

By: Acting Director of Finance  
To: Superannuation Fund Committee – 23 November 2007  
Subject: **PROCESS FOR ADMISSION TO THE FUND**  
Classification: Unrestricted

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Summary: To report on the process for organisations to participate in the Superannuation Fund by means of an admission agreement

## **FOR DECISION**

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### **BACKGROUND**

1. The current Local Government Pension Scheme Regulations (LGPSR) allow for employees of non-Scheme employers to become members of the Scheme. Non - Scheme employers are organisations which may participate in the Pension Scheme by means of an admission agreement.
2. Regulations 5, 5A and 5B of the LGPSR set out the criteria for admission to participate in the Pension Scheme. There are two types of admission bodies: Community Admission Body (CAB) and Transferee Admission Body (TAB). The definitions of these two types of admission body are set out in the extract from the LGPSR attached as Appendix 1.

### **COMMUNITY ADMISSION BODIES**

3. The Superannuation Fund Group in 1990 stipulated that admission applications should meet the following criteria:
  - (1) Organisations must employ 20 or more people, but those with a lesser number would be accepted only if they had been set up to take over a function divested either from the County or District Councils; and
  - (2) No organisation wholly based outside the County is admitted.

4. The current policy for an admission under the CAB route is that admissions must meet the criteria set by the Superannuation Fund Group in 1990 and comply with the LGPSR.
5. The Superannuation Fund committee has to the power not to agree an application from a CAB even though the application complies with the agreed criteria and the LGPSR.
6. The committee can decide whether to retain or delete the 1990 criteria. Our view is that the first point relating to the size of the organisation should be deleted. However, we recommend retention of the criteria requiring the work of the staff in the applicant body to be undertaken in Kent.

### **TRANSFEEE ADMISSION BODIES**

7. Admission to the Pension Scheme is automatic subject to the legal agreements being made between the parties and the provision of a form of Bond to cover the actuarially assessed liabilities that will arise on early termination of the contract.
8. Where the TAB and the Scheme employer letting the contract meet the requirements of the LGPSR, the Administering Authority must enter into an admission agreement with the TAB. The Superannuation Fund Committee cannot refuse the admission. The policy set out in paragraph 3 of this report does not therefore apply to TAB applications.

### **RECOMMENDATION**

9. Members are asked to:
  - (1) Note the procedure on admissions to the Pension Scheme;
  - (2) As the policy set out in paragraph 3 of this report can only be applied to CAB applications, members are asked to agree to delete paragraph 3(1) of this policy, and retain paragraph 3 (2).

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## APPENDIX 1

### Extract from the LGPS Regulations

#### Employees of non-Scheme employers: community admission bodies

5. - (1) Subject to the requirements of this regulation and regulation 5B, an administering authority may make an admission agreement with any community admission body.

(2) These are community admission bodies -

(a) a body, other than the governors or managers of a voluntary school, which provides a public service in the United Kingdom otherwise than for the purposes of gain and which either -

(i) has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest, whether because the operations of the body are dependent on the operations of the Scheme employer or otherwise, or

(ii) is approved by the Secretary of State for the purposes of admission to the Scheme;

(b) a body, other than the governors or managers of a voluntary school, to the funds of which any Scheme employer contributes;

(c) a body representative -

(i) of local authorities,

(ii) of local authorities and officers of local authorities,

(iii) of officers of local authorities which is formed for the purpose of consultation as to the common interests of local authorities and the discussion of matters relating to local government, or

(iv) of Scheme employers;

(d) the Housing Corporation;

(e) the Commission for the New Towns;

(f) a company for the time being subject to the influence of a local authority as described in section 69 of the Local Government and Housing Act 1989; and

(g) a company for the time being subject to the influence of a Scheme employer listed in Schedule 2 (other than a local authority) as described in section 69 of the Local Government and Housing Act 1989 as if references in that section to a local authority were references to the listed Scheme employer.

(3) Approval under paragraph (2)(a)(ii) may be subject to such conditions as the Secretary of State thinks fit and he may withdraw approval at any time if such conditions are not met.

(4) Where, at the date that the admission agreement is made with a body within paragraph (2)(b), the contributions paid to the body by any one or more Scheme employers equal in total 50% or less of the total amount it receives from all sources, it must be a term of the admission agreement that the Scheme employer who provides funding (and, if more than one, all of them) guarantees the liability of the body to pay all amounts due from it under the Regulations.

(5) For the purposes of paragraph (2)(c) and (f), "local authority" includes the Greater London Authority.

### **Employees of non-Scheme employers: transferee admission bodies**

**5A.** - (1) Subject to the requirements of this regulation and regulation 5B, an administering authority may make an admission agreement with any transferee admission body.

(2) A transferee admission body is a body, other than a community admission body, that is providing, or will provide -

(a) a service or assets in connection with the exercise of a function of a Scheme employer as a result of -

(i) the transfer of the service or assets by means of a contract or other arrangement;

(ii) a direction made under section 15 of the Local Government Act 1999; or

(iii) directions made under section 497A of the Education Act 1996; or

(b) a public service and which is approved by the Secretary of State for the purposes of admission to the Scheme.

(3) Only those employees of the transferee admission body who are employed in connection with the provision of the service or assets referred to in paragraph (2) are eligible to be members of the Scheme.

(4) In the case of an admission agreement with a transferee admission body under paragraph (2)(a) the Scheme employer, if it is not also the administering authority, must be a party to the admission agreement.

(5) Approval under paragraph (2)(b) may be subject to such conditions as the Secretary of State thinks fit and he may withdraw approval at any time if such conditions are not met.

(6) An admission agreement with a transferee admission body shall require that:

(a) in the case of a body under -

(i) paragraph 2(a), the Scheme employer; or

(ii) paragraph 2(b), the transferee admission body, to the satisfaction of the administering authority,

shall carry out an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of the service or assets by reason of the insolvency, winding up or liquidation of the transferee admission body, and

(b) that where the level of risk identified by the assessment is such as to require it, the transferee admission body shall enter into an indemnity or bond to meet the level of risk identified.

(7) The indemnity or bond must be with -

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance;

(b) an EEA firm of the kind mentioned in paragraph 5(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or

(c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.

(8) An admission agreement with a transferee admission body shall make provision for the relevant matters set out in Schedule 2A.

(9) Where a transferee admission body undertakes to meet the relevant requirements of this regulation, and -

(a) in the case of a body under paragraph 2(a), the Scheme employer undertakes to meet the relevant requirements of this regulation;  
or

(b) in the case of a body under paragraph (2)(b), the Secretary of State approves the body for admission to the Scheme and the conditions, if any, to which the approval is subject have been met;

an administering authority must admit to the Scheme the eligible employees of the transferee admission body specified by the body and where it does so, the terms on which it does so are the admission agreement for the purposes of these Regulations.

### **Requirements for admission agreements**

**5B.** - (1) In regulations 5 and 5A an admission agreement is an agreement that all or any specified class of the admission body's employees may be members.

(2) An admission agreement must terminate if the admission body ceases to be such a body and may make such other provision about its termination as the parties consider appropriate.

(3) When an administering authority makes an admission agreement, it must promptly inform the Secretary of State of the date the agreement takes effect, the admission body's name and, in the case of an admission agreement with a transferee admission body under paragraph 5A(2)(a), the name of the relevant Scheme employer.

(4) An administering authority must notify the Commissioners of the Inland Revenue of the admission of an admission body within the time prescribed in regulations made under section 605 of the Taxes Act and provide such information as may be so prescribed.

(5) An administering authority and an admission body may make an admission agreement despite the fact that they do not exercise their functions or provide services or assets in areas that overlap or adjoin each other.

(6) Any question which may arise between the parties to an admission agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred in writing for determination to the Secretary of State.

(7) An employee of an admission body may not be a member if he is a member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993) other than where the accrual of benefits under the occupational pension scheme would not affect approval of the Scheme as an approved scheme.

(8) These Regulations apply to employment with an admission body in which the employee is an active member in the same way as if the admission body were a Scheme employer.