

# London Borough of Newham Pension Fund

## Employer Exit Policy

## Introduction and background

This paper sets out the Employer Exit Policy for the London Borough of Newham Pension Fund (the Fund). It has been prepared taking into account the provisions of Regulation 64 of the Local Government Pension Scheme Regulations 2013 as amended (the Regulations) and describes the London Borough of Newham's strategy, in its capacity as administering authority, for managing the cessation of employers participating in the Fund.

When a Scheme employer exits the Fund and becomes an exiting employer as defined under Regulation 64 (1), then 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.

## Employer Exit Policy

The Exit Policy of the Fund is largely governed by LGPS regulatory requirements and hence has been formulated by giving consideration to each relevant provision of Regulation 64. These are addressed in turn below.

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### *Regulation 64 (2)*

*When a person becomes an exiting employer, the appropriate administering authority must obtain-*

*(a) an actuarial valuation as at the exit date of the liabilities of the fund in respect of benefits in respect of the exiting employer's current and former employees; and*

*(b) a revised rates and adjustments certificate showing the exit payment due from the exiting employer or the excess of assets in the fund relating to that employer over the liabilities specified in paragraph (2)(a)*

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When an employer exits the Fund, the administering authority will instruct the Fund Actuary to carry out a cessation valuation as at the exit date.

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 there is no guarantor in the Fund willing to accept responsibility for the residual liabilities of the exiting employer, then those liabilities are likely to be assessed on a "minimum risk" basis leading to a higher valuation of liabilities, in order to reduce the risk of these liabilities needing to be met by other participating employers in future.

If it is agreed that another employer in the Fund will accept responsibility for the residual liabilities, then the assumptions adopted are likely to be consistent with those used for the purposes of ongoing funding.

Where it is known in advance that an employer is due to exit the Fund, then an indicative cessation valuation may be provided by the Fund Actuary in order to set expectations regarding potential liability on exit. Such valuations are only indicative and will be updated following the actual exit of the employer to take into account any changes in membership and market conditions in the intervening period in addition to the final circumstances of exit. For the avoidance of doubt, the exiting liability will only be crystallised following the Fund Actuary's full and final valuation and the results of any indicative valuation should not be relied upon to make any material financial decisions in the interim.

The Fund Actuary's cessation report will set out the valuation position on exit and any exit payment that is due from the employer. This shall constitute a revised rates and adjustments certificate in respect of the exiting employer.

Any deficit in the Fund in respect of the exiting employer will be due to the Fund as a single lump sum payment, unless it is agreed by the administering authority and the other parties involved that an alternative approach is permissible. For example:

- It may be agreed with the administering authority that the exit payment can be spread over some agreed period as permitted under Regulation 64B;
- The assets and liabilities relating to the employer may transfer within the Fund to another participating employer; or

- The employer's exit may be deferred subject to agreement with the administering authority, for example if it intends to offer Scheme membership to a new employee within the following three years or via a formal deferred debt agreement. These are permissible under Regulation 64 (2A) or Regulation 64 (7A).

Note that the Fund holds separate policies in respect of circumstances where the spreading of exit payments and deferred debt agreements may be permitted.

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### **Regulation 64 (5)**

*When an exiting employer has paid an exit payment into the appropriate fund, no further payments are due from that employer in respect of any liabilities relating to the benefits in respect of any current or former employees of that employer as a result of these Regulations.*

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Once the relevant exit payment, or balance of exit payments due over a spreading period (if applicable), has been received in full then the exiting employer will have extinguished all of their liabilities to the Fund and will not be required to make any further payments in future under the current regulatory environment.

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### **Regulation 64 (2ZAB)**

*An administering authority must determine the amount of an exit credit, which may be zero, taking into account...**Regulation 64 (2ZC)**...the following factors-*

- (a) The extent to which there is an excess of assets in the fund relating to that employer over the liabilities*
  - (b) The proportion of this excess of assets which has arisen because of the value of the employer's contributions;*
  - (c) Any representations to the administering authority made by the exiting employer; and*
  - (d) Any other relevant factors.*
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Where the Fund Actuary's valuation reveals a surplus on exit, then the standard policy of the Fund will be for that surplus to remain within the Fund. This is because the Fund will retain the long term risks associated with the residual liabilities of ceasing employers, so it is possible that adverse future experience may lead to a deficit arising at some point after the date of exit and that this would need to be funded by the other employers in the Fund.

Where a surplus exists on the Fund Actuary's "minimum risk" valuation basis, then the administering authority will pay an exit credit to the employer of an amount which is no more than the surplus calculated on this basis. This is a discretionary payment however and the administering authority is under no obligation to make this payment.

Where it is agreed that an exit credit shall be payable, the standard policy of the Fund is that this amount shall be capped at the amount of primary and secondary employer contributions paid into the Fund by the employer during its period of participation in the Fund. The contributions relevant to this calculation will not include those

made on behalf of members nor will they include any allowance for interest or Fund investment returns over the period of participation.

The administering authority will take into account any relevant discussions with an exiting employer arising from the circumstances of exit. Where justified, and having taken advice of the Fund Actuary, the administering authority may exercise discretion in the application of this Exit Policy.

Although the Fund will take into account the relevant factors as stated above in Regulation 64 (2ZAB), typically, no exit credit will be payable to an employer participating in the Fund under an arrangement whereby the funding risk has been fully retained by another employer in the Fund. This is because under such arrangements an employer is generally not liable to make additional payment towards adverse funding experience associated with their period of participation in the Fund and hence should not be eligible to receive a credit in respect of any positive funding experience that happens to arise.

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### **Regulation 64 (2ZAB)**

*An administering authority must...*

*(b) pay the amount determined to that exiting employer within six months of the exit date, or such longer time as the administering authority and the exiting employer may agree.*

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Unless there are exceptional circumstances, for example delayed notification of exit or issues collating the necessary data and appropriate information, any exit credit payment will be made within six months of the employer ceasing participation in the Fund. This would usually be paid as a single lump sum.

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### **Regulation 64 (2ZB)**

*When an administering authority has paid an exit credit to an exiting employer, no further payments are due from that administering authority in respect of any surplus assets relating to the benefits in respect of any current or former employees of that employer as a result of these Regulations.*

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Any exit credit paid to an exiting employer will represent the full and final payment due. The exiting employer will be due no further monies from the Fund in future under the current regulatory environment.

## Final comments

This Policy will be reviewed formally, in consultation with the key parties, at least every three years to tie in with the triennial actuarial valuation process. It may be reviewed sooner than this, for example should there be any changes to the LGPS Regulations that are relevant to the management of employer exits from the Fund.