of the DDA.

The administering authority may consider a DDA in the following circumstances:

- The employer requests the Administering Authority consider a DDA.
- The employer is expected to have a deficit if a cessation valuation was carried out.
- The employer can demonstrate that paying off the deficit in a single lump sum or spreading it over a short period in a DSA would be materially detrimental to its financial health.
- The employer is expected to be, and remain, a going concern.
- The covenant of the employer is considered sufficient by the Administering Authority.

The Administering Authority will normally require:

- An affected scheme employer to sign up to a legally binding DDA provided by the Administering Authority which sets out the terms of the DDA and signed by all relevant parties prior to the arrangement commencing (including details of the time period of the DDA, the annual payments due, the frequency of review and monitoring and the responsibilities of the employer during the period). There will be an opportunity for a scheme employer to propose reasonable amendments to the DDA which will be considered by the Administering Authority on its own merits.
- The supply of relevant and regular (annual) financial information for the employer such as a copy of its latest accounts, sources of funding, budget forecasts, credit rating (if any) to support its covenant assessment.
- Security be put in place covering the employer's deficit on their cessation basis (where applicable) and the Administering Authority will seek actuarial, covenant and legal advice in all cases.
- Regular monitoring of the contribution requirements and security requirements at least triennially as part of the formal valuation process.
- All costs of the arrangement are met by the employer, such as the cost of advice to the Administering Authority (both actuarial and legal), ongoing monitoring or the arrangement and correspondence on any ongoing contribution and security requirements.

A DDA will normally terminate on the first date on which one of the following events occurs:

- The employer enrols new active fund members.
- The period specified, or as varied, under the DDA elapses.
- The take-over, amalgamation, insolvency, winding up or liquidation of the employer.
- The Administering Authority serves a notice on the employer that the Administering Authority is reasonably satisfied that the employer's ability to meet the contributions payable under the DDA has weakened materially or is likely to weaken materially in the next 12 months.
- The Fund Actuary assesses that the employer is now fully funded on their low-risk basis.
- The Fund Actuary assesses that the employer's deficit has fallen below an agreed *de minimis* level and the employer becomes an exiting employer on the calculation date.
- The employer requests early termination of the agreement and settles the exit payment in full as calculated by the Fund Actuary on the calculation date (i.e., the employer pays their outstanding cessation debt on their cessation basis).

On the termination of a DDA, the employer will become an exiting employer and a cessation valuation will be completed in line with this policy.

3.3 Exit credits

The Administering Authority's entitlement to determine whether exit credits are payable in accordance with these provisions shall apply to all employers ceasing their participation in the fund after 14 May 2018. This provision therefore is retrospectively effective to the same extent as provisions of the Local Government Pension Scheme (Amendment) Regulations 2020.

The Administering Authority, via the Fund Actuary, will determine the amount of exit credit payable (which could be nil). However, in making a determination, the Administering Authority will take into account the following factors:

a) the extent to which there is an excess of assets in the fund relating to the employer over and above the liabilities specified.

b) the proportion of the 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, guarantor, ceding Scheme Employer (usually the Letting Authority) or by a body which owns, funds, or controls the exiting employer; or in some cases, the Secretary of State.

d) any other relevant factors

Admitted bodies

i. No exit credit will be payable in respect of admissions who joined the Fund before 14 May 2018 unless it is subject to a risk sharing arrangement as per paragraph iii) below. Prior to this date, the payment of an exit credit was not permitted under the Regulations and this will have been reflected in the commercial terms agreed between the admission body and the letting authority/awarding authority/ceding employer. This will also apply to any pre-14 May 2018 admission which has been extended or 'rolled over' beyond the initial expiry date and on the same terms that applied on joining the fund.

ii. No exit credit will normally be payable to any admission body who participates in the fund via a pass-through approach in which the letting authority/awarding authority retains responsibility for all or most of the pensions risks. The Administering Authority will however treat each case on its own merits and make its discretionary decision accordingly.

iii. The Administering Authority 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 Administering Authority in a clear and unambiguous document with the agreement of both the admission body and the letting authority/awarding authority/ceding employer and within one month (or such longer time as may be agreed with the Administering Authority) of the admission body ceasing participation in the Fund.

iv. In the absence of this information or if there is any dispute from either party with regards interpretation of contractual or risk sharing agreements as outlined in iii), the Administering Authority will withhold payment of the exit credit until such disputes are resolved and the information is provided to the Administering Authority.

v. Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Administering Authority 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.

vi. If the admission agreement ends early, the Administering Authority will consider the reason for the early termination, and whether that should have any relevance on the Administering Authority's determination of the value of any exit credit payment. In these cases, the Administering Authority will consider the differential between employers' contributions paid (including investment returns earned on these monies) and the size of any cessation surplus.

vii. If an admitted body leaves on a low risk basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer, subject to the above points.

viii. The decision of the Administering Authority is final in interpreting how any arrangement described under iii, v, vi and vii applies to the value of an exit credit payment.

Scheduled bodies and designating bodies

i. Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Administering Authority will consider how the approach to setting contribution rates payable by the employer 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.

ii. Where no formal guarantor or risk-sharing arrangement exists, the Administering Authority will consider how the approach to setting contribution rates payable by the employer during its participation in the fund reflects the extent to which it is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

iii. The decision of the Administering Authority is final in interpreting how any arrangement described under i and ii applies to the value of an exit credit payment.

iv. If a scheduled body or designating body becomes an exiting employer due to a reorganisation, merger, or take-over, then no exit credit will be paid.

v. If a scheduled body or resolution body leaves on a low-risk basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

General

i. The Administering Authority 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.

ii. Subject to any risk sharing or other arrangements and factors discussed above, when determining the cessation funding position, the Administering Authority will generally make an assessment based on the value of contributions paid by the employer during their participation, the assets allocated when they joined the fund and the respective investment returns earned on both.

iii. The Administering Authority 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 Administering Authority's default position will be to deduct these from any exit credit payment.

iv. The final decision will be made by the pension manager, in conjunction with advice from the Fund Actuary and/or legal advisors where necessary, in consideration of the points held within this policy.

v. The Administering Authority 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 Administering Authority will discuss its approach to determining an exit credit with all affected parties. The decision of the Administering Authority in these instances is final.

vi. The guidelines above at point iv in the ‘Admitted bodies’ section, and at points i and ii in the ‘Scheduled bodies and designating bodies’ section, make reference to the Administering Authority ‘considering the approach to setting contribution rates during the employer’s participation’. The different funding approaches, including the parameters used and how these can vary based on employer type, are covered in detail in Table 2 (section 2.2) in the FSS. Considering the approach taken when setting contribution rates of the exiting employer may help the Administering Authority to understand the extent to which the employer is responsible for funding the underlying liabilities on exit. For example, if contribution rates have always been based on ongoing assumptions, then this may suggest that these are also appropriate assumptions for exit credit purposes (subject to the other considerations outlined within this policy). Equally, a shorter than usual funding time horizon or lower than usual likelihood of success parameter may reflect underlying commercial terms about how responsibility for pension risks is split between the employer and its guarantor. For the avoidance of doubt, each exiting employer will be considered in the round alongside the other factors mentioned above.

Disputes

In the event of any dispute or disagreement on the amount of any exit credit paid and the process by which that has been considered, the appeals and adjudication provisions contained in Regulations 74-78 of the LGPS Regulations 2013 would apply.

3.4 Preparing for cessation in advance

In some cases, it will be known to the Administering Authority and the employer that a cessation event in future is inevitable even though it could be years away. For example, when an employer closes to new entrants it will ultimately cease to be a participating employer when the last of its current active members leaves, retires or dies.

In these situations, the Administering Authority will adopt the relevant cessation basis (from section 3.1) as the funding target when setting contributions for the employer. This ensures that the funding strategy is aligned with the basis that will ultimately apply when the employer exits and that the impact of changing from the ongoing to low-risk basis is effectively spread over the time horizon.

The default time horizon for closed employers is the average future working lifetime of its active members (see section 2.2 of the FSS). However, a horizon of up to 20 years may be used when an employer and the Administering Authority formally agree in advance to enter into a DDA when the last active member leaves, because this avoids any cessation debt being crystallised on the date the last active member leaves. A period of 20 years is the maximum permissible in the case of all scheme employers, whether open or closed to new entrants.

The Administering Authority will consider requests for such an agreement from any employer subject to the following principles:

- The employer must be closed to new entrants and ultimately be ceasing on the low-risk basis
- The employer must demonstrate that contributions otherwise set using the default time horizon would be materially detrimental to its financial health
- The employer must demonstrate a strong covenant which justifies funding the deficit over a longer time horizon, and that the covenant applies over that longer horizon

- The terms of the DDA that will apply once the last active member leaves will be set out in line with the principles in section 0

4 Practicalities and process

4.1 Responsibilities of ceasing employers

An employer who is aware that its participation in the fund is likely to come to an end must:

- advise the Administering Authority, in writing, of the likely ending of its participation (either within the terms of the admission agreement in respect of an admission body (typically a 3-month notice period is required) or otherwise as required by the Regulations for all other scheme employers). It should be noted that this includes closed employers where the last employee member is leaving (whether due to retirement, death or otherwise leaving employment).

- provide any relevant information on the reason for leaving the fund and, where appropriate, contact information in the case of a take-over, merger, or insolvency.

- provide all other information and data requirements as requested by the Administering Authority which are relevant, including in particular any changes to the membership which could affect the liabilities (e.g., salary increases and early retirements) and an indication of what will happen to current employee members on cessation (e.g., will they transfer to another Fund employer, will they cease to accrue benefits within the Fund, etc.).

4.2 Responsibilities of Administering Authority

The Administering Authority will:

- gather information as required, including, but not limited to, the following:

    - details of the cessation - the reason the employer is leaving the fund (i.e., end of contract, insolvency, merger, machinery of government changes, etc.) and any supporting documentation that may have an effect on the cessation.

    - complete membership data for the outgoing employer and identify changes since the previous formal valuation.

    - the likely outcome for any remaining employee members (e.g., will they be transferred to a new employer, or will they cease to accrue liabilities in the Fund).

- identify the party that will be responsible for the employer's deficit on cessation (i.e., the employer itself, an insurance company, a receiver, another Fund employer, guarantor, etc.).

- commission the Fund Actuary to carry out a cessation valuation under the appropriate regulation at the scheme employer's expense.

- where applicable, discuss with the employer the possibility of paying adjusted contribution rates that target a 100% funding level by the date of cessation through increased contributions in the case of a deficit on the cessation basis or reduced contributions in respect of a surplus.

- where applicable, liaise with the original ceding employer or guarantor and ensure it is aware of its responsibilities, in particular for any residual liabilities or risk associated with the outgoing employer's membership.

- having taken actuarial advice, notify the employer and other relevant parties in writing of the payment required in respect of any deficit on cessation and pursue payment.

Payment of an exit credit

- If the actuary determines that there is an excess of assets over the liabilities at the cessation date, the Administering Authority will act in accordance with the exit credit policy above. If payment is required, the Administering Authority will advise the exiting employer of the amount due to be repaid and seek to make payment as soon as it is satisfied of the circumstances but no later than six months following the confirmed exit date. However, in order to meet the six months timeframe, the Administering Authority requires prompt notification of an employers' exit and all data requested to be provided in a timely manner. The Administering Authority is unable to make any exit credit payment until it has received all data requested.

- At the time this policy was produced, the Administering Authority has been informed by HMRC that exit credits are not subject to tax, however all exiting employers must seek their own advice on the tax and accounting treatment of any exit credit.

4.3 Responsibilities of the actuary

Following commission of a cessation valuation by the Administering Authority, the fund actuary will:

- calculate the surplus or deficit attributable to the outgoing employer on an appropriate basis, taking into account the principles set out in this policy.

- provide actuarial advice to the Administering Authority on how any cessation deficit should be recovered, giving consideration to the circumstances of the employer and any information collected to date in respect to the cessation.

- where appropriate, advise on the implications of the employer leaving on the remaining fund employers, including any residual effects to be considered as part of triennial valuations.

5 Related Policies

The Administering Authority's approach to exiting employers is set out in the FSS, specifically "Section 7 – What happens when an employer leaves the fund?"

The approach taken to set the actuarial assumptions for cessation valuations is set out in Appendix D of the FSS.