

To: Kent Pension Fund Committee – 29 March 2023

From: Chairman Pension Fund Committee
Corporate Director of Finance

Subject: Fund Employer Matters

Classification: Unrestricted

Summary:

This report provides information on Fund employers for the 9 months ending 31 December 2022. The report also proposes one employer admission and requests approval for the treatment of surpluses related to two exiting employers. Finally, the report also covers a potential regulatory initiative known as “deemed employer status”, which officers have identified as a development that could benefit the Fund and its stakeholders.

Recommendations:

The Committee are asked to note the report and to resolve to agree:

- a) to the admission to the Kent Pension Fund of Cater Link Ltd re Future Schools Trust;
- b) that the Kier surplus is allocated to KCC’s notional share of the Fund;
- c) that the Sopra Steria surplus is allocated to Folkestone and Hythe District Councils’ notional share of the Fund;
- d) that the Fund writes to DLUHC asking for an update on the matter of deemed employer status;
- e) that the Chairman may add recommendations a) to d) to the Record of Decision at the end of today’s meeting; and
- f) that once legal agreements have been prepared for a) above the Kent County Council seal can be affixed to the legal documents.

FOR DECISION

Summary:

1. Introduction

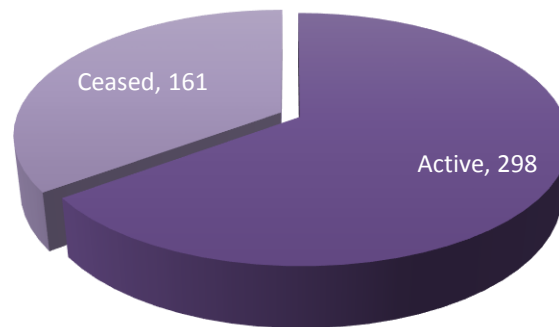
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requests approval for the treatment of surpluses related to two exiting employers. Finally, the report also covers a potential regulatory initiative known as “deemed employer status”, which officers have identified as a development that could benefit the Fund and its stakeholders.

2. Employer Update for the 9 months to 31 December 2022

- 2.1 This report provides information on Fund employers for the first 9 months of the current financial year ending 31 December 2022.
- 2.2 At its last meeting the Committee received an update on employer numbers as at 30 September 2022, when there were 457 employers in the Fund. This number increased by 2 over the final quarter of 2022 and therefore there were 459 employers in the Fund on 31 December 2022. During this 3-month period 2 new employers joined the Fund. In addition, 3 employers changed from being active to ceased although this does not affect the overall number of 459.

Split of Employers between Active and Ceased



2.3 The following table lists employers who joined the Fund as well as those who ceased to have active members in the Fund during the 9 months to 31 December 2022.

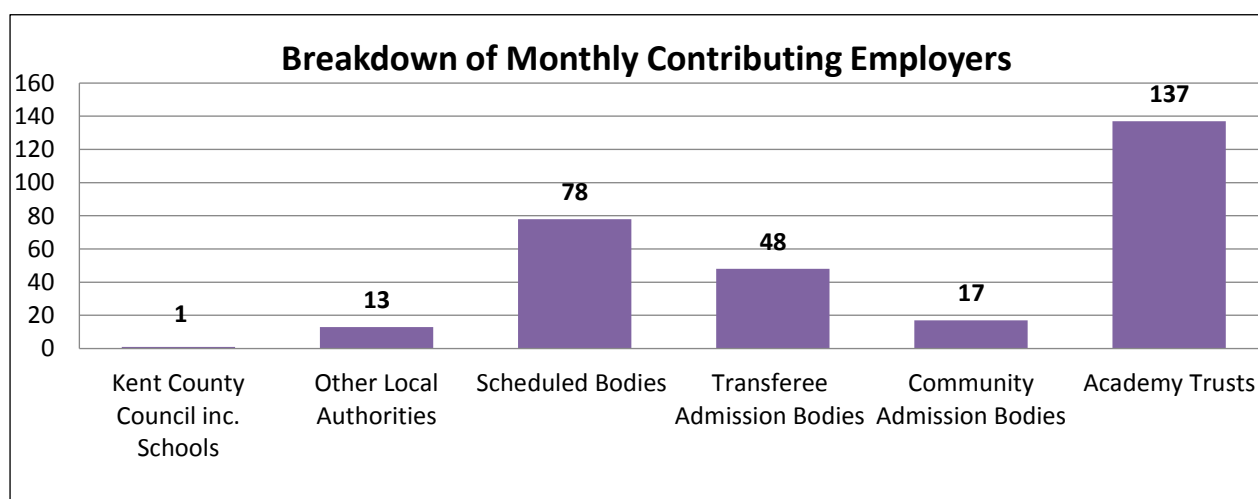
New Employers	Effective Date
Admission Bodies	
Olive Dining	1 May 2019 (backdated admission)
Independent Catering Management Ltd (re Robert Napier Fort Pitt Thomas Aveling Academies)	1 August 2020 (backdated admission)
Pabulum Ltd -Tenterden Schools Trust	1 December 2020 (backdated admission)
Town and County Cleaners Ltd (re The Stour Academy Trust)	1 August 2021 (backdated admission)
Churchill Contract Services Ltd (re Lordswood School)	1 August 2014 (backdated admission)
Sports and Leisure Management Ltd	14 January 2022 (backdated admission)
Scheduled Bodies	
Leybourne Parish Council	1 September 2021 (backdated resolution)
Academy Trusts	
Hornchurch Academy Trust	1 July 2022
Bourne Alliance Trust	1 September 2022
Character Education Trust	1 September 2022

Ceased Employers	Effective Date
Admission Bodies	
Olive Dining	31 October 2020 (backdated admission)
Capita Managed IT Solutions (St Georges School)	31 March 2022
Nourish Contract Catering Ltd (re Stour)	31 July 2022
Amey Community Ltd	31 October 2022
Skanska Construction UK Ltd	31 October 2022
Churchill Contract Services Ltd (re Skanska)	31 October 2022
Scheduled Bodies	
Higham Parish Council	5 October 2021

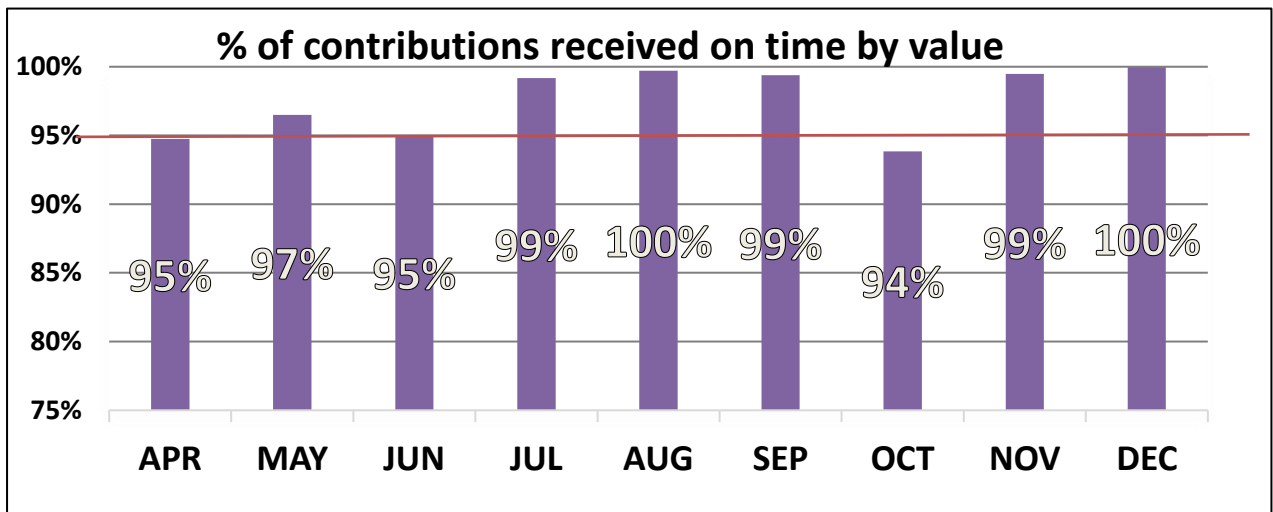
2.4 In the 9 months to 31 December 2022 the Fund received £217.6m from employers in respect of their monthly contributions (employer and employee) as follows:

	Received Early	Cash on 19th	Received Late	Total
	£	£	£	£
April	14,004,162	9,506,182	614,797	24,125,141
May	13,974,463	9,213,109	557,288	23,744,860
June	14,119,396	9,108,759	977,114	24,205,269
July	13,907,081	9,647,067	197,479	23,751,627
August	21,675,848	1,860,797	65,812	23,602,457
September	14,919,959	8,617,175	146,780	23,683,914
October	14,080,940	8,711,941	1,497,137	24,290,018
November	15,990,610	8,946,270	133,711	25,070,591
December	15,782,874	9,379,261	6,132	25,168,267
Total	138,455,333	74,990,561	4,196,250	217,642,144

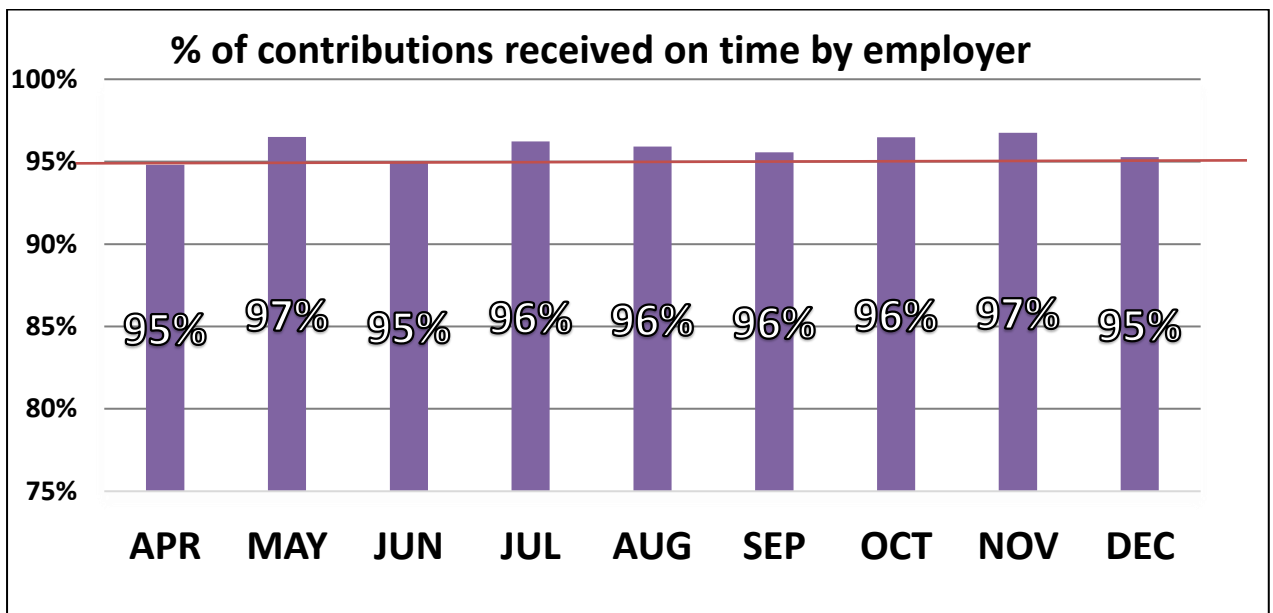
2.5 The following table shows employers from whom the Fund receives monthly contributions by Employer Group, 4 less than the pie chart at 2.2 above because these employers have no active members and pay their secondary employer contributions annually or half yearly.



2.6 The Key Performance Indicator (KPI) of 95% for % of contributions was met every month April to December 2022 bar October 2022, when Medway Council paid late on 23 November 2022 following chasing from officers.



2.7 The Key Performance Indicator (KPI) of 95% for % employers was met every month April to December 2022.



3. Cater Link Ltd (re Future Schools Trust)

3.1 Future Schools Trust has awarded a 4-year and 10-month contract for catering services from 1 November 2022 and this involved the transfer of 12 employees to Cater Link Ltd.

3.2 Cater Link Ltd has applied retrospectively for admission to the Pension Fund to ensure the continuity of pension arrangements for staff.

3.3 The admission application has been made under Schedule 2 Part 3 1(d) (i) of the LGPS Regulations 2013, as amended, and under this regulation the admitted body is required to provide some form of security.

- 3.4 The Fund actuary has assessed the employer contribution rate as 24.0% for a closed agreement and the bond for the first year as £52,000.
- 3.5 The completed questionnaires and supporting documents provided by Cater Link Ltd have been examined by officers to ensure compliance with the LGPS regulations, and Invicta Law has given a favourable opinion.
- 3.6 The Committee is asked to agree that Cater Link Ltd (re Future Schools Trust) be admitted to the Fund.

4. Exiting Employers in Surplus

- 4.1 At their meeting on 13 June 2018 Committee were advised the LGPS regulations were amended on 14 May 2018 to allow for a surplus to be returned to an exiting employer or for the surplus to be notionally allocated to the letting authorities' share of the Fund in the case of a contractor's exit.
- 4.2 Commercial contracts and associated admission agreements that predate the May 2018 LGPS regulation changes are often silent on the treatment of a surplus on exit.
- 4.3 At their meeting on 12 June 2019 Committee agreed that termination letters regarding returns of surplus up to £20k and notifications re deficits as described in the actuary's reports be delegated to officers.
- 4.4 In September 2021 the Committee agreed to the existing Funding Strategy Statement.
- 4.5 Kier Facilities Services Ltd (2)
 - 4.5.1 Kier Facilities Services Ltd (2) (Kier) joined the Fund on 21 January 2015 as an admission body and exited on 20 January 2020. KCC is the scheme employer.
 - 4.5.2 The admission agreement makes Kier responsible for any deficit although is silent on the treatment of any surplus.
 - 4.5.3 Kiers cessation report shows a surplus of £143k.
 - 4.5.4 As per the LGPS regulations, any surplus paid is capped at the total employer contributions received which were £126k and representations from Kier and KCC have been sought in consideration of the surplus.
 - 4.5.5 Officers have established with Kier that under their commercial contract it is KCC who were exposed to any underfunding risk on the cessation of their agreement which has been confirmed by KCC.
 - 4.5.6 The Committee is asked to agree the surplus is allocated to KCC's notional Share of the Fund, capped at the total employer contributions

paid by Kier (being £126k) less £16k of outstanding fees and strain costs payable by Kier as advised by Barnett Waddingham.

4.6 Sopra Steria Ltd

- 4.6.1 Sopra Steria Ltd joined the Fund on 1 April 2012 as an admission body and exited on 31 March 2020. Folkestone and Hythe District Council (FHDC) is the scheme employer.
- 4.6.2 The admission agreement makes Sopra Steria Ltd responsible for any deficit although is silent on the treatment of any surplus.
- 4.6.3 The Sopra Steria cessation report shows a surplus of £278k.
- 4.6.4 As per the LGPS regulations, any surplus paid is capped at the total employer contributions received which were more than the above £278k surplus and representations from Sopra Steria Ltd and FHDC have been sought in consideration of the surplus.
- 4.6.5 Officers have established with Sopra Steria Ltd that under their commercial contract it is FHDC who were exposed to any underfunding risk on the cessation of their agreement which has been confirmed by FHDC.
- 4.6.6 The Committee are asked to agree the surplus is allocated to FHDC's notional share of the Fund.

5. **2019 Government Consultation - deemed employer route**

- 5.1 In May 2018 the LGPS regulations were amended to allow LGPS legal documents to be given retrospective effect back to the staff transfer date. Whilst this has provided welcome flexibility for the Fund, letting authorities and contractors it also causes practical difficulties for the employees involved in a staff transfer who may wish to retire etc before the legal documents are completed, leading to a delay in processing their LGPS benefits.
- 5.2 At their meeting on 21 June 2019 Committee were advised the then Ministry of Housing, Communities & Local Government (MHCLG) ran a consultation from January to April 2019 called *Fair Deal – strengthening pension protection*. Officers did not respond to the consultation on behalf of the Fund although broadly welcomed the proposals. This consultation is attached at Appendix one.
- 5.3 The consultation proposed that service providers do not necessarily need to become admission bodies in the LGPS to participate in the scheme. Instead 'deemed employer status' could be used, with LGPS risk retained by the letting authority, whilst the LGPS contributions are paid by the contractor potentially at the same rate as the letting authority.

- 5.4 Officers anticipate the deemed employer route for entry to the Fund would reduce costs and delays by potentially minimising the involvement of the actuary and the need for a legal admission agreement and associated security.
- 5.5 There has been no further update on the deemed employer route following the 2019 consultation and it is recommended the Chair of the Committee write to The Department of Levelling Up, Housing and Communities (DLUHC) to express the Fund's support for it and to ask for amendments to the LGPS regulations to be made as soon as possible.

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