

To: Pension Fund Committee – 22 June 2023

From: Chairman Pension Fund Committee
Corporate Director of Finance

Subject: Funding Matters

Classification: Unrestricted

Summary:

This report provides information on Fund employers, an admission matter, information on Oasis Restore Trust and an update on 'deemed employer' status. It also provides an update on academy guarantee and outsourcings and the plans for actuarial procurement.

Recommendations:

The Committee is asked to note the report and agree:

- a) to the admission to the Kent County Council Pension Fund of Churchill Contract Services Ltd (re Inspire Partnership Academy Trust);
- b) that the Chairman may add recommendation a) to the Record of Decision at the end of today's meeting; and
- c) that once legal agreements have been prepared for matter a) the Kent County Council seal can be affixed to the legal documents.

FOR DECISION

Summary:

1. Introduction

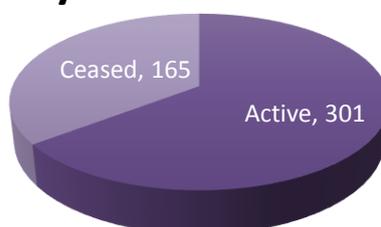
This report provides information on Fund employers for the 3 months ending 31 March 2023. The report also proposes an employer admission, information on Oasis Restore Trust and an update on 'deemed employer' status. It also provides an update on academy guarantee and outsourcings and the plans for actuarial procurement.

2. Employer Update for the 3 months to 31 March 2023

- 2.1 At its last meeting the Committee received an update on employer numbers as at 31 December 2022, when there were 459 employers in the Fund. This number increased by 7 over the first quarter of 2023 and therefore there were 466 employers in the Fund on 31 March 2023. During this 3-month period 7

new employers joined the Fund. In addition, 2 employers changed from being active to ceased and two single academy trusts merged to a multi-academy trust although this does not affect the overall number of 466.

Split of employers between active and ceased



2.2 The following table lists employers who joined the Fund as well as those who ceased to have active members in the Fund during the 3 months to 31 March 2023.

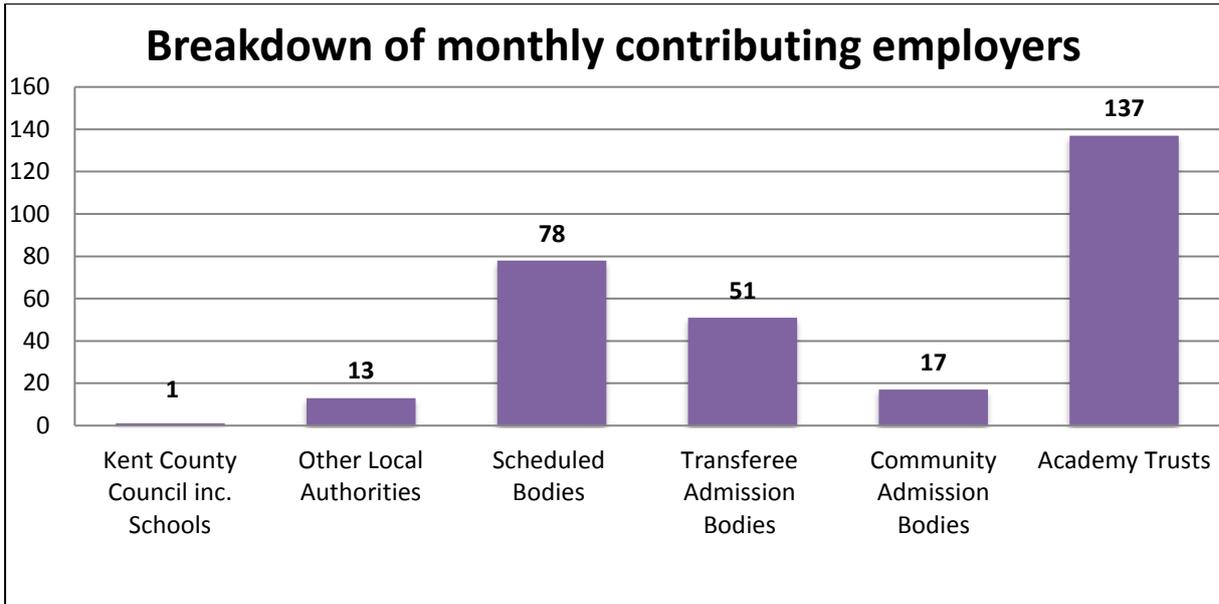
New Employers	Effective Date
Admission Bodies	
Purgo Supply Services Ltd	1 August 2019 (backdated admission)
Oliver Winter t/a Victory Cleaning	1 February 2020 (backdated admission)
Birkin Cleaning Services Ltd (re Maritime Academy Trust)	4 May 2020 (backdated admission)
Town and Country Cleaners Ltd (re Maritime Academy Trust)	1 August 2021 (backdated admission)
Cater Link Ltd (re Sir Roger Manwood Schools)	1 April 2022 (backdated admission)
Academy Trusts	
Oasis Restore Trust	1 February 2023
Nexus Education Schools Trust (NEST)	1 March 2023

Ceased Employers	Effective Date
Admission Bodies	
Churchill Contract Services Ltd (re Lordswood School)	31 August 2021 (late notification of leaving)
Compass Contract Services (UK) Ltd t/a Chartwells (KCSP Primary Schools)	30 November 2022 (late notification of leaving)
Academy Trusts	
Joydens Wood Junior School Academy	28 February 2023
Joydens Wood Infant School Academy	28 February 2023

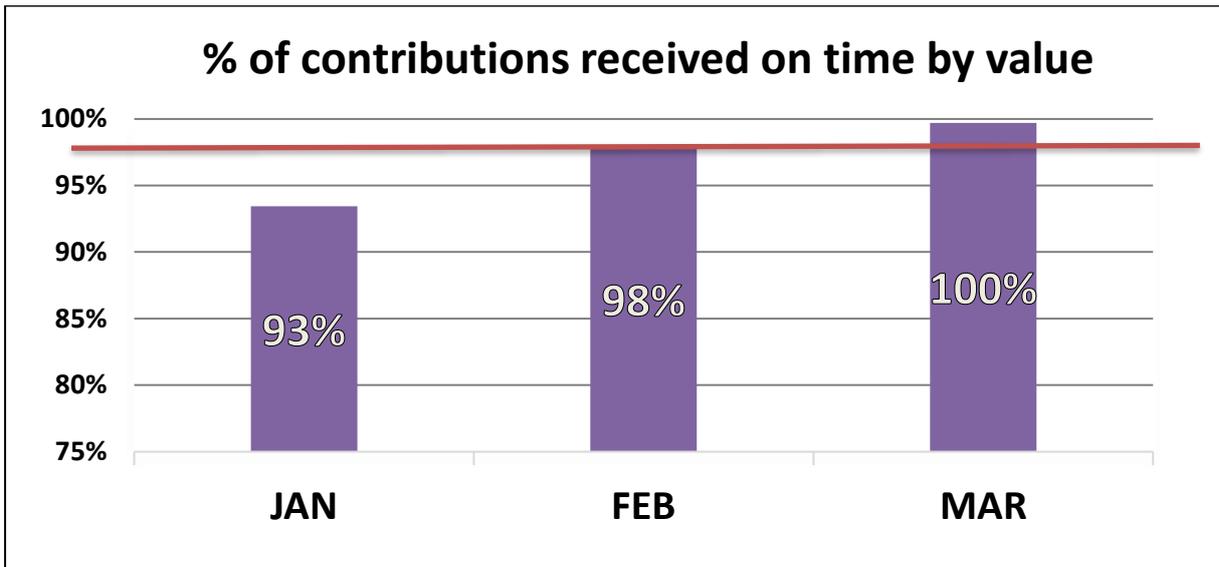
2.3 In the 12 months to 31 March 2023 the Fund received £291.2m from employers in respect of their monthly contributions (employer and employee) as follows:

	Received Early	Cash on 19th	Received Late	Total
	£	£	£	£
A pril	14,006,574	9,504,528	613,517	24,124,619
May	13,980,039	9,223,205	554,842	23,758,086
June	14,084,304	9,108,759	973,332	24,166,395
July	13,957,142	9,645,167	195,484	23,797,793
August	21,781,225	1,860,797	73,542	23,715,563
September	14,931,769	8,690,214	134,700	23,756,683
October	13,975,914	8,752,754	1,500,298	24,228,967
November	15,930,491	8,939,216	140,671	25,010,378
December	16,904,276	8,311,427	10,490	25,226,193
January	14,084,838	8,733,617	1,604,389	24,422,845
February	13,545,272	10,395,849	512,663	24,453,784
March	15,680,111	8,791,674	73,825	24,545,610
Total	182,861,955	101,957,207	6,387,753	291,206,916

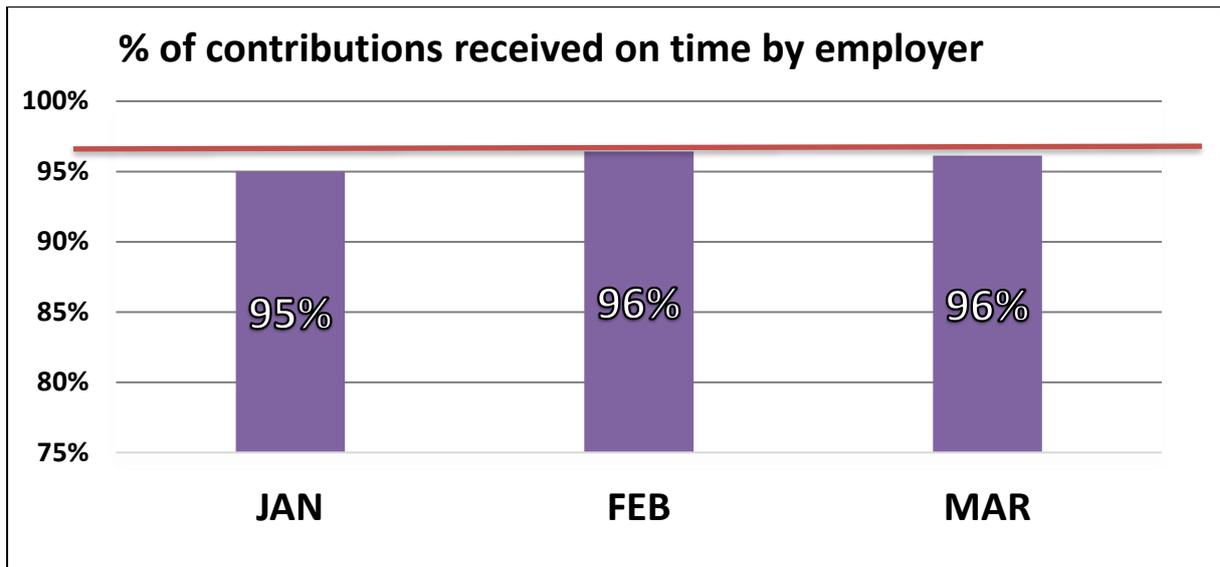
2.4 The following table shows employers from whom the Fund receives monthly contributions by Employer Group.



2.5 The Key Performance Indicator (KPI) of 95% for % of contributions was met every month January to March 2023 bar January 2023, when Medway Council paid late on 20 February 2023.



2.6 The Key Performance Indicator (KPI) of 95% for % employers was met every month January to March 2023.



3 Churchill Contract Services Ltd (re Inspire Partnership Academy Trust)

- 3.1 Inspire Partnership Academy Trust has awarded a 3-year contract for cleaning services from 1 May 2022, involving the transfer of 8 employees to Churchill Contract Services Ltd.
- 3.2 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.
- 3.3 The Fund actuary has assessed the employer contribution rate as 23.7% for a closed agreement and the bond for the first year as £15,000.
- 3.4 The completed questionnaires and supporting documents provided by Churchill Contract Services Ltd have been examined by officers to ensure compliance with the LGPS regulations, and Invicta Law has given a favourable opinion.
- 3.5 The Committee is asked to agree that Churchill Contract Services Ltd (re Future Schools Trust) be admitted to the Fund.

4 Oasis Restore Trust

- 4.1 Oasis Restore Trust is a brand-new academy based in Medway, that joined the Kent Pension Fund as a scheduled body on 1 February 2023 when their first LGPS employee commenced employment.
- 4.2 Oasis Restore Trust applied to join the Kent Pension Fund as a secure 16 -19 Academy. It is defined as an Academy under the terms of the Academies Act 2010.
- 4.3 Secure 16 to 19 academies are a new type of youth custody provision, created as part of the Government's response to Charlie Taylor's Review of the Youth

Justice System in England and Wales, published in December 2016, which recommended the creation of 'secure schools'. This is the first of these in Kent Pension Fund and one of only three geographically in the UK.

- 4.4 These types of academies differ from normal academies because they are funded by the Ministry of Justice (MoJ) and its partners and are accountable to them. The Department for Education (DfE) neither funds, nor is accountable for secure 16 to 19 academies however they have agreed to include these types of academies in their Academy guarantee whilst MoJ finalises their own guarantee with relation to the LGPS. This may take around 8 to 12 months. The agreement currently is that any costs incurred under DfE guarantee with respect to a secure 16 to 19 academy is reimbursed by the MoJ.
- 4.5 MoJ have approval from HM Treasury to fund pensions liabilities in this way, in accordance with Managing Public Money, and so are permitted to make a transaction with DfE.
- 4.6 Given that Oasis Restore Trust is a new type of entity, the Fund has taken legal and actuarial advice to satisfy itself that admission to the LGPS is appropriate in accordance with the LGPS regulations. Whilst Oasis Restore Trust is the first such example of a secure academy institution in Kent, this initiative is something we could see elsewhere in Kent and Medway in the future.
- 4.7 Oasis Restore Trust has not been put into the existing academy pool on advice from Barnett Waddingham, as this academy is not the same as those currently in the academy pool from both a funding source perspective and a membership profile perspective.
- 4.8 The number of LGPS active members at Oasis Restore Trust is expected to increase to some 200 posts during 2023/24 and so a reassessment of their initial employer contribution rate of 13.2% will be undertaken by Barnett Waddingham.

5 2019 Government Consultation - deemed employer route

- 5.1 At their meeting on 29 March 2023 Committee agreed that the Chairman writes to DLUHC asking for an update on the matter of deemed employer status.
- 5.2 Officers have considered the matter further and the Charman wrote to Cllr Roger Phillips Scheme Advisory Board Chairman. A further update will be provided at future meetings of the Committee and Board.

6 Update on academy guarantee and outsourcings

- 6.1 On 17 May 2023, the Department for Education (DfE) published their policy for guaranteeing the outsourcing arrangements from academy trusts. This applies to England only.

- 6.2 Education and Skills Funding Agency (ESFA) approval is no longer required by academy trusts seeking pass-through arrangements with their administering authorities for outsourcing contracts for employees covered by the DfE Guarantee policy.
- 6.3 The DfE Guarantee covers employees eligible for the LGPS who:
- 6.3.1 are working for the academy trust, who are transferred to a contractor or on future re-tenders as part of an outsourcing contract.
 - 6.3.2 were working for the local authority in a maintained school, then transferred to a contractor under TUPE, prior to the school becoming an academy, and where the outsourcing contract has passed to the academy trust following conversion to an academy and
 - 6.3.3 are working for the local authority, which is providing services to the academy trust under a contract, and the trust decides to outsource this contract to a third-party provider. Therefore, the employees transfer from the local authority to the new contractor.
- 6.4 The Key points are -
- 6.4.1 Provided the circumstances of an outsourcing contract match one or more of the scenarios outlined in the policy document the academy trust does not need to seek ESFA approval for pass-through arrangements.
 - 6.4.2 If the circumstances of an outsourcing contract are not covered in the policy document, the academy trust must seek ESFA approval using the ESFA enquiry form.
 - 6.4.3 All contracting arrangements currently in place that meet the criteria outlined in the policy document are eligible for pass-through under the DfE Guarantee.
 - 6.4.4 Where academy trusts have already entered arrangements that do not meet the criteria outlined in the policy document, they may discuss alternative options with the relevant administering authority.
 - 6.4.5 Under a pass-through arrangement, if the contractor external to the academy trust ceases to trade, then the LGPS liabilities will remain with the trust. The trust may then choose to seek a new provider or bring services in-house.
 - 6.4.6 The policy means the administering authority should no longer require a bond for pension liabilities. However, if they insist, that would be for the external contractor to provide, as an academy trust cannot provide a bond for LGPS pension liabilities. Where this happens, academy trusts should notify ESFA through the ESFA enquiry form.

7 Actuary procurement

- 7.1 As an Administering Authority the Kent Fund is required to appoint as actuary in accordance with the LGPS regulations.
- 7.2 The current incumbent Barnett Waddingham was appointed by the Kent Fund on 1 November 2009.
- 7.3 The Fund actuary is a key advisor to the Fund, providing daily advice on employer related matters, the triennial valuation which certifies employer contribution rates, employer accounting reports and matters of Fund policy such as the Funding Strategy Statement.
- 7.4 The Committee is advised it is proposed to re-render for actuarial services with a likely start date in 2024/2025.
- 7.5 A detailed update will be provided to Committee at their meeting on 26 September 2023 where it is anticipated a delegation will be sought to the Corporate Director of Finance.

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22 June 2023
