Isle of Wight Council

Isle of Wight Council Pension Fund
Policy on Employer Cessations

February 2025

1. Document information

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1.1	February 2025	Committee Approval

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2. Contents

3. Introduction

3.1. The purpose of this policy is to set out the Isle of Wight Council's approach, in its role as the administering authority of the Isle of Wight Council Local Government Pension Scheme ("LGPS", "the Scheme", "the Fund"), to dealing with circumstances where an employer of the LGPS leaves the Scheme and becomes an exiting employer ("known as a cessation event").

3.2. It should be noted that this policy is not exhaustive. Each cessation event will be treated on a case-by-case basis, however certain principles will apply as governed by the regulatory framework (see below) as well as the Fund's discretionary policies (as described in section 8.4 – administering authority discretion).

4. Aims and objectives

4.1. The administering authority's aims and objectives related to this policy are as follows:

- To confirm the approach for the treatment and valuation of liabilities for employers leaving the Fund.
- To provide information about how the Fund may apply its discretionary powers when managing employer cessations.
- To outline the responsibilities of (and flexibilities for) exiting employers, the administering authority, the actuary and, where relevant, the original ceding scheme employer (usually a letting authority).

5. Background

5.1. As described in Section 7 of the Scheme's Funding Strategy Statement ("FSS"), a scheme employer may become an exiting employer when a cessation event is triggered e.g. when their last active member stops participating in the Fund. On cessation from the Fund, the administering authority will instruct the Fund's actuary to carry out a valuation of assets and liabilities for the exiting employer to determine whether a deficit or surplus exists. The Fund has full discretion over the repayment terms of any deficit, and the extent to which any surplus results in the payment of an exit credit.

6. Guidance and Regulatory Framework

6.1. The Local Government Pension Scheme Regulations 2013 (as amended) contain relevant provisions regarding employers leaving the Fund (Regulation 64) and include the following:

6.2. Regulation 64 (1) – where an employing authority ceases to be a scheme employer, the administering authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the termination date. Further, it requires the Rates & Adjustments Certificate (which specifies employer contributions) to be amended to show the revised contributions due from the exiting employer.

6.3. Regulation 64 (2) – where an employing authority ceases to be a scheme employer, the administering authority is required to obtain an actuarial valuation of the liabilities of current and former employees as at the exit date. Further, it requires the Rates & Adjustments Certificate to be amended to show the exit payment due from the exiting employer or the excess of assets over the liabilities in the fund.

6.4. Regulation 64 (2ZAB) – the administering authority must determine the amount of an exit credit, which may be zero, taking into account the factors specified in paragraph (2ZC) and must:

- Notify its intention to make a determination to:
    - i) The exiting employer and any other body that has provided a guarantee to the Exiting Employer
    - ii) The scheme employer, where the exiting employer is a body that participated in the Scheme as a result of an admission agreement
- 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 agree.

6.5. Regulation (2ZC) – In exercising its discretion to determine the amount of any exit credit, the administering authority must have regard to the following factors:

- The extent to which there is an excess of assets in the fund relating to that employer in paragraph (2)(a) of the Regulations
- The proportion of this excess of assets which has arisen because of the value of the employer's contributions
- Any representations to the administering authority made by the exiting employer and, where that employer participates in the scheme by virtue of an admission agreement, any body listed in paragraphs (8)(a) to (d)(iii) of Part 3 to Schedule 2 of the Regulations: and
- Any other relevant factors

6.6. Regulation 64 (2A) & (2B)– the administering authority, at its discretion, may issue a suspension notice to suspend payment of an exit amount for up to three years, where it reasonably believes the exiting employer is to have one or more active members contributing to the fund within the period specified in the suspension notice.

6.7. Regulation 64 (3) – in instances where it is not possible to obtain additional contributions from the employer leaving the fund or from the bond/indemnity or guarantor, the contribution rate(s) for the appropriate scheme employer or remaining fund employers may be amended.

6.8. Regulation 64 (4) – where it is believed a scheme employer may cease at some point in the future, the administering authority may obtain a certificate from the fund actuary revising the contributions for that employer, with a view to ensuring that the assets are expected to be broadly equivalent to the exit payment that will be due.

6.9. Regulation 64 (5) – following the payment of an exit payment to the fund, no further payments are due to the fund from the exiting employer.

6.10. Regulation 64 (7A-7G) – the administering authority may enter into a written deferred debt agreement, allowing the employer to have deferred employer status and to delay crystallisation of debt despite having no active members.

6.11. Regulation 64B (1) – the administering authority may set out a policy on spreading exit payments.

6.12. In addition to the 2013 Regulations summarised above, Regulation 25A of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 ("the Transitional Regulations") give the Fund the ability to levy a cessation debt on employers who have ceased participation in the Fund (under the previous regulations) but for whom a cessation valuation was not carried out at the time. This policy document describes how the Fund expects to deal with any such cases.

6.13. This policy also reflects statutory guidance from the Ministry of Housing, Communities and Local Government on preparing and maintaining policies relating to employer exits. Interested parties may want to refer to an accompanying guide that has been produced by the Scheme Advisory Board.

6.14. These regulations relate to all employers in the Fund.

7. Statement of Principles

7.1. This Statement of Principles covers the Fund's approach to exiting employers. Each case will be treated on its own merits but in general:

- It is the Fund's policy that the determination of any surplus or deficit on exit should aim to minimise, as far as is practicable, the risk that the remaining, unconnected employers in the Fund have to make contributions in future towards meeting the past service liabilities of current and former employees of employers leaving the Fund.

- The Fund's preferred approach is to request the full payment of any exit debt (an exit payment), which is calculated by the actuary on the appropriate basis (as per Section 7 of the FSS and Section 8.5 below). This would extinguish any liability to the Fund by the exiting employer.
- The Fund's key objective is to protect the interests of the Fund, which is aligned to protecting the interests of the remaining employers. A secondary objective is to consider the circumstances of the exiting employer in determining arrangements for the recovery of the exit debt.

8. Policies

8.1. On cessation, the administering authority will instruct the Fund actuary to carry out a cessation valuation to determine whether there is any deficit or surplus as defined in Section 4.3 of the FSS.

8.2. Where there is a deficit, payment of this amount in full would normally be sought from the exiting employer. The Fund's normal policy is that this cessation debt is paid in full in a single lump sum within 28 days of the employer being notified.

8.3. However, the Fund will consider written requests from employers to spread the payment over an agreed period, in the exceptional circumstance where payment of the debt in a single immediate lump sum could be shown by the employer to be materially detrimental to the employer's financial situation (see 8.8 Repayment flexibility on exit payments below). Any exception must be subject to the express approval of the S151 officer.

8.4. In circumstances where there is a surplus, the administering authority will determine, at its sole discretion, the amount of exit credit (if any) to be paid to the exiting employer (see 8.18 Exit credits below).

8.5. **Approach to Cessation Calculations:** cessation valuations are carried out on a case-by-case basis at the sole discretion of the Fund depending on the exiting employer's circumstances. However, in general the following broad principles and assumptions may apply, as described in Section 7.2 of the FSS and summarised below:

Type of employer	Cessation exit basis	Responsible parties for unpaid or future deficit emerging
Local Authorities	Low risk basis[1]	Shared between other Fund employers
Academies	Low risk basis	DfE guarantee may apply, otherwise see below
Colleges	Low risk basis	DfE guarantee may apply
Admission bodies (TABs)	Ongoing basis[2]	Letting authority (where applicable), otherwise shared between other Fund employers
Admission bodies (CABs)	Low risk basis	Shared between other Fund employers (if no guarantor exists)
Designating employers	Low risk basis	Shared between other Fund employers (if no guarantor exists)

[1]Cessation is assumed not to be generally possible, as Scheduled Bodies are legally obliged to participate in the LGPS. In the rare event of cessation occurring (e.g. machinery of Government changes), these cessation principles would apply.

[2]Where a TAB has taken, in the view of the administering authority, action that has been deliberately designed to bring about a cessation event (e.g. stopping future accrual of LGPS benefits), then the cessation valuation will be carried out on a low-risk basis.

8.6. **Cessation academies and multi-academy trusts (MATs):** A cessation event will occur if a current academy or MATs cease to exist as an entity or an employer in the Fund.

8.7. The cessation treatment will depend on the circumstances:
- If the cessation event occurs due to an academy or MAT merging with another academy or MAT within the Fund, all assets and liabilities from each of the merging entities will be combined and will become the responsibility of the new merged entity.
- If the MAT is split into more than one new or existing employers within the Fund, the actuary will calculate a split of the assets and liabilities to be transferred from the exiting employer to the new employers. The actuary will use their professional judgement to determine an appropriate and fair

methodology for this calculation in consultation with the administering authority.

- In all other circumstances, and following payment of any cessation debt, section 7.5 of the FSS would apply.
- Further details are included in the Fund's Academies Policy.

8.8. **Repayment flexibility on exit payments (options below):**

8.9. **Deferred spreading arrangement (DSA)**: The Fund will consider written requests from exiting employers to spread an exit payment over an agreed period, in the exceptional circumstance where payment of the debt in a single immediate lump sum could be shown by the employer to be materially detrimental to the employer's financial situation.

8.10. In this exceptional case, the Fund's policy is:

- The agreed spread period is no more than three years, but the Fund could use its discretion to extend this period in extreme circumstances.
- The Fund may consider factors such as the size of the exit payment and the financial covenant of the exiting employer in determining an appropriate spreading period.
- The exiting employer may be asked to provide the administering authority with relevant financial information such as a copy of its latest accounts, sources of funding, budget forecasts, credit rating (if any) etc. to help in this determination.
- Payments due under the DSA may be subject to an interest charge.
- The Fund will only consider written requests within six months of the employer exiting the Fund. The exiting employer would be required to provide the Fund with detailed financial information to support its request.
- The Fund would take into account the amount of any security offered and seek actuarial, covenant and legal advice in all cases.
- The Fund proposes a legal document, setting out the terms of the exit payment agreement, would be prepared by the Fund and signed by all relevant parties prior to the payment agreement commencing.
- The terms of the legal document should include reference to the spreading period, the annual payments due, interest rates applicable, other costs payable and the responsibilities of the exiting employer during the exit spreading period.
- Any breach of the agreed payment plan would require payment of the outstanding cessation amount immediately.
- In cases of £0.5M or more, these will normally be referred to the Pensions Committee for consideration and agreement, with a recommendation made by the S151 officer. Below this level, they may be reported to the Committee for agreement based on the discretion of the S151 officer who is given deleted authority to agree or refuse any requested under the £0.5M level.

8.11. Any such decision must be reported to the Committee at the next available meeting. Decisions may be made by the S151 officer, in consultation with the Committee Chair if an urgent decision is required between Committee meetings for cases above £0.5M.

8.12. **Deferred debt agreement (DDA):** The Fund's preferred policy is for the spreading of payments, as detailed above, to be followed in the exceptional circumstances where an exiting employer is unable to pay the required cessation payment as a lump sum in full. However, in the event that spreading of payments will create a high risk of bankruptcy for the exiting employer, the Fund may exercise its discretion to set up a deferred debt agreement as described in Regulation 64 (7A)).

8.13. The employer must meet all requirements on Scheme employers and pay the secondary rate of contributions as determined by the Fund actuary until the termination of the DDA.

8.14. The administering authority may consider a DDA in the following circumstances:

- The employer requests the Fund consider a DDA.
- The employer is expected to have a deficit if a cessation valuation was carried out.
- The employer is expected to be a going concern.
- The covenant of the employer is considered sufficient by the administering authority.

8.15. The Administering Authority will normally require:

- A legal document to be prepared, setting out the terms of the DDA and signed by all relevant parties prior to the arrangement commencing (including details of the time period of the DDA, the annual payments due, the frequency of review and the responsibilities of the employer during the period).
- Relevant financial information for the employer such as a copy of its latest accounts, sources of funding, budget forecasts, credit rating (if any) to support its covenant assessment. Potentially, such information may be made available for independent scrutiny to 'stress test' its reliability by a third party appointed by the administering authority for such purposes.
- Security be put in place covering the employer's deficit on their cessation basis and the Fund will seek actuarial, covenant and legal advice in all cases.
- Regular monitoring of the contribution requirements and security requirements.
- All costs of the arrangement are met by the employer, such as the cost of advice to the Fund, any independent scrutiny of financial statements,

ongoing monitoring or the arrangement and correspondence on any ongoing contribution and security requirements.

8.16. A DDA will normally terminate on the first date on which one of the following events occurs:
- The employer enrols new active Fund members.
- The period specified, or as varied, under the DDA elapses.
- The take-over, amalgamation, insolvency, winding up or liquidation of the employer.
- The administering authority serves a notice on the employer that the administering authority is reasonably satisfied that the employer's ability to meet the contributions payable under the DDA has weakened materially or is likely to weaken materially in the next 12 months.
- The Fund actuary assesses that the employer has paid sufficient secondary contributions to cover all (or almost all) of the exit payment due if the employer becomes an exiting employer on the calculation date (i.e. employer is now largely fully funded on their low risk basis).
- The Fund actuary assesses that the employer's value of liabilities has fallen below an agreed *de minimis* level and the employer becomes an exiting employer on the calculation date.
- The employer requests early termination of the agreement and settles the exit payment in full as calculated by the Fund actuary on the calculation date (i.e. the employer pays their outstanding cessation debt on their cessation basis).

8.17. On the termination of a DDA, the employer will become an exiting employer and a cessation valuation will be completed in line with this policy.

8.18. Exit credits: The administering authority's entitlement to determine whether exit credits are payable in accordance with these provisions shall apply to all employers ceasing their participation in the Fund after 14 May 2018. This provision therefore is retrospectively effective to the same extent as provisions of the Local Government Pension Scheme (Amendment) Regulations 2020.

8.19. The administering authority may determine the amount of exit credit payable to be zero, however, in making a determination, the administering authority will take into account the following factors.

A) the extent to which there is an excess of assets in the Fund relating to the employer over and above the liabilities specified;
B) the proportion of the 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, guarantor, ceding scheme employer (usually the letting

authority) or by a body which owns, funds or controls the exiting employer; or in some cases, the Secretary of State; and

D) any other relevant factors

8.20. **Admitted bodies:** No exit credit will normally be payable in respect of admissions who joined the Fund before 14 May 2018 unless it is subject to a risk sharing arrangement as per paragraph 8.22 below. Prior to this date, the payment of an exit credit was not permitted under the Regulations and this will have been reflected in the commercial terms agreed between the admission body and the letting authority/awarding authority/ceding employer. This will also apply to any pre-14 May 2018 admission which has been extended or ‘rolled over’ beyond the initial expiry date and on the same terms that applied on joining the Fund.

8.21. No exit credit will normally be payable to any admission body who participates in the Fund via the mandated pass-through approach. For the avoidance of doubt, whether an exit credit is payable to any admission body who participates in the Fund via the “Letting employer retains pre-contract risks” route is subject to its risk sharing arrangement, as per paragraph 8.22 below.

8.22. The Fund will make an exit credit payment in line with any contractual or risk sharing agreements which specifically covers the ownership of exit credits/cessation surpluses or if the admission body and letting authority have agreed any alternative approach (which is consistent with the Regulations and any other legal obligations). This information, which will include which party is responsible for which funding risk, must be presented to the Fund in a clear and unambiguous document with the agreement of both the admission body and the letting authority/awarding authority/ceding employer and within one month (or such longer time as may be agreed with the administering authority) of the admission body ceasing participation in the Fund.

8.23. In the absence of this information or if there is any dispute from either party with regards interpretation of contractual or risk sharing agreements as outlined in C), the Fund will withhold payment of the exit credit until such disputes are resolved and the information is provided to the administering authority.

8.24. Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the admission body during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

8.25. If the admission agreement ends early, the Fund will consider the reason for the early termination, and whether that should have any relevance on the Fund’s determination of the value of any exit credit payment. In these cases, the Fund will consider the differential between employers' contributions paid (including investment returns earned on these monies) and the size of any cessation surplus.

8.26. If an admitted body leaves on a low risk basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

8.27. The decision of the Fund is final in interpreting how any arrangement described under 8.24, 8.25, 8.26 and 8.27 applies to the value of an exit credit payment.

8.28. **Scheduled bodies and designating bodies**: Where a guarantor arrangement is in place, but no formal risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the employer during its participation in the Fund reflects which party is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

8.29. Where no formal guarantor or risk-sharing arrangement exists, the Fund will consider how the approach to setting contribution rates payable by the employer during its participation in the Fund reflects the extent to which it is responsible for funding risks. This decision will inform the determination of the value of any exit credit payment.

8.30. The decision of the Fund is final in interpreting how any arrangement described under 8.28 and 8.29 applies to the value of an exit credit payment.

8.31. If a scheduled body or designating body becomes an exiting employer due to a reorganisation, merger or take-over, then no exit credit will be paid.

8.32. If a scheduled body or resolution body leaves on a low-risk basis (because no guarantor is in place), then any exit credit will normally be paid in full to the employer.

8.33. **General**: The Fund will advise the exiting employer as well as the letting authority and/or other relevant scheme employers of its decision to make an exit credit determination under Regulation 64.

8.34. Subject to any risk sharing or other arrangements and factors discussed above, when determining the cessation funding position the Fund will generally make an assessment based on the value of contributions paid by the employer during their participation, the assets allocated when they joined the Fund and the respective investment returns earned on both.

8.35. The Fund will also factor in if any contributions due or monies owed to the Fund remain unpaid by the employer at the cessation date. If this is the case, the Fund's default position will be to deduct these from any exit credit payment.

8.36. The final decision will be made by the S151 Officer, as advised by the Strategic Manager: Pension, in conjunction with advice from the Fund's actuary and/or legal advisors where necessary, in consideration of the points held within this policy.

8.37. The Fund accepts that there may be some situations that are bespoke in nature and do not fall into any of the categories above. In these situations the Fund will discuss its approach to determining an exit credit with all affected parties. The decision of the Fund in these instances is final.

8.38. The guidelines above at point 8.24 in the 'Admitted bodies' section, and at points 8.28 and 8.29 in the 'Scheduled bodies and designating bodies' section, make reference to the Fund 'considering the approach to setting contribution rates during the employer's participation'. The different funding approaches, including the parameters used and how these can vary based on employer type, are covered in detail in Table 1 (section 2.1) in the FSS. Considering the approach taken when setting contribution rates of the exiting employer may help the Fund to understand the extent to which the employer is responsible for funding the underlying liabilities on exit. For example, if contribution rates have always been based on ongoing assumptions then this may suggest that these are also appropriate assumptions for exit credit purposes (subject to the other considerations outlined within this policy). Equally, a shorter than usual funding time horizon or lower than usual probability of success parameter may reflect underlying commercial terms about how responsibility for pension risks is split between the employer and its guarantor. For the avoidance of doubt, each exiting employer will be considered in the round alongside the other factors mentioned above.

8.39. None of the above should be considered as fettering the Fund's discretionary decision, instead it is an indication of how decisions are likely to be made. However it is important to bear in mind that each and every potential exit credit case will be considered by the administering authority on its own merits, and the administering authority will make its discretionary decision on that basis.

8.40. **Disputes:** In the event of any dispute or disagreement on the amount of any exit credit paid and the process by which that has been considered, the appeals and adjudication provisions contained in Regulations 74-78 of the LGPS Regulations 2013 would apply.

8.41. **Summary of exit basis and payment terms by employer type**: The policies are set out in detail in sections 8.5 to 8.40 above and summarised below.

Type of employer	Cessation exit basis	Exit debt payment terms	Exit credit payment terms[1]
Local Authorities	Low risk basis[1]	Immediate preferred, payment plan or suspension notice may be considered by administering authority	Within six months of the date on which the employer ceased or their deferred employer status ends
Academies	Low risk basis	Immediate preferred, payment plan or suspension notice may be considered by administering authority	Within six months of the date on which the employer ceased or their deferred employer status ends
Colleges	Low risk basis	Immediate preferred, payment plan or suspension notice may be considered by administering authority	Within six months of the date on which the employer ceased or their deferred employer status ends
Admission bodies (TABs)	Ongoing basis[2]	Immediate preferred, payment plan or suspension notice may be considered by administering authority	Within six months of the date on which the employer ceased or their deferred employer status ends
Admission bodies (CABs)	Low risk basis	Immediate preferred, payment plan or suspension notice may be considered by	Within six months of the date on which the employer ceased or their deferred

Type of employer	Cessation exit basis	Exit debt payment terms	Exit credit payment terms[1]
		administering authority	employer status ends
Designating employers	Low risk basis	Immediate preferred, payment plan or suspension notice may be considered by administering authority	Within six months of the date on which the employer ceased or their deferred employer status ends

[1] Subject to the determination of the administering authority as required under the Regulations and set out in section 8.18 above

9. Review

9.1. This policy will be reviewed by the Isle of Wight Pension Fund Committee at least every three years, or more frequently should guidance be amended.

10. Related Documents

10.1. Isle of Wight Council LGPS Funding Strategy Statement

10.2. Isle of Wight Council LGPS Fund Academies Policy