WELLINGTON TOWN COUNCIL

MINUTES OF THE POLICY AND RESOURCES COMMITTEE HELD AT THE UNITED REFORMED CHURCH HALL, WELLINGTON 20 JUNE 2023 AT 4.00pm

Present: Councillors M Barr, K Canham, C Govier, A Govier, M Lithgow, J Lloyd, M McGuffie, J Thorne and K Wheatley.

One member of the press was in attendance.

80. To Elect a Chair for the Coming Year

The Committee **RESOLVED** to appoint Councillor C Govier as Chair of the Committee for the coming year.

81. To Receive Apologies for Absence and to Approve the Reasons Given

No apologies had been received

82. To Receive Any Declarations of Interest

Councillor J Thorne declared a personal interest in agenda item 13 as he knows people employed by Abbeyfield working at Ivy House.

83. Minutes

The Committee **RESOLVED** to approve and sign the minutes of the Policy and Resources Committee Meeting held on 17 April 2023.

84. Questions and Comments from Members of the Public

There were no members of the public in attendance.

85. Terms of Reference

The Committee **RESOLVED** to recommend to the Full Council that no changes were required to the Committee's Terms of Reference with the exception that the organisation chart needed to be updated.

86. To Agree Dates for Committee Meetings for the Coming Year

The Committee **RESOLVED** that it would meet the 2nd Tuesday of alternate months, starting at 4.00pm with the next meeting to be held on the 8 August 2023.

87. Town Council Forward Plan

After some discussion the Committee **RESOLVED** to recommend to Full Council that an informal planning session should be convened to allow councillors to discuss priorities for the remainder of the Council mapped against the Council's vision and taking into consideration the findings of the recent Community Review.

88. Longforth Farm Toilet Block – Project Plan

Copies of the Project Plan and Risk Register had been circulated with the agenda and were noted. The Town Clerk reported that officers were meeting monthly with Ravenslade to monitor progress and that this would be a standing item on future Policy and Resources Committee agendas.

Concern was raised regarding the target completion date of January 2025 and the Town Clerk stated that it was still the very early days of the project and it was hoped that it would be possible to bring that date back but at this time that is what was expected.

89. Basins – Rockwell Green Footpath

The Town Clerk explained that he had been in discussions with a member of the Somerset Council Footpaths Team in relation to making the footpath between The Basins and Rockwell Green more accessible by changing the gate arrangements at either end and by installing ramps on the wooden bridge.

He had been hoping to be able to present a proposal for the gate arrangements but had not received the information required. Somerset Council had however agreed to install a ramp at and replace the sides of the wooden bridge. Somerset Council had asked for a financial contribution towards the work and the Committee **RESOLVED** to authorise the Town Clerk to agree up to £500 as a contribution.

90. Public Open Spaces on New Developments

After some discussion the Committee **RESOLVED** to recommend to Full Council that in principle the Town Council should seek to take on responsibility for the management of any public open spaces on new developments in the town.

91. The Kings Arms

A paper had been circulated with the agenda providing an update on the project. The Committee **RESOLVED** to recommend to Full Council that the Council funds the premises costs of annual rent of £10,000 and utility costs of £8,000 initially for a two year period from April 2024.

92. Future of Allotments Committee

A paper had been circulated with the agenda and Councillor J Lloyd introduced the item to the Committee. The Committee **RESOLVED** to recommend to the Full Council that an Allotment Advisory Board is created, on the basis set out in the report, to replace the Allotments Committee to have oversight of the Basins Allotments. It would report to the Environment and Heritage Committee.

93. Ivy House and The Old Vicarage

The Committee **RESOLVED**:

(i) To recommend to Full Council that a Working Group be established consisting of Councillors J Lloyd, A Govier and J Thorne to work with the Town Clerk to undertake the Council's due diligence work in relation to the possibility of the Town Council taking on the ownership and management of Ivy House and The Old Vicarage with a view to making a recommendation to the Full Council at an appropriate time and

(ii) That to facilitate that work the Town Clerk should sign the Non-Disclosure Agreement with Abbeyfield on behalf of the Town Council.

94. Subsidised Public Transport

Councillor McGuffie's proposal had been detailed on the agenda.

After some discussion the Committee **RESOLVED** to recommend to Full Council that it should explore with stakeholders any options to reduce the cost of buses to Taunton for

residents and increase their use. This will provide environmental and social benefits and the Council's ambition would be for free off-peak travel at least one day a week.

95. Community Transport

The Committee **RESOLVED** to recommend to Full Council that it explores establishing a community transport service in the town to support those parts of the town without access to public transport.

96. Scarecrow Competition

Following the decision of the Full Council to agree a town wide Scarecrow Competition to committee **RESOLVED** that:

(i) The competition will be based around the five wards of the town with a winner in each ward being selected by the local Councillors for that ward.
(ii) The five winners would then be judged by a panel of Councillors to select an overall winner for the town.
(iii) Each ward winner will receive a prize of a £25 voucher from a local shop with the overall winner being given an extra £25 voucher.
(iv) Judging will take place over the August Bank Holiday weekend with scarecrows being put out for display from the 21 August 2023.

97. Mayors/Council Charity Fund

It was agreed that the Town Clerk would work with the Mayor to provide a more detailed proposal.

98. Banking Hub Update

The Town Clerk reported that he was in regular contact with Cash Access UK in relation to establishing a hub in the town. To date it had not yet identified any suitable premises.

He also reported that he had written to the Chief Executive of Lloyds Bank seeking reassurances that the branch would not be closing on the 13 September, as posted on the branch door, as it had given a commitment at the time the closure was announced to remain open until a hub was established or until the 29 March 2024 whichever was the earlier. Given that Cash Access UK say that it takes at least a year to establish a hub the hub will not be in place by the 13 September.

He reported that he had received a response from Lloyds reaffirming the commitment set out above. He had replied asking that the sign on the branch door stating that the branch will be closing on the 13 September 2023 be removed as it was not accurate.

There being no further business the meeting closed at 6.30pm

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Councillor Catherine Govier
Chairman

POLICY AND RESOURCES COMMITTEE

15th AUGUST 2023

WELLINGTON TOWN COUNCIL 50TH ANNIVERSARY

1. Introduction

1.1 Wellington Town Council as we know it will be celebrating its 50th Anniversary on 1st April 2024. The purpose of this paper is to offer some ideas for what can be done to celebrate this milestone and encourage Councillors to put forward their own ideas.

2. Background

2.1 Following the Local Government Act of 1972, Wellington Town Council (known as Wellington Parish Council at first – this was changed on June 7th, 1977, in line with the Queen's Silver Jubilee) formed in 1974 to replace Wellington Urban District Council.

2.2 This new Council had less assets and responsibility than the Urban District Council due to a combination of Taunton Deane Borough Council wishing to take these responsibilities on and local Councillors deciding to relinquish assets to the Borough Council.

2.3 Over 50 years of the Town Council, there has been a total of 85 Councillors and 13 permanent members of staff. The number of living former Councillors is yet to be determined as the Administration Assistant is still combing through the minutes of Council meetings.

3. Celebration Ideas

3.1 We have been lent 15 VHS tapes by Richard Fox. These tapes include a range of films of civic events recorded by the late former Mayor Terry Milton. These films could be compiled into a celebratory video alongside images that exist in the Council Chamber and museum archives. We have been quoted a cost of £10 per tape for the conversion of these tapes to digital files.

3.2 We may consider running a Wellington Town Council museum for one week in the Pop-Up Shop. Wellington Museum has a range of items and papers from the past 50 years as well as pieces relating to the Urban District Council.

3.3 Commemorative coins or badges could be gifted to all surviving former Councillors and staff. If ordered from Insignia there is a minimum order number of 100 at a cost of approximately £1.50 per unit. This would leave us with some spare items, these could be gifted to current leaders of groups that work with the Council.

3.4 A celebratory meal could be organised with all surviving former Councillors and staff invited. Hiring the function room at The Beambridge would be the most preferable option due to the potential volume of guests. To limit cost, consider asking guests to pay for own meal. At this event speeches could be made and it would be a great opportunity to present commemorative coins or badges.

POLICY AND REOURCES COMMITTEE

15 AUGUST 2023

NATIONAL ASSOCIATION OF LOCAL COUNCILS (NALC) CIVILTY AND RESPECT PLEDGE

1. Introduction

1.1 The purpose of this paper is to seek the Committee's views on whether ot would recommend to the Full Council that it signs up to the NALC Civility and Respect Pledge.

2 Background

2.1 The National Association of Local Councils (NALC), the Society of Local Council Clerks (SLCC), and One Voice Wales (OVW) consider that throughout the local council sector, there are growing concerns about the impact bullying, harassment, and intimidation are having on local (parish and town) councils, councillors, clerks and council staff and the resulting effectiveness of local councils.

2.2 They believe now is the time to put civility and respect at the top of the agenda and start a culture change for the local council sector.

2.3 As part of a Civility and Respect Project they have introduced The Civility and Respect Pledge because, as they say, there is no place for bullying, harassment and intimidation within our sector. The pledge is easy for councils to sign up for and it will enable councils to demonstrate that they are committed to standing up to poor behaviour across our sector and to driving through positive changes which support civil and respectful conduct.

2.4 By signing the Pledge, the Council is agreeing that it will treat councillors, clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles, and that it: agrees the following:

Statement	Tick to agree	Comment
Our council has agreed that it will treat all councillors, Clerk and all employees, members of the public, representatives of partner organisations, and volunteers, with civility and respect in their role.		
Our council has put in place a training programme for councillors and staff		There is a suite of eLearning programmes that sit alongside the pledge as set out in the appendix. These would form the basis of the training programme
Our council has signed up to Code of Conduct for councillors		The Council approves the Code of Conduct at its Annual Meeting
Our council has good governance arrangements in place including, staff contracts, and a dignity at work policy.		The Council has a suite of employment and other policies in place with the exception of a Dignity at Work Policy and Councillor-Officer

		Protocol. . Draft policies are on the agenda of this meeting for consideration
Our council will commit to seeking professional help in the early stages should civility and respect issues arise.		If need professional hep is available from the Somerset Association of Local Clerks
Our council will commit to calling out bullying and harassment if and when it happens.		
Our council will continue to learn from best practice in the sector and aspire to being a role model/champion council e.g., via the Local Council Award Scheme		
Our council supports the continued lobbying for the change in legislation to support the Civility and Respect Pledge, including sanctions for elected members where appropriate.		

2.5 To date 1316 councils have signed up to the Pledge.

3. Consideration

3.1 The Committee is asked to consider recommending to the Full Council that it signs up to the NALC Civility and Respect Pledge.

Dave Farrow
Town Clerk

August 2023

Appendix

Training Available to Councillors and Staff to support the Civility and Respect Pledge

Standards in Public Life
This bespoke e-learning module has been developed by county associations in the South West region. It is primarily designed to support those elected or co-opted and/or working in local councils, to understand the principles of conduct expected of all councillors.

Information is based upon a national model code of conduct produced by The Local Government Association. Still, it recognises that councillors must abide by their own council's code of conduct and provides some generic support for those wishing to understand better the behaviours expected of all councillors.

Respectful and positive social media for councils and councillors
In this introductory e-learning module, we'll consider the opportunities and risks associated with social media from a civility and respect perspective. We will explore a range of proactive and pre-emptive strategies councils, and councillors can implement to set themselves up for success. We'll explore what to do if things go wrong and how to manage a range of scenarios from trolling to harassment, and practice what steps you can take**.**

Leadership in challenging situations for councils and councillors
In this introductory e-learning module, we will consider different leadership styles in the context of your role at the council, exploring which styles we personally 'default' to and which can work effectively for different situations. We will also discover how to build, support and get the most from an effective and motivated team.

Personal resilience for councils and councillors
In this introductory e-learning module, we develop a better understanding of where our behaviour comes from. We'll consider what resilience means for us in the context of our roles within the council. There will be opportunities to explore role-focused scenarios and consider how we might respond to them. We'll also explore strategies to deal with and manage various situations.

Adopted by the Council at the meeting held on XX

Dignity at Work Policy

Wellington Town Council believes that civility and respect are important in the working environment, and expects all Councillors, officers, and the public to be polite and courteous when working for, and with the Council.

1. Purpose

1.1 Wellington Town Council is committed to creating a working environment where all Council employees, Councillors, contractors, and others who come into contact with us in the course of our work, are treated with dignity, respect and courtesy. We aim to create a workplace where there is zero tolerance for harassment and bullying.

1.2 In support of this objective, Wellington Town Council has signed up to the Civility Pledge, as a commitment to civility and respect in our work, and politeness and courtesy in behaviour, speech, and in the written word. Further information about the Civility and Respect Pledge is available NALC & SLCC websites.

1.3 We recognise that there is a continuum where unaddressed issues have the potential to escalate and become larger, more complex issues and this policy sets out how concerns will be managed. However the emphasis of this policy is on resolution and mediation where appropriate, rather than an adversarial process.

1.4 This document:

- explains how we will respond to complaints of bullying or harassment;
- ensures that we respond sensitively and promptly; and,
- supports our Councillors and employees in ensuring their behaviour does not amount to bullying and/or harassment by giving examples.

2. Scope

2.1 This policy covers bullying and harassment of and by councillors, senior staff and all employees engaged to work at Wellington Town Council. Should agency staff, or contractors have a complaint connected to their engagement with Council this should be raised to their nominated Town Council contact, Town Clerk, or the Mayor, in the first instance. Should the complaint be about the Mayor or individual Councillors the complaint should be raised by the person making the complaint with the Monitoring Officer at Somerset Council via a code of conduct complaint (and notifying the Town Clerk).

2.2 Agency staff, or contractors are equally expected to treat Council colleagues, and other representatives and stakeholders with dignity and respect, and the Council

may terminate a contract, without notice, where there are suspicions of harassment or bullying.

2.3 Complaints about other employment matters will be managed under the Council's Grievance Procedure.

2.4 It is noted that the management of a situation may differ depending on who the allegations relate to (e.g., employees, contractor, Councillor), however, the Council will take appropriate action if any of its employees are bullied or harassed by employees, Councillors, members of the public, suppliers, or contractors.

3. The position on bullying and harassment

3.1 All staff and Council representatives are entitled to dignity, respect, and courtesy within the workplace and to not experience any form of discrimination. Wellington Town Council will not tolerate bullying or harassment in our workplace or at work-related events outside of the workplace, whether the conduct is a one-off act or repeated course of conduct, and whether harm is intended or not. Neither will we tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. You should also be aware that, if you have bullied or harassed someone (e.g., physical violence, harassment), in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

3.2 We expect all representatives of the Council to

- treat each other with respect and uphold the values of the code of conduct, civility and respect pledge, equality opportunities policy, and all other policies and procedures set by the Council.
- demonstrate respect by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.

3.3 Allegations of bullying and harassment will be treated seriously. Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. See the Grievance Procedure for further details regarding the process. Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

3.4 False accusations of harassment or bullying can have a serious effect on innocent individuals. Councillors, staff and others have a responsibility not to make false allegations. While we will assume that all complaints of bullying and harassment are made in good faith, in the event that allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under the Council's disciplinary procedure or the Councillors Code of Conduct.

4. What Type of Treatment amounts to Bullying or Harassment?

4.1 'Bullying' or 'harassment' are phrases that apply to treatment from one person (or

a group of people) to another that is unwanted and that has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person.

4.2 Definitions

- **Harassment** - Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic.

  Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic

- **Bullying** - Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.

4.3 Examples of bullying and harassment include:

- Physical conduct ranging from unwelcome touching to serious assault;
- Unwelcome sexual advances;
- The offer of rewards for going along with sexual advances e.g., promotion, access to training;
- Threats for rejecting sexual advances;
- Demeaning comments about a person's appearance;
- Verbal abuse or offensive comments, including jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation;
- Unwanted nicknames, especially related to a person's age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation;
- Spreading malicious rumours or insulting someone;
- Lewd or suggestive comments or gestures;
- Deliberate exclusion from conversations, work activities or social activities;
- Withholding information a person needs in order to do their job;
- Practical jokes, initiation ceremonies or inappropriate birthday rituals;
- Physical abuse such as hitting, pushing or jostling;
- Rifling through, hiding or damaging personal property;
- Display of pictures or objects with sexual or racial overtones, even if not directed at any particular person;
- Isolation or non-cooperation at work;
- Subjecting a person to humiliation or ridicule, belittling their efforts, whether directly and / or in front of others;
- The use of obscene gestures; and
- Abusing a position of power.

4.4 Bullying and harassment can occur through verbal and face to face interactions but can also take place through sharing inappropriate or offensive content in writing or

via email and other electronic communications and social media.

4.5 It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable, and behaviour could be harassment when the person had no intention to offend. We all have the right to determine what offends us. Some behaviour will be clear to any reasonable person that it is likely to offend – for example sexual touching. Other examples may be less clear. However, you should be aware that harassment will occur if behaviour continues after the recipient has advised you that the behaviour is unacceptable to them.

4.6 Harassment can also occur where the unwanted behaviour relates to a perceived characteristic (such as offensive jokes or comments based on the assumption someone is gay, even if they are not) or due to their association with someone else (such as harassment related to their partner having a disability for example).

4.7 All employees must, therefore, treat their colleagues with respect and appropriate sensitivity and should feel able to challenge behaviour that they find offensive even if it is not directed at them.

It is important to recognise that bullying does not include appropriate criticism of an employee's behaviour or effective, robust performance management. Constructive and fair feedback about your behaviour or performance from your manager or colleagues/Councillors is not bullying. It is part of normal employment and management routines and should not be interpreted as anything different.

5. Victimisation

5.1 Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload.

5.2 Provided that you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the Council will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.

5.3 Making a complaint that you know to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action being taken against you.

6. Reporting Concerns

6.1 What you should do if you feel you are being bullied or harassed by a member of the public or supplier (as opposed to a colleague):

If you are being bullied or harassed by someone with whom you come into contact at work, please raise this with your nominated manager in the first instance or, with the clerk/or a Councillor. Any such report will be taken seriously, and we will decide how best to deal with the situation in consultation with you.

6.2 What you should do if you feel you are being bullied or harassed by a Councillor:

If you are being bullied or harassed by a Councillor, please raise this with the clerk or Mayor in the first instance. They will then decide how best to deal with the situation, in consultation with you. There are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of the Councillors Code of Conduct must be investigated by the Monitoring Officer.

6.3 The Council will consider reasonable measures to protect your health and safety. Such measures may include a temporary change in duties or change of work location e.g. working from home, not attending meetings with the person about whom the complaint has been made etc.

6.4 What you should do if you witness an incident you believe to be harassment or bullying:

If you witness such behaviour, you should report the incident in confidence to the Town Clerk or the Mayor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

6.5 What you should do if you are being bullied or harassed by another member of staff:

If you are being bullied or harassed by a colleague or contractor, there are two possible avenues to follow, informal or formal. These are described below.

7. Informal resolution

7.1 If you are being bullied or harassed, you may be able to resolve the situation yourself by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to the Council's policy and must stop. Alternatively, you may wish to ask the Town Clerk, or a colleague to put this on your behalf or to be with you when confronting the perpetrator(s).

7.2 If the above approach does not work or if you do not want to try to resolve the situation in this way, or if you are being bullied by your own nominated manager, you should raise the issue with the clerk or Mayor (If your concern relates to the Mayor, you should raise it with the clerk). The Mayor(or another appropriate person) will discuss with you the option of trying to resolve the situation informally by telling the alleged perpetrator, without prejudicing the matter, that:

- There has been a complaint that their behaviour is having an adverse effect on a member of the Council staff.
- Such behaviour is contrary to our policy.
- For employees, the continuation of such behaviour could amount to a serious disciplinary offence.

7.3 It may be possible for this conversation to take place with the alleged perpetrator without revealing your name, if this is what you want. The person dealing with it will also stress that the conversation is confidential.

7.4 In certain circumstances we may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. The clerk (or another appropriate person) will discuss this with you if it is appropriate.

7.5 If your complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as extremely serious allegations or in cases where a problem has happened before) we may decide to investigate further and take more formal action notwithstanding that you raised the matter informally. We will consult with you before taking this step.

8. Raising a formal complaint

8.1 If informal resolution is unsuccessful or inappropriate, you can make a formal complaint about bullying and harassment through the Council's Grievance Procedure. You should raise your complaint following the process outlined in the Council's Grievance Procedure. A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

8.2 The Clerk or the Mayor will appoint someone to investigate your complaint in line with the Grievance Procedure. You will need to co-operate with the investigation and provide the following details (if not already provided):

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred,
- The names of any witnesses and
- Any action taken by you to resolve the matter informally.

8.3 The alleged perpetrator(s) would normally need to be told your name and the details of your grievance in order for the issue to be investigated properly. However, we will carry out the investigation as confidentially and sensitively as possible. Where you and the alleged perpetrator(s) work in proximity to each other, we will consider whether it is appropriate to make temporary adjustments to working arrangements whilst the matter is being investigated.

8.4 Where your complaint relates to potential breaches of the Councillors Code of Conduct, these will need to be investigated by the Monitoring Officer. The Council will consider any adjustments to support you in your work and to manage the relationship with the Councillor the allegations relate to, while the investigation proceeds.

8.5 Investigations will be carried out promptly (without unreasonable delay), sensitively and, as far as possible, confidentially. When carrying out any investigations, we will ensure that individuals' personal data is handled in accordance with the data protection policy.

8.6 The Council will consider how to protect your health and wellbeing whilst the investigation is taking place and discuss this with you. Depending on the nature of the allegations, the Investigator may want to meet with you to understand better your complaint (see the Grievance Procedure for further information, and details of your right to be accompanied).

8.7 After the investigation, a panel will meet with you to consider the complaint and the findings of the investigation in accordance with the Grievance Procedure. At the meeting you may be accompanied by a fellow worker or a trade union official.

8.8 Following the conclusion of the hearing the panel will write to you to inform you of the decision and to notify you of your right to appeal if you are dissatisfied with the outcome. You should put your appeal in writing explaining the reasons why you are dissatisfied with the decision. Your appeal will be heard under the appeal process that is described in the Grievance Procedure.

9. The use of the Disciplinary Procedure

9.1 If at any stage from the point at which a complaint is raised, it is clear that there is a case to answer and a disciplinary offence might have been committed, the clerk or Mayor will instigate the Council's disciplinary procedure. We will keep you informed of the outcome. This is a non-contractual policy and procedure which will be reviewed from time to time.

GUIDANCE FOR USING THE DIGNITY AT WORK POLICY

1. Policy

1.1 The Dignity at Work Policy will replace the previous 'Bullying and Harassment' Policy, to create a policy that is focussed on encompassing behaviours beyond simply bullying and harassment, and zero tolerance with the aim of dealing with concerns before they escalate. It is important that any commitment made in the policy is applied in practice.

2. Protected Characteristics

2.1 A 'protected characteristic' is defined in the Equality Act 2010 as age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is unlawful to discriminate against an individual because of any of the protected characteristics.

2.2 Discrimination includes treating people differently because of a protected characteristic. Employees can complain of harassment even if the behaviour in question is not directed at them. This is because the complainant does not actually need to possess the relevant protected characteristic. An employee can complain of unlawful harassment if they are related to someone with a protected characteristic, or because a colleague believes they have a protected characteristic.

2.3 Examples of harassment related to a protected characteristic could include:

- Making assumptions about someone's ability due to their **age** or denying development opportunities to someone based on their age. This could also include assumptions about their lifestyle or making inappropriate jokes related to age.
- Making fun or mimicking impairments related to a health condition or using inappropriate language about disabilities. Constantly selecting social activities that make it impossible for a colleague with a **disability** to participate in.
- Refusing to treat a person as their new gender, or disclosing information about their gender identity could be harassment on the grounds of **gender reassignment**.
- **Pregnancy/Maternity** harassment could include refusing opportunities due to pregnancy or maternity leave, or inappropriate touching and invasion of personal space such as unwanted touching of a pregnant person's stomach.
- Harassment based on **race** could include derogatory nicknames, or stereotyping based on ethnicity. It could include racist comments or jokes, or assumptions about someone's lifestyle based on their ethnicity.
- **Gender** harassment could include not considering people for a job based on gender stereotyping roles, or implementing practices that disadvantage one gender over another. Rude, explicit jokes, even if not directed at an individual, or comments on an individual's dress or appearance.

- Regularly arranging team meals over periods of fasting or religious occasions or failing to adjust a dress code to accommodate religious dress could be examples of harassment based on **religion/belief.**
- Excluding same sex partners from social events could be both **sexual orientation** and **marriage/civil partnership** discrimination, as could not offering the same work- related benefits.

2.4 A person does not need to be employed or have 2 years qualifying service to make a discrimination claim at a tribunal.

- Job applicants who believe they have not been appointed because of a 'Protected Characteristic' can make a claim.
- New or established employees who are dismissed or treated unreasonably because of a health condition can make a discrimination claim.
- An employee subjected to harassment can make a discrimination claim at a tribunal.
- An employee asked to retire can make a discrimination claim at a tribunal.

3. Legal risks

3.1 Successful unfair dismissal claims are limited to a compensation cap, whereas those for unlawful discrimination have no cap.

3.2 A positive employment culture, and swift action if conduct falls beneath acceptable standards will help mitigate the risks. An unhealthy culture will make it difficult to defend claims.

3.3 The time to defend and the cost of defending tribunal claims can be significant, irrespective of the outcome.

4. Culture and behaviour

4.1 We work in eclectic communities and working environments, and a positive culture within the Council enables employees with different backgrounds and beliefs to share ideas and shape how the Council achieves its objectives for their community.

4.2 It is important to recognise that different individuals may find different behaviours bullying or harassing so while there is not always intent to offend or cause harm, that does not mean that the effect of the behaviour has not caused harm or offence.

4.3 It can take people a period of time to decide to raise their concerns, as they worry about consequences (perhaps from peers by complaining about a colleague who is popular, or they fear victimisation from the perpetrator or others). The Council should consider whether there are opportunities (such as one-to-one meetings to offer opportunity to reflect on relationships/morale) to identify issues earlier and address negative behaviours. Individuals can often mention concerns they are experiencing but not want to take it further. The Council should remind the complainant that it has zero

tolerance to bullying and harassment and remind them of the policy in place to address concerns. If the allegations mentioned are significant, the Council may want to suggest that it will need to investigate further, even if a 'grievance' is not raised, so as to ensure that any concerns and risks are managed, and the Council is meeting its responsibilities and duty of care as an employer.

4.4 Whilst both staff and Councillors jointly determine the working culture, Councillors are key in demonstrating what is and isn't acceptable behaviour. This is apparent from how Councillors behave with each other in Council meetings and also in how standards of behaviour are applied through the use of informal discussion and formal policies.

5. Scope

5.1 All Council representatives are expected to uphold the values of the Dignity at Work Policy; however, this policy sets out how allegations from employees will be managed. As indicated in the policy, concerns from a contractor, agency worker etc. should be raised to the identified person, and an appropriate approach will be considered based on the situation and relationship of the complainant with the Council.

5.2 Likewise, concerns raised about the behaviour of a contractor or agency worker would not generally be managed via the full process (such as the disciplinary process), but appropriate action would be considered based on the situation. To treat people (such as contractors, or a casual worker) engaged by the Council the same as an employee could blur the status of the employment relationship, so consider seeking professional advice if needed.

6. Bullying and harassment & performance management

6.1 The policy sets out that bullying and harassment does not include appropriate criticism of an employee's behaviour or effective, robust performance management. It is not uncommon for an employee, when receiving critical feedback, to claim that this is bullying and/or harassing. It is the role of the nominated manager to provide effective and constructive feedback to encourage performance at the required standard.

6.2 Even when the feedback is not positive it should be fair, communicated in a professional and reasonable manner and shared with the objective of aiding understanding and achieving an improvement to overcome the shortfalls. There is no absolute definition of when the feedback may not be appropriate. Often it will be for the person/panel hearing the dignity at work complaint/grievance to determine whether the performance management has upheld the standards expected in terms of respect and civility and any feedback has been shared in a fair and professional way.

7. Responsibilities

7.1 All staff and representatives of the Council are responsible for their own behaviour in the workplace and for taking steps to revise unacceptable behaviour and appropriately challenge that of others.

7.2 Leaders – Councillors, clerks, chief officers, managers - are responsible for ensuring that these standards of treating people with civility, respect and courtesy are upheld, both through their own example, and by communicating and promoting these expectations to all employees. They are also responsible for ensuring that concerns raised are treated seriously and addressed in line with this policy in a timely manner.

8. During the investigation

8.1 Employers have a duty of care to provide a safe place of work. If a complaint is made, discuss how to manage working relationships whilst the allegation is being investigated and until the outcome is disclosed. This is as much for the protection of the alleged perpetrator as for the aggrieved.

8.2 Consider whether a neutral person should be offered as a 'listening ear' for both parties in the investigation. This could be a Councillor or nominated manager who is not involved in the investigation or allegations and can be a point of check in as raising, or being subject to allegations can be stressful.

8.3 Offer other support that may be appropriate to the situation such as signposting to support groups, time off for counselling etc. If you have suspended a staff member, your duty of care continues, and it is important to consider their wellbeing and mental health.

8.4 Ensure that you communicate regularly with both parties.

8.5 The investigation and any subsequent hearing should be completed in accordance with the Grievance Procedure which sets out a process for dealing with concerns. You should ensure that the Grievance Procedure adopted adheres to any local policies and procedures, with consideration of any timescales and escalation routes in your locally adopted policy.

9. Confidentiality

9.1 It may be possible for concerns to be raised with the perpetrator without disclosing the name of the complainant, however in a small Council it is likely that it will be clear that the accused will know where the accusation has come from. The Council representative (clerk/chief officer/Councillor) speaking to the alleged perpetrator must be clear that the discussion is confidential, and the individual would be at risk of formal disciplinary action if there is any sort of victimisation or retaliation for the individual raising their concern.

9.2 During any formal investigation it may be necessary to disclose the nature of the allegations and where they came from to ensure a fair and balanced investigation and process. This should be discussed with the person raising the concerns to understand any issues and how they may be mitigated. In some situations, it may be appropriate to provide anonymised witness statements, however this would be a last resort, and could compromise the fairness of the process. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought. For the same reason it can be difficult for a Council to consider an anonymous complaint, however if the concerns are significant and compromise the Council in their duty of care to employees, then consideration of how the deal with the matter may be required.

10. Victimisation

10.1 All employees have the right to raise genuine concerns without the fear of reprisals. If the aggrieved (or a witness) is treated differently / less favourably because they have raised a complaint, then this is victimisation. This would include isolating someone because they have made a complaint, cancelling a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

11. False allegations

11.1 If an employee makes an allegation that they know to be untrue, or gives evidence that they know to be untrue, the Council should consider the matter under the disciplinary procedure. Such an allegation would be potentially a gross misconduct.

12. Complaints against Councillors

12.1 The law is clear that any formal complaint about a Councillor regarding a breach of the code of conduct must be referred to the Monitoring Officer for investigation (either by the complainant, or the Council with the agreement of the complainant). During the investigation, it is critical to ensure that where an employee of the Council has made the complaint, that the Council agrees reasonable measures with the employee to protect their health and safety. Such measures may include a temporary change in duties, change of work location, not attending meetings with the person about whom the complaint has been made etc.

12.2 Careful consideration is required where a grievance is raised against the Council as a whole due to lack of support related to Councillor behaviours. The specific allegations will need to be considered to determine whether the allegations can be addressed by the Council or require exploration of the Councillor's behaviour in order to respond, in which case the Monitoring Officer may be required to investigate the alleged behaviours of a/any Councillors where this may relate to the code of conduct. It is a matter of fact whether the complaint is against the Council and can therefore be dealt with by the Council's Grievance Procedure or

against a Councillor and can only be dealt with by the Monitoring Officer.

MODEL COUNCILLOR-OFFICER PROTOCOL

1. INTRODUCTION

1.1 The purpose of this Protocol is to guide Councillors and officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Councillors and officers as they work together. Employees who are required to give advice to Councillors are referred to as "officers" throughout.

1.2 A strong, constructive, and trusting relationship between Councillors and officers is essential to the effective and efficient working of the Council.

1.3 This Protocol also seeks to reflect the principles underlying the Code of Conduct which applies to Councillors and the employment terms and conditions of officers. The shared objective is to enhance and maintain the integrity (real and perceived) of local government.

1.4 The following extract from the Local Government Association guidance on the 2020 Model Councillor Code of Conduct states that:

"Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

[Councillors of the executive,] Chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority. It is also important for a local authority to have a Councillor-

officer protocol which sets out how this relationship works and what both Councillors and officers can expect in terms of mutual respect and good working relationships."

1.5 This Protocol covers:

- The respective roles and responsibilities of the Councillors and the officer.
- Relationships between Councillors and officers.
- Where/who a Councillor or an officer should go to if they have concerns.
- Who is responsible for making decisions.

2. BACKGROUND

2.1 This Protocol is intended to assist Councillors and officers, in approaching some of the sensitive circumstances which arise in a challenging working environment.

2.2 The reputation and integrity of the Council is significantly influenced by the effectiveness of Councillors and the officer working together to support each other's roles.

2.3 The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy. Overly close personal familiarity between Councillors and officers is not recommended as it has the potential to damage this relationship.

3. ROLES OF COUNCILLORS AND OFFICERS

3.1 The respective roles of Councillors and officers can be summarised as follows:

- Councillors and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct.
- Councillors are responsible to the electorate and serve only for their term of office.
- Officers are responsible to the Council. Their job is to give advice to Councillors and to the Council, and to carry out the Council's work under the direction and control of the CCouncil and relevant committees.

3.1.1 Councillors

Councillors have four main areas of responsibility:

- To determine Council policy and provide community leadership.
- To monitor and review Council performance in implementing policies and delivering services.
- To represent the Council externally; and
- To act as advocates for their constituents.

3.1.2 All Councillors have the same rights and obligations in their relationship with the officer, regardless of their status and should be treated equally.

3.1.3 Councillors should not involve themselves in the day to day running of the Council. This is the officer's responsibility, and the officer will be acting on instructions from the Council or its committees, within an agreed job description.

3.1.4 In line with the Councillors' Code of Conduct, a Councillor must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

3.1.5 Officers can expect Councillors:

- to give strategic leadership and direction and to seek to further their agreed policies and objectives with the understanding that Councillors have the right to take the final decision on issues based on advice.
- to act within the policies, practices, processes and conventions established by the Council.
- to work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities.
- to understand and support the respective roles and responsibilities of officers and their associated workloads, pressures and reporting lines.
- to treat them fairly and with respect, dignity and courtesy.
- to act with integrity, to give support and to respect appropriate confidentiality.
- to recognise that officers do not work under the instruction of individual Councillors or groups.
- not to subject them to bullying, intimidation, harassment, or put them under undue pressure.
- to treat all officers, partners (those external people with whom the Council works) and members of the public equally, and not discriminate based on any characteristic such as age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- not to request officers to exercise discretion which involves acting outside the Council's policies and procedures.
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Councillor without proper and lawful authority.
- not to use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly.
- to comply at all times with the Councillors' Code of Conduct, the law, and such other policies, procedures, protocols and conventions agreed by the Council.
- respect the impartiality of officers and do not undermine their role in carrying out their duties.
- do not ask officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an officer being criticised for operating in a party-political manner.
- do not ask officers to exceed their authority where that authority is given.

3.2 **Chairs of Council and committees**

3.2.1 Chairs have additional responsibilities as delegated by the Council. These responsibilities mean that they may have to have a closer working relationship with employees than other Councillors do. However, they must still respect the impartiality of officers and must not ask them to undertake work or anything else which would prejudice their impartiality.

3.3 **Officers**

3.3.1 The primary role of officers is to advise, inform and support all members and to implement the agreed policies of the Council.

3.3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council, including directing and overseeing the work of any more junior officers. Councillors should avoid inappropriate involvement in such matters.

3.3.3 In performing their role officers will act professionally, impartially and with neutrality. Whilst officers will respect a Councillor's view on an issue, the officer should not be influenced or

pressured to make comments, or recommendations which are contrary to their professional judgement or views.

3.3.4 Officers must:

- implement decisions of the Council and its committees which are lawful, which have been properly approved in accordance with the requirements of the law and are duly recorded. This includes respecting the decisions made, regardless of any different advice given to the Council or whether the decision differs from the officer's view.
- work in partnership with Councillors in an impartial and professional manner.
- treat Councillors fairly and with respect, dignity and courtesy.
- treat all Councillors, partners and members of the public equally, and not discriminate based on any characteristic such as age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards protocol.
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times.
- provide support and learning and development opportunities for Councillors to help them in performing their various roles in line with the Council's training and development policy.
- not seek to use their relationship with Councillors to advance their personal interests or to influence decisions improperly.
- to act within the policies, practices, processes and conventions established by the Council.

3.3.5 Officers have the right not to support Councillors in any role other than that of Councillor, and not to engage in actions incompatible with this Protocol.

3.3.6 In giving advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. An officer may report the views of individual Councillors on an issue, but the recommendation should be the officer's own. If a Councillor wishes to express a contrary view they should not pressurise the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging his/her responsibilities.

3.3.7 There are exceptional circumstances where a Councillor can fulfil the role of officer, for example where there is a vacancy. This can only be done if the Councillor is not paid for the role and should only ever be short-term while the Council seeks to fill a vacancy. There will need to be a particular clear understanding of when the Councillor is acting as a Councillor and when acting as the Proper Officer.

4. THE RELATIONSHIP: GENERAL

4.1 Councillors and officers are indispensable to one another. However, their responsibilities are distinct. Councillors are accountable to the public, whereas officers are accountable to the Council as a whole.

4.2 At the heart of this Protocol is the importance of mutual respect and also of civility. Councillor/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe

standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

4.3 Individual Councillors should not actively seek to undermine majority decisions of the corporate body, as this could then bring them into conflict with officers who have been charged with promoting and implementing the Council's collectively-determined course of action.

4.4 Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at meetings held in public or on social media. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.

4.5 A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:

- avoid personal attacks on, or abuse of, the officer at all times.
- ensure that any criticism is well founded and constructive.
- ensure that any criticism is made in private.
- take up the concern with the chair.

4.6 Neither should an officer raise with a Councillor matters relating to the conduct or capability of another Councillor or officer or to the internal management of the Council in a manner that is incompatible with the objectives of this Protocol. Potential breaches of this Protocol are considered below.

5. EXPECTATIONS

5.1 All Councillors can expect:

- A commitment from officers to the Council as a whole, and not to any individual Councillor, group of Councillors or political group;
- A working partnership;
- Officers to understand and support respective roles, workloads and pressures;
- A timely response from officers to enquiries and complaints;
- Officer's professional and impartial advice, not influenced by political views or personal preferences;
- Timely, up to date, information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities or positions that they hold;
- Officers to be aware of and sensitive to the public and political environment locally;
- Respect, courtesy, integrity and appropriate confidentiality from officers and other Councillors;
- Training and development opportunities to help them carry out their role effectively;
- Not to have personal issues raised with them by officers outside the Council's agreed procedures;
- That officers will not use their contact with Councillors to advance their personal interests or to influence decisions improperly.

5.2 Officers can expect from Councillors:

- A working partnership;
- An understanding of, and support for, respective roles, workloads and pressures;
- Leadership and direction;
- Respect, courtesy, integrity and appropriate confidentiality;
- Not to be bullied or to be put under undue pressure;

- That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- That Councillors will at all times comply with the Council's adopted Code of Conduct.

6. SOME GENERAL PRINCIPLES

6.1 Close personal relationships between Councillors and officers can confuse their separate roles and get in the way of the proper conduct of Council business, not least by creating a perception in others that a particular Councillor or officer is getting preferential treatment.

6.2 Special relationships with particular individuals are not recommended as it can create suspicion that an employee favours that Councillor above others.

6.3 The Proper Officer (usually called the Clerk) is the head of paid services and has a line management responsibility to all other staff. Communications should be made directly with the Proper Officer, unless it is agreed by the Proper Officer that such communications may take place directly with other officers over a particular matter. Councillors should not give instructions directly to the Proper Officer's staff without the express approval of the Proper Officer.

7. COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

7.1 Councillors are free to approach officers to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Officer.

7.2 The legal rights of Councillors to inspect Council documents are covered partly by statute and partly by the common law.

7.3 The common law right of Councillors is based on the principle that any member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

7.4 The exercise of this common law right depends therefore upon the Councillor's ability to demonstrate that they have the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the officer.

7.5 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a Councillor's "need to know" will normally be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal information about third parties) a Councillor will normally be expected to justify the request in specific terms. Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided i.e. in connection with the proper performance of the Councillor's duties as a member of the Council.

7.6 For completeness, Councillors do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

7.7

8. CORRESPONDENCE

8.1 Correspondence between an individual Councillor and an officer should not normally be copied (by the officer) to any other Councillor. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor. In other words, a system of "silent copies" should not be employed. Acknowledging that the "BCC" system of e-mailing is used, it should be made clear at the foot of any e-mails if another Councillor has received an e-mail by adding "CC Councillor X."

8.2 Official letters or emails on behalf of the Council should normally be sent out under the name of the officer, rather than under the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear over the name of the chair, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

8.3 Correspondence to individual Councillors from officers should not be sent or copied to complainants or other third parties if they are marked "confidential". In doing so, the relevant officer should seek to make clear what is to be treated as being shared with the Councillor in confidence only and why that is so.

9. PRESS AND MEDIA

9.1 Councils are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Councils use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with the Code of Recommended Practice on Local Authority Publicity and the Council's Media Protocol.

9.2 The officer may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an officer expressly or impliedly make any political opinion, comment or statement.

9.3 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the officer.

9.4 The chair (or chair of a committee) may act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council but should liaise with the officer on all forms of contact with the press and media. The Council may also appoint individual Councillors as spokespeople where there is an area of particular expertise but this should only be done with the agreement of the Council.

9.5 The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.

9.6 The LGA has produced useful guidance on the Publicity Code - https://www.local.gov.uk/publications/short-guide-publicity-during-pre-election-period

9.7 For more detailed information and guidance regarding the role of Councillors in connection with the use of social media, reference should be made to the Council's Social Media Protocol where there is one in place.

10 IF THINGS GO WRONG

10.1 Procedure for officers

10.1.1 From time to time the relationship between Councillors and an officer may break down or become strained. Whilst it is always preferable to resolve matters informally, it is important that the Council adopts a formal grievance protocol or procedure.

10.1.2 Somerset Council's monitoring officer may be able to offer a mediation/conciliation role or it may be necessary to seek independent advice. The chair of the Council should not attempt to deal with grievances or work related performance or line management issues on their own. The Council should delegate authority to a small group of Councillors to deal with all personnel matters.

10.1.3 The law requires all employers to have disciplinary and grievance procedures. Adopting a grievance procedure enables individual employees to raise concerns, problems or complaints about their employment in an open and fair way.

10.1.4 Where the matter relates to a formal written complaint alleging a breach of the Councillors' Code of Conduct the matter must be referred to the Somerset Council's monitoring officer in the first instance in line with the Localism Act 2011. The Council may however try to resolve any concerns raised informally before they become a formal written allegation.

10.2 Procedure for Councillors

10.2.1 If a Councillor is dissatisfied with the conduct, behaviour or performance of the officer or another employee, the matter should be reported to the chair and then raised with the officer in the first instance. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.

18 June 2023

Dear Clerk to Wellington Town Council,

The Rifles and a legacy for Wellington

Following the Freedom Event of 17 June questions must now turn to developing a lasting legacy for the town.
I feel this should encompass the following five pillars:-

our community, including tourism
our council
our schools
our museum
our Army Cadet Force Unit

The community has already benefited as Wellington School can feel much more integrated with the town as a result of their direct involvement.

I've asked that WTC be added to The Rifles mailing list for their in-house magazine called *Bugle*.

The visit by Nigel of Wellington School to three of the town's primary schools provides a building block for further school engagement on the subject in the future.

Within each area our town should now look to develop a strategy that promotes the Freedom link, *including* the local area's tourism potential.

Following their visit to the Pop-up Shop I asked The Rifles Museum to provide feedback. This is what they've said:-

“Probably the most obvious (long term) ‘legacy’ for the Museum would be to, hopefully, support the next RIFLES Freedom of Wellington.

“In the medium term, perhaps follow up temporary displays could be put on in Wellington. Options for these could be for them to be put on by The Rifles Museum, The Rifles Museum and one or more of the other museums in The Rifles Museums Network (such as Taunton, Bodmin or Dorchester), or just by antecedent or forming regiment museums. Small temporary displays could be housed in the Wellington Town Museum or larger ones in the Pop-Up Shop.

“The Rifles Museum is currently undergoing a changes and reorganization, making long-term planning difficult. Additionally, when a new curator is appointed, it will be up to them to decide on future exhibitions. Whenever they come into post, I will pass along the Wellington Council’s desire for a long-term legacy.”

If I can be of any assistance in realising any of the above aims please let me know.

Regards,

Chris Penney.

RIFLES Working Group

Somerset Council Pension Fund Funding Strategy Statement

Contents

Introduction

This is the Funding Strategy Statement for the Somerset Council Pension Fund (the Fund). It has been prepared in accordance with Regulation 58 of the Local Government Pension Scheme Regulations 2013 as amended (the Regulations) and describes Somerset Council's strategy, in its capacity as administering authority, for the funding of the Somerset Council Pension Fund.

The Fund's employers and the Fund Actuary, Barnett Waddingham LLP, have been consulted on the contents of this statement.

This statement should be read in conjunction with the Fund's Investment Strategy Statement (ISS) and has been prepared with regard to the guidance (*Preparing and Maintaining a funding strategy statement in the LGPS 2016 edition)* issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

Purpose of the Funding Strategy Statement

The purpose of this Funding Strategy Statement (FSS) is to:

- Establish a clear and transparent fund-specific strategy that will identify how employers' pension liabilities are best met going forward;
- Support the desirability of maintaining as nearly constant a primary contribution rate as possible, as defined in Regulation 62(6) of the Regulations;
- Ensure that the regulatory requirements to set contributions to meet the future liability to provide Scheme member benefits in a way that ensures the solvency and long-term cost efficiency of the Fund are met; and
- Take a prudent longer-term view of funding those liabilities.

Aims and purpose of the Fund

The aims of the Fund are to:

- Manage employers' liabilities effectively and ensure that sufficient resources are available to meet all liabilities as they fall due;
- Enable primary contribution rates to be kept as nearly constant as possible and (subject to the administering authority not taking undue risks) at reasonable cost to all relevant parties (such as the taxpayers, scheduled, resolution and admitted bodies), while achieving and maintaining Fund solvency and long-term cost efficiency, which should be assessed in light of the risk profile of the Fund and employers, and the risk appetite of the administering authority and employers alike; and
- Seek returns on investment within reasonable risk parameters.

The purpose of the Fund is to:

- Pay pensions, lump sums and other benefits to Scheme members as provided for under the Regulations;
- Meet the costs associated in administering the Fund; and
- Receive and invest contributions, transfer values and investment income.

Funding objectives

Contributions are paid to the Fund by Scheme members and the employing bodies to provide for the benefits which will become payable to Scheme members when they fall due.

The funding objectives are to:

- Ensure that pension benefits can be met as and when they fall due over the lifetime of the Fund;
- Ensure the solvency of the Fund;
- Set levels of employer contribution rates to target a 100% funding level over an appropriate time period and using appropriate actuarial assumptions, while taking into account the different characteristics of participating employers;
- Build up the required assets in such a way that employer contribution rates are kept as stable as possible, with consideration of the long-term cost efficiency objective; and
- Adopt appropriate measures and approaches to reduce the risk, as far as possible, to the Fund, other employers and ultimately the taxpayer from an employer defaulting on its pension obligations.

In developing the funding strategy, the administering authority should also have regard to the likely outcomes of the review carried out under Section 13(4)(c) of the Public Service Pensions Act 2013. Section 13(4)(c) requires an independent review of the actuarial valuations of the LGPS funds; this involves reporting on whether the rate of employer contributions set as part of the actuarial valuations are set at an appropriate level to ensure the solvency of the Fund and the long-term cost efficiency of the Scheme so far as relating to the pension Fund. The review also looks at compliance and consistency of the actuarial valuations.

Key parties

The key parties involved in the funding process and their responsibilities are set out below.

<u>The administering authority</u>

The administering authority for the Fund is Somerset Council. The main responsibilities of the administering authority are to:

- Operate the Fund in accordance with the LGPS Regulations;
- Collect employee and employer contributions, investment income and other amounts due to the Fund as stipulated in the Regulations;
- Invest the Fund's assets in accordance with the Fund's Investment Strategy Statement;
- Pay the benefits due to Scheme members as stipulated in the Regulations;
- Ensure that cash is available to meet liabilities as and when they fall due;
- Take measures as set out in the Regulations to safeguard the Fund against the consequences of employer default;
- Manage the actuarial valuation process in conjunction with the Fund Actuary;
- Prepare and maintain this FSS and also the ISS after consultation with other interested parties;
- Monitor all aspects of the Fund's performance;
- Effectively manage any potential conflicts of interest arising from its dual role as both Fund administrator and Scheme employer; and
- Enable the Local Pension Board to review the valuation process as they see fit.

Scheme employers

In addition to the administering authority, a number of other Scheme employers participate in the Fund.

The responsibilities of each employer that participates in the Fund, including the administering authority, are to:

- Collect employee contributions and pay these together with their own employer contributions, as certified by the Fund Actuary, to the administering authority within the statutory timescales;
- Notify the administering authority of any new Scheme members and any other membership changes promptly;
- Develop a policy on certain discretions and exercise those discretions as permitted under the Regulations;
- Meet the costs of any augmentations or other additional costs in accordance with agreed policies and procedures; and
- Pay any exit payments due on ceasing participation in the Fund.

Scheme members

Active Scheme members are required to make contributions into the Fund as set by the Department for Levelling Up, Housing and Communities (DLUHC).

Fund Actuary

The Fund Actuary for the Fund is Barnett Waddingham LLP. The main responsibilities of the Fund Actuary are to:

- Prepare valuations including the setting of employers' contribution rates at a level to ensure Fund solvency and long-term cost efficiency after agreeing assumptions with the administering authority and having regard to the FSS and the Regulations;
- Prepare advice and calculations in connection with bulk transfers and the funding aspects of individual benefit-related matters such as pension strain costs, ill-health retirement costs, compensatory added years costs, etc;
- Provide advice and valuations on the exiting of employers from the Fund;
- Provide advice and valuations relating to new employers, including recommending the level of bonds or other forms of security required to protect the Fund against the financial effect of employer default;
- Assist the administering authority in assessing whether employer contributions need to be revised between valuations as permitted or required by the Regulations;
- Ensure that the administering authority is aware of any professional guidance or other professional requirements which may be of relevance to their role in advising the Fund; and
- Advise on other actuarial matters affecting the financial position of the Fund.

Funding strategy

The factors affecting the Fund's finances are constantly changing, so it is necessary for its financial position and the contributions payable to be reviewed from time to time by means of an actuarial valuation to check that the funding objectives are being met.

The most recent actuarial valuation of the Fund was carried out as at 31 March 2022. The results of the 2022 valuation are set out in the table below:

2022 valuation results	
Surplus (Deficit)	(£139m)
Funding level	95%

On a whole Fund level, the primary rate required to cover the employer cost of future benefit accrual was 19.8% of payroll p.a.

The individual employer contribution rates are set out in the Rates and Adjustments Certificate which forms part of the Fund's 2022 valuation report.

The actuarial valuation involves a projection of future cashflows to and from the Fund. The main purpose of the valuation is to determine the level of employers' contributions that should be paid to ensure that the existing assets and future contributions will be sufficient to meet all future benefit payments from the Fund. A summary of the methods and assumptions adopted is set out in the sections below.

Funding method

The key objective in determining employers' contribution rates is to establish a funding target and then set levels of employer contribution rates to meet that target over an agreed period.

The funding target is to have sufficient assets in the Fund to meet the accrued liabilities for each employer in the Fund.

For all employers, the method adopted is to consider separately the benefits accrued before the valuation date (past service) and benefits expected to be accrued after the valuation date (future service). These are evaluated as follows:

- The past service funding level of the Fund. This is the ratio of accumulated assets to liabilities in respect of past service. It makes allowance for future increases to members' pay and pensions. A funding level in excess of 100% indicates a surplus of assets over liabilities; while a funding level of less than 100% indicates a deficit; and
- The future service funding rate (also referred to as the primary rate as defined in Regulation 62(5) of the Regulations) is the level of contributions required from the individual employers which, in combination with employee contributions is expected to cover the cost of benefits accruing in future.

The adjustment required to the primary rate to calculate an employer's total contribution rate is referred to as the secondary rate, as defined in Regulation 62(7). Further details of how the secondary rate is calculated for employers is given below.

The approach to the primary rate will depend on specific employer circumstances and in particular may depend on whether an employer is an "open" employer – one which allows new recruits access to the Fund, or a "closed" employer – one which no longer permits new staff access to the Fund. The expected period of participation by an employer in the Fund may also affect the total contribution rate.

For open employers, the actuarial funding method that is adopted is known as the Projected Unit Method. The key feature of this method is that, in assessing the future service cost, the primary rate represents the cost of one year's benefit accrual only.

For closed employers, the actuarial funding method adopted is known as the Attained Age Method. The key difference between this method and the Projected Unit Method is that the Attained Age Method assesses the average cost of the benefits that will accrue over a specific period, such as the length of a contract or the remaining expected working lifetime of active members.

The approach by employer may vary to reflect an employer's specific circumstance. However, in general the closed employers in the Fund are admission bodies who have joined the Fund as part of an outsourcing contract and therefore the Attained Age Method is used in setting their contributions. All other employers (for example councils, higher education bodies and academies) are generally open employers and therefore the Projected Unit Method is used. The administering authority holds details of the open or closed status of each employer.

Valuation assumptions and funding model

In completing the actuarial valuation it is necessary to formulate assumptions about the factors affecting the Fund's future finances such as price inflation, pay increases, investment returns, rates of mortality, early retirement and staff turnover etc.

The assumptions adopted at the valuation can therefore be considered as:

- The demographic (or statistical) assumptions which are essentially estimates of the likelihood or timing of benefits and contributions being paid, and
- The financial assumptions which will determine the estimates of the amount of benefits and contributions payable and their current (or present) value.

Future price inflation

The base assumption in any valuation is the future level of price inflation over a period commensurate with the duration of the liabilities, as measured by the Retail Price Index (RPI). This is derived using the 20 year point on the Bank of England implied Retail Price Index (RPI) inflation curve, with consideration of the market conditions over the six months straddling the valuation date. The 20 year point on the curve is taken as 20 years is consistent with the average duration of an LGPS Fund. A deduction of 0.3% p.a. is applied to the yield at the 20 year point to reflect the shape of the yield curve. A further deduction of 0.4% p.a. is applied to reflect the view that investors are willing to pay a premium for inflation-linked products in return for protection against unexpected inflation. The RPI assumption adopted as at 31 March 2022 was 3.2% p.a.

Future pension increases

Pension increases are linked to changes in the level of the Consumer Price Index (CPI). Inflation as measured by the CPI has historically been less than RPI due mainly to different calculation methods. However, RPI is due to be aligned with CPIH (CPI but with allowance for housing costs) from 2030.

Therefore, reflecting the anticipated amendment to RPI from 2030 and therefore the relative difference between RPI and CPI, a deduction of 0.35% p.a. is made to the RPI assumption to derive the CPI assumption. The CPI assumption adopted as at 31 March 2022 was 2.9% p.a.

Future pay increases

As some of the benefits are linked to pay levels at retirement, it is necessary to make an assumption as to future levels of pay increases. Historically, there has been a close link between price inflation and pay increases with pay increases exceeding price inflation in the longer term. The long-term pay increase assumption adopted as at 31 March 2022 was CPI plus 1.0% p.a. which includes allowance for promotional increases.

Future investment returns/discount rate

To determine the value of accrued liabilities and derive future contribution requirements it is necessary to discount future payments to and from the Fund to present day values.

The discount rate that is adopted will depend on the funding target adopted for each Scheme employer.

For open employers, the discount rate that is applied to all projected liabilities reflects a prudent estimate of the rate of investment return that is expected to be earned from the underlying investment strategy by considering average market yields in the six months straddling the valuation date. The discount rate so determined may be referred to as the "ongoing" discount rate. The discount rate adopted for the 31 March 2022 valuation was 4.6% p.a.

For closed employers, an adjustment may be made to the discount rate in relation to the remaining liabilities, once all active members are assumed to have retired if at that time (the projected "termination date"), the employer becomes an exiting employer under Regulation 64.

The Fund Actuary will incorporate such an adjustment after consultation with the administering authority.

The adjustment to the discount rate for closed employers may be set to a higher funding target at the projected termination date, so that there are sufficient assets to fund the remaining liabilities on a more prudent basis than the ongoing basis if the Fund does not believe that there is another Scheme employer to take on the responsibility of the liabilities after the employer has exited the Fund. The aim is to minimise the risk of deficits arising after the termination date.

It may be appropriate for an alternative discount rate approach to be taken to reflect an individual employer's situation. This may be, for example, to reflect an employer targeting a cessation event or to reflect the administering authority's views on the level of risk that an employer poses to the Fund. The Fund Actuary will incorporate any such adjustments after consultation with the administering authority.
A summary of the financial assumptions adopted for the 2022 valuation is set out in the table below:

Financial assumptions as at 31 March 2022	
RPI inflation	3.2% p.a.
CPI inflation	2.9% p.a.
Pension/deferred pension increases and CARE revaluation	In line with CPI inflation
Pay increases	CPI inflation + 1.0% p.a.
Discount rate	4.6% p.a.

Asset valuation

For the purpose of the valuation, the asset value used is the market value of the accumulated fund at the valuation date, adjusted to reflect average market conditions during the six months straddling the valuation date. This is referred to as the smoothed asset value and is calculated as a consistent approach to the valuation of the liabilities.

The Fund's assets are notionally allocated to employers at an individual level by allowing for actual Fund returns achieved on the assets and cashflows paid into and out of the Fund in respect of each employer (e.g. contributions received and benefits paid).

Demographic assumptions

The demographic assumptions incorporated into the valuation are based on Fund-specific experience and national statistics, adjusted as appropriate to reflect the individual circumstances of the Fund and/or individual employers.

Further details of the assumptions adopted are included in the Fund's 2022 valuation report.

McCloud/Sargeant judgments

When the Government reformed public service pension schemes in 2014 and 2015 they introduced protections for older members. In December 2018, the Court of Appeal ruled that younger members of the Judges' and Firefighters' Pension schemes have been discriminated against because the protections do not apply to them. The Government has confirmed that there will be changes to all main public sector schemes, including the LGPS, to remove this age discrimination. A consultation has been run in relation to the changes proposed for the LGPS and legislation is now being drafted to bring forward these changes. We understand the updated Regulations are to be consulted on over the course of 2023 with revised Regulations effective from October 2023..

For the 2022 valuation, as required by the Department for Levelling Up, Housing & Communities, in calculating the value of members' liabilities it was assumed that:

- The current underpin (which only applies to those members within 10 years of their NPA at 31 March 2012) will be revised and will apply to all members who were active in the Scheme on or before 31 March 2012 and who join the post 1 April 2014 scheme without a disqualifying service gap;
- The period of protection will apply from 1 April 2014 to 31 March 2022 but will cease when a member leaves active service or reaches their final salary scheme normal retirement age (whichever is sooner);
- Where a member remains in active service beyond 31 March 2022 the comparison of their benefits will be based on their final salary when they leave the LGPS or when they reach their final salary scheme normal retirement age (again whichever is sooner);
- Underpin protection will apply to qualifying members who leave active membership of the LGPS with an immediate or deferred entitlement to a pension; and
- The underpin will consider when members take their benefit.

Further details of the McCloud/Sargeant judgment can be found below in the Regulatory risks section.

Guaranteed Minimum Pension (GMP) indexation and equalisation

On 23 March 2021, the Government published the outcome to its Guaranteed Minimum Pension Indexation consultation, concluding that all public service pension schemes, including the LGPS, will be directed to provide full indexation to members with a GMP reaching State Pension Age (SPA) beyond 5 April 2021. This is a permanent extension of the existing 'interim solution' that has applied to members with a GMP reaching SPA on or after 6 April 2016. Details of the consultation outcome can be found here.

The 2022 valuation approach for GMP is that the Fund will pay limited increases for members that have reached SPA by 6 April 2016, with the government providing the remainder of the inflationary increase. For members that reach SPA after this date, the Fund will be required to pay the entire inflationary increase.

Contribution reviews between actuarial valuations

It is anticipated for most Scheme employers that the contribution rates certified at the formal actuarial valuation will remain payable for the period of the rates and adjustments certificate. However, there may be circumstances where a review of the contribution rates payable by an employer (or a group of employers) under Regulation 64A is deemed appropriate by the administering authority.

A contribution review may be requested by an employer or be required by the administering authority. The review may only take place if one of the following conditions are met:

(i) it appears likely to the administering authority that the amount of the liabilities arising or likely to arise has changed significantly since the last valuation;

(ii) it appears likely to the administering authority that there has been a significant change in the ability of the Scheme employer or employers to meet the obligations of employers in the Scheme; or

(iii) a Scheme employer or employers have requested a review of Scheme employer contributions and have undertaken to meet the costs of that review. A request under this condition can only be made if there has been a significant change in the liabilities arising or likely to arise and/or there has been a significant change in the ability of the Scheme employer to meet its obligations to the Fund.

Guidance on the administering authority's approach considering the appropriateness of a review and the process in which a review will be conducted is set out the Fund's separate Contribution review policy which, is attached as appendix A. This includes details of the process that should be followed where an employer would like to request a review.

Once a review of contribution rates has been agreed, unless the impact of amending the contribution rates is deemed immaterial by the Fund Actuary, then the results of the review will be applied with effect from the agreed review date, regardless of the direction of change in the contribution rates.

Note that where a Scheme employer seems likely to exit the Fund before the next actuarial valuation then the administering authority can exercise its powers under Regulation 64(4) to carry out a review of contributions with a view to providing that assets attributable to the Scheme employer are equivalent to the exit payment that will be due from the Scheme employer. These cases do not fall under the separate contribution review policy.

With the exception of any cases falling under Regulation 64(4), the administering authority will not accept a request for a review of contributions where the effective date is within 12 months of the next rates and adjustments certificate.

Deficit recovery/surplus amortisation periods

Whilst one of the funding objectives is to build up sufficient assets to meet the cost of benefits as they accrue, it is recognised that at any particular point in time, the value of the accumulated assets will be different to the value of accrued liabilities, depending on how the actual experience of the Fund differs to the actuarial assumptions. This theory applies down to an individual employer level; each employer in the Fund has their own share of deficit or surplus attributable to their section of the Fund.

Where the valuation for an employer discloses a surplus or deficit then the levels of required employer contributions will include an adjustment to either amortise the surplus or fund the deficit over a period of years.

The recovery periods adopted for the employers in the Fund for the 2022 valuation varied from 4 years to 16 years. Please note that recovery periods varied between individual employers. The adjustment may be set either as a percentage of payroll or as a fixed monetary amount. The period that is adopted for any particular employer will depend on:

- The significance of the surplus or deficit relative to that employer's liabilities;
- The covenant of the individual employer (including any security in place) and any limited period of participation in the Fund;
- The remaining contract length of an employer in the Fund (if applicable); and
- The implications in terms of stability of future levels of employers' contribution.

Pooling of individual employers

The policy of the Fund is that each individual employer should be responsible for the costs of providing pensions for its own employees who participate in the Fund. Accordingly, contribution rates are set for individual employers to reflect their own particular circumstances.

However, certain groups of individual employers are pooled for the purposes of determining contribution rates to recognise common characteristics or where the number of Scheme members is small.

The funding pools adopted for the Fund at the 2022 valuation are summarised in the table below:

Pool	Type of pooling	Notes
Academies	Past and future service pooling	All academies in the pool pay the same total contribution rate and have the same funding level
Small Scheduled bodies	Past and future service pooling	All town and parish councils in the pool pay the same total contribution rate and have the same funding level
NSL Ltd	Past and future service pooling	All employers in the pool pay the same total contribution rate and have the same funding level
BAM FM	Past and future service pooling	All employers in the pool pay the same total contribution rate and have the same funding level

The main purpose of pooling is to produce more stable employer contribution levels, although recognising that ultimately there will be some level of cross-subsidy of pension cost amongst pooled employers.

<u>Forming/disbanding a funding pool</u>

Where the Fund identifies a group of employers with similar characteristics and potential merits for pooling, it is possible to form a pool for these employers. Advice will be sought from the Fund Actuary to consider the appropriateness and practicalities of forming the funding pool.

Conversely, the Fund may consider it no longer appropriate to pool a group of employers. This could be due to divergence of previously similar characteristics or an employer becoming a dominant party in the pool (such that the results of the pool are largely driven by that dominant employer). Where this scenario arises, advice will be sought from the Fund Actuary.

Funding pools should be monitored on a regular basis, at least at each actuarial valuation, in order to ensure the pooling arrangement remains appropriate.

Risk-sharing

There are employers that participate in the Fund with a risk-sharing arrangement in place with another employer in the Fund.

For example, there are employers participating in the Fund with pass-through provisions: under this arrangement the pass-through employer does not take on the risk of underfunding as this risk remains with the letting authority or relevant guaranteeing employer. When the pass-through employer ceases participation in the Fund, it is not responsible for making any exit payment, nor receiving any exit credit, as any deficit or surplus ultimately falls to the letting authority or relevant guaranteeing employer.

At the 2022 valuation, risk-sharing arrangements were allowed for by allocating any deficit/liabilities covered by the risk-sharing arrangement to the relevant responsible employer.

Contribution payments

Employers pay contributions on a monthly basis. Primary contributions are certified as a percentage of payroll and therefore amounts paid by employers each month will fluctuate in line with payroll each month. Secondary contributions can be certified as a percentage of payroll or as a monetary amount. Monetary amounts are payable in 12 equal monthly instalments throughout the relevant year. However, we understand that in general, the administering authority will agree a schedule with employers based on 10 monthly instalments.

Employers must pay contributions in line with the Rates and Adjustments Certificate but they may be able to alter the timing of contributions payable and/or pay in additional contributions with agreement from the administering authority.

New employers joining the Fund

When a new employer joins the Fund, the Fund Actuary is required to set the contribution rates payable by the new employer and allocate a share of Fund assets to the new employer as appropriate. The most common types of new employers joining the Fund are admission bodies and new academies. These are considered in more detail below.

Admission bodies

New admission bodies in the Fund are commonly a result of a transfer of staff from an existing employer in the Fund to another body (for example as part of a transfer of services from a council or academy to an external provider under Schedule 2 Part 3 of the Regulations). Typically these transfers will be for a limited period (the contract length), over which the new admission body employer is required to pay contributions into the Fund in respect of the transferred members.

Funding at start of contract

Generally, when a new admission body joins the Fund, they will become responsible for all the pensions risk associated with the benefits accrued by transferring members and the benefits to be accrued over the contract length. This is known as a full risk transfer. In these cases, it may be appropriate that the new admission body is allocated a share of Fund assets equal to the value of the benefits transferred, i.e. the new admission body starts off on a fully funded basis. This is calculated on the relevant funding basis and the opening position may be different when calculated on an alternative basis (e.g. on an accounting basis).

However, there may be special arrangements made as part of the contract such that a full risk transfer approach is not adopted. In these cases, the initial assets allocated to the new admission body will reflect the level of risk transferred and may therefore not be on a fully funded basis or may not reflect the full value of the benefits attributable to the transferring members.

Contribution rate

The contribution rate may be set on an open or a closed basis. Where the funding at the start of the contract is on a fully funded basis then the contribution rate will represent the primary rate only; where there is a deficit allocated to the new admission body then the contribution rate will also incorporate a secondary rate with the aim of recovering the deficit over an appropriate recovery period.

Depending on the details of the arrangement, for example if any risk sharing arrangements are in place, then additional adjustments may be made to determine the contribution rate payable by the new admission body. The approach in these cases will be bespoke to the individual arrangement.

Security

To mitigate the risk to the Fund that a new admission body will not be able to meet its obligations to the Fund in the future, the new admission body may be required to put in place a bond in accordance with Schedule 2 Part 3 of the Regulations, if required by the letting authority and administering authority.

If, for any reason, it is not desirable for a new admission body to enter into a bond, the new admission body may provide an alternative form of security which is satisfactory to the administering authority.

Risk-sharing

Although a full risk transfer (as set out above) is most common, subject to agreement with the administering authority where required, new admission bodies and the relevant letting authority may make a commercial agreement to deal with the pensions risk differently. For example, it may be agreed that all or part of the pensions risk remains with the letting authority.

Although pensions risk may be shared, it is common for the new admission body to remain responsible for pensions costs that arise from:

- above average pay increases, including the effect on service accrued prior to contract commencement; and
- redundancy and early retirement decisions.

The administering authority may consider risk-sharing arrangements as long as the approach is clearly documented in the admission agreement, the transfer agreement or any other side agreement. The arrangement also should not lead to any undue risk to the other employers in the Fund.

Legal and actuarial advice in relation to risk-sharing arrangements should be sought where required.

New academies

When a school converts to academy status, the new academy (or the sponsoring multi-academy trust) becomes a Scheme employer in its own right.

Funding at start

On conversion to academy status, the new academy will become part of the Academies funding pool and will be allocated assets based on the funding level of the pool at the conversion date. The level of assets transferred is subject to a maximum of 100% of the liabilities.

Contribution rate

The contribution rate payable when a new academy joins the Fund will be in line with the contribution rate certified for the Academies funding pool at the 2022 valuation.

Cessation valuations

When a Scheme employer exits the Fund and becomes an exiting employer, as required under the Regulations the Fund Actuary will be asked to carry out an actuarial valuation in order to determine the liabilities in respect of the benefits held by the exiting employer's current and former employees. The Fund Actuary is also required to determine the exit payment due from the exiting employer to the Fund or the exit credit payable from the Fund to the exiting employer.

In assessing the value of the liabilities attributable to the exiting employer, the Fund Actuary may adopt differing approaches depending on the employer and the specific details surrounding the employer's cessation scenario.

For example, if the administering authority is satisfied that there is another employer willing to take on responsibility for the liabilities (or that there is some other form of guarantee in place) then the cessation position may be calculated on the ongoing funding basis.

Alternatively, if there is no guarantor in the Fund willing to accept responsibility for the residual liabilities of the exiting employer, then those liabilities may be assessed on a basis more prudent than the ongoing funding basis, known as the full cessation approach. The assumptions adopted will be consistent with the current ongoing funding position, but with additional prudence included in order to take into account potential uncertainties and risk e.g. due to adverse market changes, additional liabilities arising from regulatory or legislative change and political/economic uncertainties. The additional level of prudence on this basis was last reviewed as part of the Fund's 2022 valuation, when a stochastic analysis was used to assess the "success probabilities" of certain levels of prudence, with the aim being to target a 85% success probability that an exiting employer's assets plus the calculated exit payment/credit will be sufficient to meet the residual liabilities. This corresponds to a 3.5% prudence adjustment in the discount rate assumption. This adjustment will be reviewed on a regular basis, and as a minimum as part of each actuarial valuation.

Exit payment policy

Where a cessation valuation reveals a deficit and an exit payment is due, the expectation is that the employer settles this debt immediately through a single cash payment. However, should it not be possible for the employer to settle this amount, providing the employer puts forward sufficient supporting evidence to the administering authority, the administering authority may agree a deferred debt agreement (DDA) with the employer under Regulation 64(7A) or a debt spreading agreement (DSA) under Regulation 64B.

Under a DDA, the exiting employer becomes a deferred employer in the Fund (i.e. they remain as a Scheme employer but with no active members) and remains responsible for paying the secondary rate of contributions to fund their deficit. The secondary rate of contributions will be reviewed at each actuarial valuation until the termination of the agreement.

Under a DSA, the cessation debt is crystallised and spread over a period deemed reasonable by the administering authority having regard to the views of the Fund Actuary.

Whilst a DSA involves crystallising the cessation debt and the employer's only obligation is to settle this set amount, in a DDA the employer remains in the Fund as a Scheme employer and is exposed to the same risks (unless agreed otherwise with the administering authority) as active employers in the Fund (e.g. investment, interest rate, inflation, longevity and regulatory risks) meaning that the deficit will change over time.

Guidance on the administering authority's policy for entering into, monitoring and terminating a DDA or DSA is set out in the Fund's separate DSA and DDA policies document attached as Appendix B. This includes details of when a DDA or a DSA may be permitted and the information required from the employer when putting forward a request for a DDA or DSA.

Town and Parish Councils

A Town or Parish Council in the Fund will participate in the Fund as part of the Small Scheduled Bodies funding pool.

When a Town or Parish Council becomes an exiting employer, the exit valuation will generally be carried out by the Fund Actuary on an ongoing funding basis and the residual assets and liabilities in respect of the Town or Parish Council will remain in the Small Scheduled Bodies funding pool. Circumstances may arise where this approach is not appropriate and these will be revised on a case by case basis.
A Town or Parish Council may defer their exit if the last member leaves the Fund but the Town or Parish Council is intending to offer the Scheme to a new employee within the next three years. This will be in agreement with the Fund, and any suspension period will be time-limited and at the discretion of the Fund.

Exit credit policy

Any surplus in the Fund in respect of the exiting employer may be paid from the Fund to the employer as an exit credit, subject to the agreement between the relevant parties and any legal documentation. Having regard to any relevant considerations, the administering authority will take the following approach to the payment of exit credits:

- Any employer who cannot demonstrate that they have been exposed to underfunding risk during their participation in the Fund will not be entitled to an exit credit payment. This will include the majority of "pass-through" arrangements. This is on the basis that these employers would not have not been asked to pay an exit payment had a deficit existed at the time of exit.
- The administering authority does not need to enquire into the precise risk sharing arrangement adopted by an employer but it must be satisfied that the risk sharing arrangement has been in place before it will pay out an exit credit. The level of risk that an employer has borne will be taken into account when determining the amount of any exit credit. It is the responsibility of the exiting employer to set out why the arrangements make payment of an exit credit appropriate.
- Any exit credit payable will be subject to a maximum of the actual employer contributions paid into the Fund.
- As detailed above, the Fund Actuary may adopt differing approaches depending on the employer the specific details surrounding the employer's cessation scenario. If the administering authority is satisfied that there is another employer willing to take on responsibility for the liabilities (or that there is some other form of guarantee in place) then the cessation position may be calculated on the ongoing funding basis.
- The administering authority will pay out any exit credits within six months of the cessation date where possible. A longer time may be agreed between the administering authority and the exiting employer where necessary. For example if the employer does not provide all the relevant information to the administering authority within one month of the cessation date the administering authority will not be able to guarantee payment within six months of the cessation date.
- Under the Regulations, the administering authority has the discretion to take into account any other relevant factors in the calculation of any exit credit payable and they will seek legal advice where appropriate.

Bulk transfers

Bulk transfers of staff into or out of the Fund can take place from other LGPS Funds or non-LGPS Funds. In either case, the Fund Actuary for both Funds will be required to negotiate the terms for the bulk transfer – specifically the terms by which the value of assets to be paid from one Fund to the other is calculated.

The agreement will be specific to the situation surrounding each bulk transfer but in general the Fund will look to receive the bulk transfer on no less than a fully funded transfer (i.e. the assets paid from the ceding Fund are sufficient to cover the value of the liabilities on the agreed basis).

A bulk transfer may be required by an issued Direction Order. This is generally in relation to an employer merger, where all the assets and liabilities attributable to the transferring employer in its original Fund are transferred to the receiving Fund.

Links with the Investment Strategy Statement (ISS)

The main link between the Funding Strategy Statement (FSS) and the ISS relates to the discount rate that underlies the funding strategy as set out in the FSS, and the expected rate of investment return which is expected to be achieved by the long-term investment strategy as set out in the ISS.

As explained above, the ongoing discount rate that is adopted in the actuarial valuation is derived by considering the expected return from the long-term investment strategy. This ensures consistency between the funding strategy and investment strategy.

Risks and counter measures

Whilst the funding strategy attempts to satisfy the funding objectives of ensuring sufficient assets to meet pension liabilities and stable levels of employer contributions, it is recognised that there are risks that may impact on the funding strategy and hence the ability of the strategy to meet the funding objectives.

The major risks to the funding strategy are financial, although there are other external factors including demographic risks, regulatory risks and governance risks.

Financial risks

The main financial risk is that the actual investment strategy fails to produce the expected rate of investment return (in real terms) that underlies the funding strategy. This could be due to a number of factors, including market returns being less than expected and/or the fund managers who are employed to implement the chosen investment strategy failing to achieve their performance targets.

The valuation results are most sensitive to the real discount rate (i.e. the difference between the discount rate assumption and the price inflation assumption). Broadly speaking an increase/decrease of 0.5% p.a. in the real discount rate will decrease/increase the valuation of the liabilities by 8%, and decrease/increase the required employer contribution by around 3.2% of payroll p.a.

However, the Pensions Committee regularly monitors the investment returns achieved by the fund managers and receives advice from the independent advisers and officers on investment strategy.

The Committee may also seek advice from the Fund Actuary on valuation related matters.

In addition, the Fund Actuary provides funding updates between valuations to check whether the funding strategy continues to meet the funding objectives.

Demographic risks

Allowance is made in the funding strategy via the actuarial assumptions for a continuing improvement in life expectancy. However, the main demographic risk to the funding strategy is that it might underestimate the continuing improvement in longevity. For example, an increase of one year to life expectancy of all members in the Fund will reduce the funding level by approximately 3%.

The actual mortality of pensioners in the Fund is monitored by the Fund Actuary at each actuarial valuation and assumptions are kept under review. For the past two funding valuations, the Fund commissioned a bespoke longevity analysis by Barnett Waddingham's specialist longevity team in order to assess the mortality experience of the Fund and help set an appropriate mortality assumption for funding purposes.

The liabilities of the Fund can also increase by more than has been planned as a result of the additional financial costs of early retirements and ill-health retirements. However, the administering authority monitors the incidence of early retirements; and procedures are in place that require individual employers to pay additional amounts into the Fund to meet any additional costs arising from early retirements.

Climate risk

There are a large number of interlinked systemic long-term financial risks related to climate change which could potentially have a material impact on the assets and/or the liabilities of the Fund. The most obvious of these climate change risks will be the financial risks to the value of the Fund's assets, the potential increased volatility of markets and potential changes in life expectancy. It is possible that some of these factors will impact the assets and liabilities of the Fund in the same direction, although not necessarily by the same amount.

The Fund therefore has a fiduciary duty to consider climate change risk when making investment decisions and to ensure any decisions support the effective management of climate change. The Fund therefore expects their appointed investment managers to be informed about climate change risks and take investment opportunities accordingly within their processes. More detail is included in the Fund's Investment Strategy Statement.

As part of the 2022 valuation, the Fund Actuary provided the Fund with a climate risk analysis which assessed the potential exposure of the Fund's funding position to climate risk under different climate scenarios. The principles behind the analysis were agreed with the Government Actuary's Department (GAD).

The results of this analysis demonstrated that the funding strategy agreed as part of the 2022 valuation was sufficiently robust in the context of climate scenario analysis and any potential contribution impacts.

The Fund will continue to assess this risk on a regular basis.

Maturity risk

The maturity of a Fund (or of an employer in the Fund) is an assessment of how close on average the members are to retirement (or already retired). The more mature the Fund or employer, the greater proportion of its membership that is near or in retirement. For a mature Fund or employer, the time available to generate investment returns is shorter and therefore the level of maturity needs to be considered as part of setting funding and investment strategies.

The cashflow profile of the Fund needs to be considered alongside the level of maturity: as a Fund matures, the ratio of active to pensioner members falls, meaning the ratio of contributions being paid into the Fund to the benefits being paid out of the Fund also falls. This therefore increases the risk of the Fund having to sell assets in order to meets its benefit payments.

The government published a consultation (*Local government pension scheme: changes to the local valuation cycle and management of employer risk*) in 2019 which may affect the Fund's exposure to maturity risk. More information on this can be found in the Regulatory risks section below.

Regulatory risks

The benefits provided by the Scheme and employee contribution levels are set out in Regulations determined by central government. The tax status of the invested assets is also determined by the government.

The funding strategy is therefore exposed to the risks of changes in the Regulations governing the Scheme and changes to the tax regime which may affect the cost to individual employers participating in the Scheme.

However, the administering authority participates in any consultation process of any proposed changes in Regulations and seeks advice from the Fund Actuary on the financial implications of any proposed changes.

There are a number of general risks to the Fund and the LGPS, including:

- If the LGPS was to be discontinued in its current form it is not known what would happen to members' benefits.
- More generally, as a statutory scheme the benefits provided by the LGPS or the structure of the scheme could be changed by the government.
- The State Pension Age is due to be reviewed by the government in the next few years.

At the time of preparing this FSS, specific regulatory risks of particular interest to the LGPS are in relation to the McCloud/Sargeant judgments, the cost control mechanism and the timing of future funding valuations consultation. These are discussed in the sections below.

McCloud/Sargeant judgments

The Court of Appeal judgment on the McCloud and Sargeant cases, relate to age discrimination against the age-based transitional provisions put into place when the new judicial pension arrangements were introduced in 2015. The members argued that these transitional provisions were directly discriminatory on grounds of age and indirectly discriminatory on grounds of sex and race, based on the correlation between these two factors reflected in the judicial membership. The Tribunal ruled against the Government, deeming the transitional provisions as not a proportionate means of achieving a legitimate aim.

The Government subsequently applied to the Supreme Court to appeal the judgment but their application was denied on 27 June 2019. On 16 July 2020, the Government published a consultation on the proposed remedy to be applied to LGPS benefits in response to the McCloud and Sargeant cases. A ministerial statement in response to this was published on 13 May 2021 and revised Regulations are awaited to bring a remedy into play.

At the time of drafting this FSS, Regulations and therefore confirmation of the remedy are not yet finalised and are expected in 2023.

Cost control mechanism

As a result of the public service pension schemes reforms, the Government established a cost control mechanism for all those schemes to ensure a fair balance of risks between scheme members and the taxpayer. The process has been complex and has still not been fully resolved. Although the 2016 cost cap valuation report for the LGPS has been published, at the time of writing there is still a challenge outstanding regarding the inclusion of McCloud in the cost cap. Therefore, there is still a possibility that the 2016 valuation may have to be revisited with the small chance that benefit improvements will be required and potentially backdated to April 2019.

For the purposes of the 2022 valuation, we have made no allowance for any potential benefit changes. The Fund's prudence allowance already allows for an element of regulatory uncertainty and any potential impact is not deemed to be material.

Consultation: Local government pension scheme: changes to the local valuation cycle and management of employer risk

On 8 May 2019, the government published a consultation seeking views on policy proposals to amend the rules of the LGPS in England and Wales. The consultation covered:

- amendments to the local fund valuations from the current three year (triennial) to a four year (quadrennial) cycle;
- a number of measures aimed at mitigating the risks of moving from a triennial to a quadrennial cycle;
- proposals for flexibility on exit payments;
- proposals for further policy changes to exit credits; and
- proposals for changes to the employers required to offer LGPS membership.

The proposals for flexibility on exit payments and for further policy changes to exit credits have been finalised, however, are still to be finalised for the remaining three proposals. This FSS has been updated in light of these responses and will be revisited once the outcomes are known for the remaining items.

Detail of the outstanding policy proposals are outlined below:

Timing of future actuarial valuations

LGPS valuations currently take place on a triennial basis which results in employer contributions being reviewed every three years. In September 2018 it was announced by the Chief Secretary to HMT, Elizabeth Truss, that the national Scheme valuation would take place on a quadrennial basis (i.e. every four years) along with the other public sector pension schemes. This results of the national Scheme valuation are used to test the cost control cap mechanism and HMT believed that all public sector scheme should have the cost control test happen at the same time.

Changes to employers required to offer LGPS membership

At the time of drafting this FSS, under the current Regulations further education corporations, sixth form college corporations and higher education corporations in England and Wales are required to offer membership of the LGPS to their non-teaching staff.

With consideration of the nature of the LGPS and the changes in nature of the further education and higher education sectors, the government has proposed to remove the requirement for further education corporations, sixth form college corporations and higher education corporations in England to offer new employees access to the LGPS. Given the significance of these types of employers in the Fund, this could impact on the level of maturity of the Fund and the cashflow profile. For example, increased risk of contribution income being insufficient to meet benefit outgo, if not in the short term then in the long term as the payroll in respect of these types of employers decreases with fewer and fewer active members participating in the Fund.

This also brings an increased risk to the Fund in relation to these employers becoming exiting employers in the Fund. Should they decide not to admit new members to the Fund, the active membership attributable to the employers will gradually reduce to zero, triggering an exit under the Regulations and a potential significant exit payment. This has the associated risk of the employer not being able to meet the exit payment and thus the exit payment falling to the other employers in the Fund.

In November 2022, the ONS reclassified FE colleges as public sector employers. At the time of writing, this does not require any action for colleges with regards to the LGPS, and therefore there has been no change in treatment of these employers as a result of the reclassification.

Employer risks

Many different employers participate in the Fund. Accordingly, it is recognised that a number of employer-specific events could impact on the funding strategy including:

- Structural changes in an individual employer's membership;
- An individual employer deciding to close the Scheme to new employees; and
- An employer ceasing to exist without having fully funded their pension liabilities.

However, the administering authority monitors the position of employers participating in the Fund, particularly those which may be susceptible to the events outlined, and takes advice from the Fund Actuary when required.

In addition, the administering authority keeps in close touch with all individual employers participating in the Fund to ensure that, as administering authority, it has the most up to date information available on individual employer situations. It also keeps individual employers briefed on funding and related issues.

Governance risks

Accurate data is necessary to ensure that members ultimately receive their correct benefits. The administering authority is responsible for keeping data up to date and results of the actuarial valuation depend on accurate data. If incorrect data is valued then there is a risk that the contributions paid are not adequate to cover the cost of the benefits accrued.

Monitoring and review

This FSS is reviewed formally, in consultation with the key parties, at least every three years to tie in with the triennial actuarial valuation process.

The most recent valuation was carried out as at 31 March 2022, certifying the contribution rates payable by each employer in the Fund for the period from 1 April 2023 to 31 March 2026.

The timing of the next funding valuation is due to be confirmed as part of the government's *Local government pension scheme: changes to the local valuation cycle and management of employer risk* consultation which closed on 31 July 2019. At the time of drafting this FSS, it is anticipated that the next funding valuation will be due as at 31 March 2025.

The administering authority also monitors the financial position of the Fund between actuarial valuations and may review the FSS more frequently if necessary.

Approved by the Pension Fund Committee
Somerset Council Pension Fund
XXXXXXXXXXX

Appendix A

Somerset Council Pension Fund Contribution Review Policy

Contents

Introduction

This document sets out the Somerset Council Pension Fund's policy on amending the contribution rates payable by an employer (or group of employers) between formal funding valuations.

Somerset Council Pension Fund (the Fund) is part of the Local Government Pension Scheme (LGPS), a defined benefit statutory scheme administered in accordance with the Local Government Pension Scheme Regulations 2013 (the Regulations) as amended.

Under Regulation 62, Somerset Council, as the administering authority for the Fund, is required to obtain a formal actuarial valuation of the Fund and a rates and adjustments certificate setting out the contribution rates payable by each Scheme employer for three year period beginning 1 April following that in which the valuation date falls.

It is anticipated for most Scheme employers that the contribution rates certified at the formal actuarial valuation will remain payable for the period of the rates and adjustments certificate. However, there may be circumstances where a review of the contribution rates payable by an employer (or a group of employers) under Regulation 64A is deemed appropriate by the administering authority. This policy document sets out the administering authority's approach to considering the appropriateness of a review and the process in which a review will be conducted.

This policy has been prepared by the administering authority following advice from the Fund Actuary, and following consultation with the Fund's Scheme employers. In drafting this policy document, the administering authority has taken into consideration the statutory guidance on drafting a contribution review policy which was issued by the Ministry of Housing, Communities and Local Government (now known as Department for Levelling Up, Housing and Communities (DLUHC)), and the Scheme Advisory Board's guide to employer flexibilities.

Throughout this document, any reference to the review of a Scheme employer's contribution rates will also mean the single review of the contribution rates for a group of Scheme employers (for example if the employers are pooled for funding purposes).

Note that where a Scheme employer seems likely to exit the Fund before the next actuarial valuation then the administering authority can exercise its powers under Regulation 64(4) to carry out a review of contributions with a view to providing that assets attributable to the Scheme employer are equivalent to the exit payment that will be due from the Scheme employer. These cases do not fall under this contribution review policy.

The review process

The events that may trigger a review are set out in the Triggering a contribution review section. The general process for assessing and conducting a review is set out below. Timescales may vary in practice depending on each individual circumstance but the timeline below provides a rough guide of the administering authority's general expectation.

Following completion of the review process, the administering authority may continue to monitor the Scheme employer's position in order to ensure the revised contribution rate remains appropriate (where a review was completed) or to ensure the Scheme employer's situation does not change such that a review previously deemed not appropriate becomes appropriate. As part of its participation in the Fund, any Scheme employer is expected to support any reasonable information requests made by the administering authority in order to allow effective monitoring.

Timeline where initiation is made by the administering authority

Where the review is initiated by the administering authority (i.e. under conditions (i) and (ii) in the Triggering a contribution review section), the first stage after the administering authority has conducted its analysis is to engage with the Scheme employer and provide written evidence for requiring the review.

The Scheme employer will be given 28 days from the later of the date of receipt of the evidence provided by the administering authority and the date of receipt of the results of the formal contribution review to respond to the administering authority on the proposal. Should no challenge be accepted within this period then the administering authority will treat the proposal as accepted and the revised contribution rates will come into effect from the proposed review date.

Should the Scheme employer challenge the administering authority's proposal, then the administering authority will continue to engage with the Scheme employer in order to reach an agreeable decision. If no decision has been agreed within 3 months of the initial proposal, then the administering authority may proceed with the revised contribution rates. Further details of the appeals process for the Scheme employer is set out in the Appeals process section.

Although the ultimate decision for review belongs to the administering authority, the administering authority is committed to engaging with any Scheme employer following the initial proposal to ensure that any change is agreeable to all relevant parties.

Timeline where initiation is made by the Scheme employer

Where the review is initiated by the Scheme employer, the process begins once the Scheme employer has provided all the relevant documents required as set out in the Triggering a contribution review section.

The administering authority will aim to provide a response to the Scheme employer within 28 days from the date of receipt. This will depend on the quality of the documents provided and any need from the administering authority to request further information from the Scheme employer. The administering authority will provide a written response setting out the issues considered in reviewing the request from the Scheme employer, together with the outcome and confirming the next steps in the process.

Responsibility of costs

Where the review of contributions has been initiated by the administering authority, any costs incurred as part of the review in relation to the gathering of evidence to present to the Scheme employer and the actuarial costs to commission the contribution review will be met by the Fund. This is with the exception of any costs incurred as a result of extra information requested by the Scheme employer which is not ordinarily anticipated to be incurred by the administering authority as part of the review. These exception costs would be recharged to the Scheme employer.

Any costs incurred as a result of a review initiated by the Scheme employer will be the responsibility of the Scheme employer, regardless of the outcome of the review proceeding or not. This may include specialist adviser costs involved in assessing whether or not the request for review should be accepted and the costs in relation to carrying out the review.

Triggering a contribution review

As set out in Regulation 64(A)(1)(b), a review of an employer's contribution rate between formal actuarial valuations may only take place if one of the following conditions are met:

(i) it appears likely to the administering authority that the amount of the liabilities arising or likely to arise has changed significantly since the last valuation;

(ii) it appears likely to the administering authority that there has been a significant change in the ability of the Scheme employer or employers to meet the obligations of employers in the Scheme; or

(iii) a Scheme employer or employers have requested a review of Scheme employer contributions and have undertaken to meet the costs of that review.

Conditions (i) and (ii) are triggered by the administering authority and (iii) by the Scheme employer. The key considerations under each of the conditions are detailed below.

It should be noted that the conditions are as set out in the Regulations therefore do not allow for a review of contributions where the trigger is due to a change in actuarial assumptions or asset values.

(i) change in the amount of the liabilities arising or likely to arise

Examples of changes which may trigger a review under this condition include, but are not limited to:

- Restructuring of a council due to a move to unitary status
- Restructuring of a Multi Academy Trust
- A significant outsourcing or transfer of staff
- Any other restructuring or event which could materially affect the Scheme employer's membership
- Changes to whether a Scheme employer is open or closed to new members, or a decision which will restrict the Scheme employer's active membership in the fund in future
- Significant changes to the membership of an employer, for example due to redundancies, significant salary awards, ill health retirements or a large number of withdrawals
- Establishment of a wholly owned company by a scheduled body which does not participate in the LGPS.

As part of its participation in the Fund, Scheme employers are required to inform the administering authority of any notifiable events as set out in the Fund's Pensions Administration Strategy, service agreements and/or admission agreements. Through this notification process, the administering authority may identify events that merit a review of contributions.

In addition, the administering authority may initiate a review of contributions if they become aware of any events that they deem could potentially change the liabilities of the Scheme employer. This also applies to any employers for whom a review of contributions has already taken place as a further change in liabilities may merit another review.

(ii) change in the ability of the Scheme employer to meet its obligations

Examples of changes which may trigger a review under this condition include, but are not limited to:

- Change in employer legal status or constitution
- Provision of, or removal of, security, bond, guarantee or some other form of indemnity by a Scheme employer
- A change in a Scheme employer's immediate financial strength
- A change in a Scheme employer's longer-term financial outlook
- Confirmation of wrongful trading
- Conviction of senior personnel
- Decision to cease business
- Breach of banking covenant
- Concerns felt by the administering authority due to behaviour by a Scheme employer's, for example, a persistent failure to pay contributions (at all, or on time), or to reasonably engage with the administering authority over a significant period of time.

The administering authority is committed to engaging with Scheme employers on their participation in the Fund and through this can identify any Scheme employers that might be considered as high risk and whether any Scheme employers have had a significant change in riskiness. This in turn may affect the administering authority's views on whether the ability of a Scheme employer to meet its obligations to the Fund has changed significantly and therefore whether this change may merit a contribution review. This also applies to any employers for whom a review of contributions has already taken place as a further change in an employer's ability to meet its obligations may merit another review.

(iii) request from the Scheme employer for a contribution review

A request can be made by a Scheme employer for a review of contribution rates outside of the formal actuarial process. This must be triggered by one of the following two conditions:

- There has been a significant change in the liabilities arising or likely to arise; and/or
- There has been a significant change in the ability of the Scheme employer to meet its obligations to the Fund.

Any requests not arising from either of these conditions will not be considered by the administering authority.

Requests by a Scheme employer are limited to one review per calendar year.

With the exception of any cases where the Scheme employer is expected to cease before the next rates and adjustments certificate comes into effect, the administering authority will not accept a request for a review of contributions with an effective date within the 12 months preceding the next rates and adjustments certificate. It is expected in these cases that any requests can be factored in to the formal review and any benefits of carrying out a review just prior to the commencement of a new rates and adjustments certificate are outweighed by the costs and resource required. If a request is made with an effective date within the 12 months preceding the next rates and adjustments certificate, the administering authority will instead reflect these changes in the actuarial valuation and the rates being certified and taking effect the year following the valuation date.

Information required from the Scheme employer

In order to submit a request for a review of contribution rates outside of the formal actuarial valuation process, a Scheme employer must provide the following to the Fund:

- Where a review is sought due to a potential change in the Scheme employer's liabilities:
- Membership data or details of membership changes to evidence that the liabilities have materially changed, or are likely to change
- Where a review is sought due to a potential change in the ability of the Scheme employer to meet its obligations:
    - The most recent annual report and accounts for the Scheme employer
    - The most recent management accounts
    - Financial forecasts for a minimum of three years
    - The change in security or guarantee to be provided in respect of the Scheme employer's liabilities

The administering authority may require further evidence to support the request and this will be requested from the Scheme employer on a case by case basis.

Assessing the appropriateness of a review

The following general considerations will be taken into account by the administering authority, regardless of the condition under which a review is requested:

- the expected term for which the Scheme employer will continue to participate in the Fund;
- the time remaining to the next formal funding valuation;
- the cost of the review relative to the anticipated change in contribution rates and the benefit to the Scheme employer, the Fund and/or the other Scheme employers; and
- the anticipated impact on the Fund and the other Fund employers, including the relative size of the change in liabilities and contributions and any change in the risk borne by other Fund employers.

Where the review has been requested by the Scheme employer, the administering authority will also consider the information and evidence put forward by the Scheme employer. This may be with advice from the Fund Actuary where required, and will include an assessment of whether there is a reasonable likelihood that a review would result in a change in the Scheme employer's contribution rates. The administering authority will also consider whether it is necessary to consult with any other Scheme employer e.g. where a guarantee may have been provided by another Scheme employer.

Whether any changes require the administering authority to exercise its powers to carry out a contribution review will be assessed on a case by case basis and with advice from the Fund Actuary and may involve other considerations as deemed appropriate for the situation. The final decision of whether a review of contribution rates will be carried out rests with the administering authority after, if necessary, taking advice from the Fund Actuary. Should a Scheme employer disagree with the administering authority, then details of the Appeals process is set out later in this document.

Appropriateness of a review due to change in liabilities

This will be subject to the following considerations in addition to the general considerations set out above:

- the size of the Scheme employer's liabilities relative to the Fund and the extent to which they have changed;
- the size of the event in terms of membership and liabilities relative to the Scheme employer and/or the Fund; and
- the administering authority's assessment of the ability of the Scheme employer to meet its obligations.

Appropriateness of a review due to change in ability to meet its obligations to the Fund

In assessing whether or not an administering authority will exercise its powers to review a Scheme employer's contribution rates under this condition, the administering authority will take into account the general considerations set out earlier in this section and:

- The results of any employer risk analysis provided by the Fund Actuary or a covenant specialist
- The perceived change in the value of the indemnity to the administering authority, relative to the size of the Scheme employer's liabilities

It is acknowledged that each Scheme employer's situation may differ and therefore each decision will be made on a case by case basis. Further considerations to that set out above may be relevant and will be taken into account by the administering authority as required.

Method used for reviewing contribution rates

If a review of contribution rates is agreed, or if an indicative review is required to help inform the review process, the administering authority will take advice from the Fund Actuary on the calculation of the Scheme employer's revised contribution rates. This will take into account the events leading to the anticipated liability change and any impact of the changes in the Scheme employer's ability to meet its obligations to the Fund.

The starting point for reviewing a Scheme employer's contribution rates will in some cases be the most recent actuarial valuation. The table below sets out the general approach that will be used when carrying out this review.

Once a review of contribution rates has been agreed, unless the impact of amending the contribution rates is deemed immaterial by the Fund Actuary, then the results of the review will be applied with effect from the agreed review date.

	General approach
Member data	In some cases, where the review is happening during or shortly after the valuation, the most recent actuarial valuation data will be used as a starting point. In most cases, given the review is due to an anticipated change in membership, the administering authority and Scheme employer should work together to provide updated membership data for use in calculations. There may be instances where updated membership data is not required if it is deemed proportionate to use the most recent actuarial valuation data without adjustment. Where the cause for a review is due to a change in a Scheme employer's ability to meet its obligations to the Fund, updated membership data may not need to be used unless any significant membership movements since the previous Fund valuation are known.

	General approach
Approach to setting assumptions	This will be in line with that adopted for the most recent actuarial valuation, and in line with that set out in the Fund's Funding Strategy Statement.
Market conditions underlying financial assumptions	Unless an update is deemed more appropriate by the Fund Actuary, the market conditions will be in line with those at the most recent actuarial valuation.
Conditions underlying demographic assumptions	Unless an update is deemed more appropriate by the Fund Actuary, the conditions will be in line with those at the most recent actuarial valuation.
Funding target	The funding target adopted for a Scheme employer will be set in line with the Fund's Funding Strategy Statement, which may be different from the approach adopted at the most recent actuarial valuation due to a change in the Scheme employer's circumstances.
Surplus/deficit recovery period	The surplus/deficit recovery period adopted for a Scheme employer will be set in line with the Fund's Funding Strategy Statement, which may be different from the approach adopted at the most recent actuarial valuation due to a change in the Scheme employer's circumstances.

The Fund Actuary will be consulted throughout the review process and will be responsible for providing revised rates and adjustments certificate. Any deviations from the general approaches set out above will be agreed by the administering authority and the Fund Actuary.

Appeals process

To Be Confirmed

Approved by the Pension Fund Committee
Somerset Council Pension Fund
XXXXXXXXXXX

Appendix B

Somerset Council Pension Fund Deferred Debt and Debt Spreading Agreements Policy

Contents

Introduction

This document sets out the Somerset Council Pension Fund's policy on deferred debt agreements (DDAs) and debt spreading agreements (DSAs) for exiting employers.

Somerset Council Pension Fund (the Fund) is part of the Local Government Pension Scheme (LGPS), a defined benefit statutory scheme administered in accordance with the Local Government Pension Scheme Regulations 2013 (the Regulations) as amended.

When a Scheme employer becomes an exiting employer under Regulation 64, the Fund Actuary is required to carry out a valuation to determine the exit payment due from the exiting employer to the Fund, or the excess of assets in the Fund relating to that employer. Where an exit payment is due, the expectation is that the employer settles this debt immediately through a single cash payment. However, if the employer provides evidence that this is not possible, there are two alternatives available: Regulation 64(7A) enables the administering authority to enter into a deferred debt agreement with the employer while Regulation 64B enables the administering authority to enter into a debt spreading agreement.

Under a DDA, the exiting employer becomes a deferred employer in the Fund (i.e. they remain as a Scheme employer but with no active members) and remains responsible for paying any existing or future secondary rate of contributions to fund any current or future deficit. The secondary rate of contributions will be reviewed at each actuarial valuation until the termination of the agreement.

Under a DSA, the cessation debt is crystallised and spread, with interest, over a period deemed reasonable by the administering authority having regard to the views of the Fund Actuary.

Whilst a DSA involves crystallising the cessation debt and the employer's only obligation is to settle this set amount, in a DDA the employer remains in the Fund as a Scheme employer and is exposed to the same risks (unless agreed otherwise with the administering authority) as active employers in the Fund (e.g. investment, interest rate, inflation, longevity and regulatory risks) meaning that the deficit will change over time.

This policy document sets out the administering authority's policy for entering into, monitoring and terminating a DDA or DSA.

These policies have been prepared by the administering authority following advice from the Fund Actuary, and following consultation with the Fund's Scheme employers. In drafting this policy document, the administering authority has taken into consideration the statutory guidance on preparing and maintaining policies on employer exit payments and deferred debt agreements which was issued by the Ministry of Housing, Communities and Local Government (now known as Department for Levelling Up, Housing and Communities (DLUHC)), and the Scheme Advisory Board's guide to employer flexibilities.

Approach for exiting employers

In the event that an employer becomes an exiting employer and an exit payment is identified, the Fund should seek to receive a payment from the exiting employer equal to the exit payment in full.

The administering authority makes the exiting employer aware an exit payment is due by providing a revised rates and adjustments certificate in the form of a cessation valuation report produced by the Fund Actuary. Details of the Fund's cessation policy can be found in the Fund's FSS.

The default position is that the employer is required to make an exit payment in full immediately. However, if required, the exiting employer can inform the administering authority, along with evidence, that they are unable to do so and may request to enter either a DDA or DSA. If the administering authority is satisfied with the evidence provided, the DDA or DSA process may proceed.

Requests should be submitted within 21 days of receiving confirmation of the exit payment required, or otherwise the exit payment should be paid to the Fund in full within 28 days.

Where possible, the administering authority encourages employers who are approaching exit and suspect they will have a deficit to engage with the administering authority in advance in order to understand the options that may be available. An indicative cessation report can be produced to form the basis of discussions.

Choosing a DDA or DSA

Consideration needs to be given as to which approach is the most appropriate in each case. A DDA may be appropriate if:

- the employer temporarily has no active members but expects it may return to active employer status in future. However, please note that if the plan is for active members to join within three years then perhaps a suspension notice may be more appropriate;
- the employer wants to minimise costs by potentially benefitting from the upside of the pensions risks it would remain exposed to and therefore does not want to crystallise its debt by becoming an exiting employer. In this case the administering authority may be willing to defer crystallisation of the cessation debt for an appropriately significant period of time, subject to the strength of the employer's covenant or security provided;
- initial affordability of the full exit payment is low but there is a prospect of increased affordability in the future, or the payment can only be afforded over a long period and therefore a DDA enables the position to be updated over time in light of changing funding positions; and/or
- the employer has a weak covenant but is not faced with imminent insolvency and must rely on future investment returns to fully or partially fund the exit payment. The administering authority may agree that doing so over an appropriate long period is better for the Fund than risking immediate insolvency of the employer.

On the other hand, it may be more appropriate to enter a DSA if:

- the employer does not intend to employ any more active members and therefore is not expected to resume active employer status;
- the employer wishes to crystallise its debt to the Fund and therefore not be subject to any of the pensions risks that could cause the amounts payable to the Fund increasing (or decreasing) in future;
- the employer has ample resources to make the payment within the near future but not immediately; and/or
- the employer is deemed to have a very weak covenant and so the administering authority will want to try to recoup as much of the exit payment as possible before the employer becomes insolvent.

The administering authority has the right to refuse a DSA or DDA request if they believe it is not in the best interests of the Fund or the other participating employers, for example if entering a DSA or DDA increases the risk of a deficit falling to the other employers.

In considering each request for a DDA or DSA arrangement from an exiting employer the administering authority will take actuarial, covenant, legal and other advice as necessary. Proposed DDAs/DSAs will always be discussed with the employer, whether the arrangement was at the exiting employer's request or not.

Employers who may be party to either a DSA or a DDA are encouraged to discuss any potential impact on their accounting treatment with their auditors.

Managing of costs

On receiving a request the administering authority will make the employer aware that any costs associated with setting up the DDA or DSA will be the responsibility of the Scheme employer, regardless of whether the administering authority agrees to enter into the agreement or not. This may include the cost of actuarial advice, legal advice, administrative costs and any additional advice required in relation to a covenant assessment or any other specialist adviser costs. If costs deviate from those initially anticipated the administering authority will keep the exiting employer up-to-date with any increases. The administering authority will provide information on how and when payments should be made.

Appeals process

To be confirmed

Deferred Debt Agreements (DDAs)

Entering into a DDA

Under a DDA, the exiting employer becomes a deferred employer in the Fund (i.e. they remain as a Scheme employer but with no active members) and remains responsible for paying the secondary rate of contributions to fund their deficit.

Information required from the employer

When making a request to enter a DDA, the employer should demonstrate that they are unable to settle their exit payment immediately and provide any relevant information to support their request e.g. in relation to their covenant/ability to continue to make payments to the Fund on a continuing basis. Examples of information the employer may provide as evidence include the exiting employer's:

- most recent annual report and accounts
- latest management accounts
- financial forecasts
- details of position of other creditors

This is not an exhaustive list and the administering authority may request further evidence. In particular, the administering authority may commission a covenant assessment if insufficient evidence is provided.

Assessing the proposal

The administering authority will make a decision on whether to enter into a DDA within 21 days of receiving a request but this may vary to reflect specific circumstances, for example if the administering authority chooses to request a covenant assessment then the process may take longer.

To reach a decision the administering authority will consider:

- the size of the exiting employer's residual liabilities relative to the size of the Fund;
- the size of the exit payment relative to the costs associated with entering into a DDA;
- whether a debt spreading agreement or suspension notice would be more appropriate (see specific circumstances below);
- any information provided by the exiting employer to support their covenant strength, including any information on a guarantor or other form of security that the employer may be able to put forward to support their covenant;
- the results of any covenant review carried out by the Fund Actuary or a covenant specialist;
- the exiting employer's accounts;
- the potential impact on the other employers in the Fund; and
- the opinion of the Fund Actuary.

The administering authority is not obliged to accept an exiting employer's request for a DDA. For example, in the following circumstances the administering authority may consider a DDA not to be appropriate:

- the exiting employer could reasonably be expected to settle their exit payment in a single amount;
- it is known or likely that another active member will come into employment in the three years following the cessation date (in these cases a suspension notice would be considered more appropriate than a DDA); or
- the administering authority is concerned that where a DDA is entered, that the employer could not afford the impact of any negative experience which would result in an increase in the required secondary rate of contributions and an increase in the employer's overall deficit (in these cases a debt spreading agreement would be considered more appropriate as the payments are fixed throughout the term of the agreement).

Once all information has been considered the administering authority will consult with the exiting employer as required under the Regulations. If the administering authority does not wish to enter into a DDA they will explain to the exiting employer their reasoning and any alternatives (e.g. a debt spreading agreement, suspension notice or indeed require the exit payment in full). If the administering authority accepts the request to enter into a DDA, they will notify their legal advisers and Fund Actuary. If the administering authority has concerns about the level of risk arising due to the DDA, the administering authority may only accept the request subject to a one-off cash injection being made by the exiting employer or security being provided as an additional guarantee.

Setting up a DDA

Once agreed that a DDA is permitted, the terms of the DDA will be agreed between the administering authority and the exiting employer and will be set out in a formal legal agreement.

The administering authority and the exiting employer (with the assistance of the Fund Actuary) will negotiate an appropriate duration of the agreement which will consider the exiting employer's affordability and anticipated strength of covenant over the agreement period. If the exiting employer has sufficient reserves, the administering authority may require an immediate cash payment so that the DDA can start from an acceptably stronger funding position.

The Fund Actuary will calculate secondary contributions on an appropriate basis as agreed with the administering authority and following consultation with the exiting employer, taking into account any cash payments made in advance. The secondary contributions will be reviewed at each actuarial valuation and certified as part of the Fund's Rates and Adjustments Certificate until the termination of the agreement. Therefore payments throughout the agreement are not known in advance and may increase or decrease at each valuation to reflect changes in the employer's funding position.

The timeline from consultation with the exiting employer to entering into a DDA to the signing of the agreement will vary. Where possible all parties will aim to have the agreement signed within 3 months, although there may be circumstances where timings may vary.

Once finalised, the employer will become a deferred employer in the Fund and will have an obligation to pay their secondary contributions as certified by the Fund Actuary. The responsibilities of the deferred employer will be set out in the legal agreement and these will include the requirements to:

- comply with all the requirements on Scheme employers under the Regulations except the requirement to pay a primary rate of contributions but including any additional applicable costs, such as strain costs as a result of ill health retirements;
- adopt the relevant practices and procedures relating to the operation of the Scheme and the Fund as set out in any employer's guide produced by the administering authority;
- comply with all applicable requirements of data protection law relating to the Scheme and with the provisions of any data-sharing protocol produced by the administering authority and provided to the deferred employer;
- promptly provide all such information that the administering authority may reasonably request in order to administer and manage the agreement; and
- give notice to the administering authority, of any actual or proposed change in its status, including take-over, change of control, reconstruction, amalgamation, insolvency, winding up, liquidation or receivership or a material change to its business or constitution.

The deferred employer should consult with their auditors about any impacts the DDA is expected to have on their accounting requirements.

Monitoring a DDA

A deferred debt agreement is subject to the ongoing approval of the administering authority. The administering authority reserves the right to terminate the agreement should they become concerned about a significant weakening in the deferred employer's covenant or a significant change in funding position. Conversely, if there was an improvement in the employer's circumstance then the administering authority and employer may agree to amend the terms of the agreement.
The administering authority will monitor a DDA in the following ways:

Change in funding position

The administering authority will request regular, and at least annual, updates of the deferred employer's funding position in order to review the progress of the DDA. The costs of the regular reviews will fall to the deferred employer as part of the terms for putting in place a DDA.
If the funding position changes by more than 10% (in absolute terms) from the previous review then the administering authority may engage with the deferred employer to discuss a possible review of the DDA.

Change in employer covenant

Once an employer enters into a DDA, the administering authority will review the employer's covenant on a regular basis and details of this will be agreed for each DDA on an individual basis. If a deferred employer's covenant deteriorates, the administering authority may issue a notice to review and possibly terminate the agreements.

In addition, if a deferred employer requests an extension to the duration of the DDA the administering authority will consider an updated covenant review, amongst other factors, in assessing the proposal.

As a condition of entering into a DDA, the deferred employer is required to engage with the administering authority to assist with monitoring the level of covenant, for example by providing information requested by the administering authority in a timely manner.

Timeliness of payments

The agreement will set out whether payments are made on a monthly or annual basis, and the administering authority will monitor if contributions are paid on time. Successive late or in particular missing payments would contribute towards a notice being issued to the deferred employer to review and possibly terminate the agreement.

Strength of guarantee or security

If a particular funding basis has been used by the Fund Actuary on the understanding that there is a particular security in place (e.g. another employer in the Fund willing to underwrite the residual deferred and pensioner liabilities when the employer formally exits) then the administering authority will check there has been no change to the security at agreed regular intervals and as a minimum at each valuation cycle. The Fund Actuary may change the funding basis used to set the deferred employer's contributions depending on the strength of the security in place.

Notifiable events from the deferred employer

The deferred employer has a responsibility to make the administering authority aware of any changes in their ability to make payments or of a change in circumstance (e.g. a change of the guarantee in place mentioned above). Information should be shared with the administering authority at any time throughout the agreement to enable the administering authority to consider whether a review of the agreement should be carried out.

Terminating a DDA

Events that may terminate a DDA

As set out in Regulation 64(7E), the DDA terminates on the first of the following events:

- the deferred employer enrols new active members;
- the duration of the agreement has elapsed;
- the take-over, amalgamation, insolvency, winding up or liquidation of the deferred employer;
- the administering authority serves a notice on the deferred employer that it is reasonably satisfied that the employer's ability to meet the contributions payable under the DDA has weakened materially (or is likely to in the next 12 months); or
- a review of the funding position of the deferred employer is carried out at an updated calculation date and the Fund Actuary assesses that the deferred employer has paid sufficient secondary contributions to cover what would be due if the deferred employer terminated at the updated calculation date; in other words the review reveals no deficit remains on the relevant calculation basis.

The deferred employer can also choose to terminate the DDA at any point. Notice should be given to the administering authority at the earliest opportunity. Termination clauses will be included in the formal DDA legal agreement.

Process of termination

Once a termination of the DDA has been triggered, the deferred employer becomes an exiting employer under Regulation 64(1). The administering authority will obtain from the Fund Actuary an exit valuation calculated at the date the DDA terminates, and a revised rates and adjustments certificate setting out the exit payment due from the exiting employer or the excess of assets in the Fund relating to the exiting employer (which would then be subject to the Fund's exit credit policy).

Once the exit payment has been made in full, the exiting employer has no further obligation to the Fund.

If the termination has been triggered because the deferred employer has enrolled new active members then the deferred employer becomes an active employer in the Fund and an immediate exit payment may not be required; this may instead be incorporated in the revised rates and adjustments certificate that will be provided in respect of the active employer. The employer remains responsible for all previously accrued liabilities and the revised contributions required from the active employer will be calculated in line with the Fund's Funding Strategy Statement (FSS).

If the termination has been triggered because a review of the funding position of the deferred employer reveals that the secondary contributions paid to date by the deferred employer are sufficient to cover what would be due if the deferred employer terminated at the updated calculation date, then the deferred employer becomes an exiting employer and no further payments are required. The exiting employer has no further obligation to the Fund. Where there is a surplus, an exit credit may be payable as determined by the administering authority and in line with the Fund's exit credit policy.

Debt Spreading Agreements (DSAs)

Entering a DSA

Under a DSA, the cessation debt is crystallised and spread, with interest, over a period deemed reasonable by the administering authority having regard to the views of the Fund Actuary and following discussion with the exiting employer. The payments are fixed and are not reviewed at each actuarial valuation.

Information required from the employer

When making a request to enter a DSA, the exiting employer should demonstrate that they are unable to settle their exit payment immediately and provide any relevant information to support their request e.g. in relation to their covenant/ability to continue to make payments to the Fund. Examples of information the exiting employer may provide as evidence include the employer's:

- most recent annual report and accounts
- latest management accounts
- financial forecasts
- details of position of other creditors

This is not an exhaustive list and the administering authority may request further evidence. In particular, the administering authority may commission a covenant assessment if insufficient evidence is provided.

Assessing the proposal

The administering authority will make a decision on whether to enter into a DSA within 28 days of receiving a request but this may vary to reflect specific circumstances, for example if the administering authority chooses to request a covenant assessment then the process may take longer.

To reach a decision the administering authority will consider:

- the size of the exit payment relative to the exiting employer's business cashflow;
- the size of the exit payment relative to the costs associated with entering into a DSA;
- whether a deferred debt agreement or suspension notice would be more appropriate;
- any information provided by the employer to support their covenant strength;
- the results of any covenant review carried out by the Fund Actuary or a covenant specialist;
- the merit of any guarantees from another source and whether this is deemed sufficient to cover the outstanding payments should the exiting employer fail;
- the exiting employer's accounts;
- the potential impact on the other employers in the Fund; and
- the opinion of the Fund Actuary.

The administering authority is not obliged to accept an exiting employer's request for a DSA. For example, in the following circumstances the administering authority may consider a DSA not to be appropriate:

- the exiting employer could reasonably be expected to settle their exit payment in a single amount;
- there is doubt that the exiting employer can operate as a going concern during the spreading period; or
- the exiting employer cannot afford the speeded payments over the maximum spreading period or is requesting a spreading period longer than the maximum (see below).

The structure of the DSA is at the discretion of the administering authority having taken advice from the Fund Actuary and consulted with the exiting employer. The structure should protect all other employers in the Fund whilst being achievable for the exiting employer. The structure of the DSA will take into consideration:

- the period that the payments will be spread. This is expected to be no more than 5 years. For longer periods it may be more appropriate to consider a deferred debt agreement but the administering authority reserves the right to set whatever spreading period they deem appropriate provided they are satisfied with the exiting employer's ability to meet the payments over that period. The length of the spreading period will be set as to be as short as possible whilst remaining affordable for the exiting employer;
- the interest rate applicable to the spread payments. In general, this will be set with reference to the discount rate in the employer's cessation valuation, for consistency with the liabilities calculated;
- the regularity of the payments and when they fall due;
- other costs payable; and
- the responsibilities of the exiting employer during the spreading period (for example, to make payments on time and to notify the administering authority of a change in circumstances that could affect their ability to make payments).

Once all information has been considered the administering authority will consult with the exiting employer as required under the Regulations. If the administering authority does not wish to accept the exiting employer's request to enter into a DSA they will explain their reasoning and any alternatives (e.g. a DDA, suspension notice or indeed require the exit payment in full). If the administering authority accepts the request to enter into a DSA, they will notify their legal advisers and Fund Actuary. If the administering authority has concerns about the level of risk arising due to the DSA, the administering authority may only accept the request subject to a one-off cash injection being made by the exiting employer or security being provided as an additional guarantee.

Setting up a DSA

The administering authority and the exiting employer, with the assistance of the Fund Actuary, will then negotiate the structure of the schedule of payments which takes into consideration the exiting employer's affordability and an appropriate period of the spreading.

The schedule of payments will be set out in a revised rates and adjustments certificate prepared by the Fund Actuary. There may be circumstances where timings may vary, however, in general the certificate will be prepared and provided to the exiting employer within 28 days of agreeing the structure of the schedule of payments with the exiting employer.

Monitoring a DSA

Over the term that the cessation debt payment is spread, the administering authority will monitor the ability and willingness of the exiting employer to pay the schedule of contributions in the revised rates and adjustments certificate. While it is expected the schedule of payments would be fixed for the spreading period, the administering authority may alter the structure of the schedule at any time if there is a change in the exiting employer's circumstances or indeed, if the exiting employer wanted to pay the remaining balance. This will be agreed on a case by case basis and set out in a side agreement as required.

The administering authority will be in regular contact with the exiting employer until their obligations to the Fund are removed when all payments set out in the schedule of payments are made.

Examples of factors which will be monitored are set out below. Should any of these raise any concerns with the administering authority then the DSA may be reviewed and/or terminated.

Change in employer covenant

The administering authority will monitor the ability of the exiting employer to make their set payments by monitoring publicly available information such as credit ratings and/or company accounts as well as keeping in regular contact, at least annually, with the exiting employer to ensure that the payments can be met.

As a condition of entering into a DSA, the exiting employer is required to engage with the administering authority to assist with monitoring the level of covenant, for example by providing information requested by the administering authority in a timely manner.

Timeliness of payments

The DSA will set out whether payments are made on a monthly or annual basis and how long for, and the administering authority will monitor if contributions are paid on time. Successive late or in particular missing payments would contribute towards further interest charges or the spreading agreement may be reviewed and/or terminated.

Strength of guarantee or security

If a particular schedule of payments has been agreed between the administering authority and the exiting employer on the understanding that there is a particular security in place (e.g. another employer in the Fund willing to pay the remaining balance or a fixed charge on property that covers the remaining balance) then the administering authority will check there has been no change to the security regularly. The frequency of these reviews may reduce as the level of outstanding debt reduces. The administering authority with advice from the Fund Actuary may change the schedule of payments depending on the strength of the security in place. The exiting employer would be consulted prior to any changes.

Notifiable events from the exiting employer

The exiting employer has a responsibility to make the administering authority aware of any changes in their ability to make payments or of a change in circumstance that affects their ability to make payments. Information should be shared with the administering authority at any time throughout the agreement to enable the administering authority to consider whether a review of the agreement should be carried out.

Terminating a DSA

Events that may terminate a DSA

On paying all the payments set out in the revised rates and adjustments certificate the exiting employer will no longer have any obligations to the Fund.

In the event that the administering authority believes that the exiting employer may not be able to make any of their remaining payments, the administering authority reserves the right to review and/or terminate the DSA to ensure it is appropriate for the Fund and does not adversely impact the other participating employers.

The exiting employer may also request to terminate the DSA early, in which case an immediate payment of the outstanding amounts set out in the contribution schedule should be paid.

Process of termination

In the event of a DSA being amended or terminated the administering authority will communicate this to the exiting employer along with reasons for the decision. Before the decision is made the administering authority will consult with the exiting employer about their change in circumstances and also take advice from the Fund Actuary.

If the DSA has to be terminated prematurely the administering authority will seek to obtain from the exiting employer as much of the outstanding exit payments as possible or look at alternative arrangements such as a deferred debt agreement. Once the exit payment has been made in full, the exiting employer has no further obligation to the Fund.

Approved by the Pension Fund Committee
Somerset Council Pension Fund
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