AGENDA ITEM 6

Essex Pension Fund Board	EPB/02/12
date: 7 March 2012	

Update on emerging employer issues

Report by the Executive Director for Finance
Enquiries to Martin Quinn on 01245 431412

1. Purpose of the Report

1.1 To update the Board on some issues emerging in relation to fund employers.

2. Recommendation

2.1 That the report be noted.

3. Academies

3.1 An issue has started to emerge in regard to the new academies being established. It would appear that, in the absence of guidance from central government on how academies should be treated on their admission to the LGPS, each fund has made its own independent determination as to how their employer contributions should be calculated. In some cases this led to new academies being asked to pay much higher contributions than the schools, from which they were formed, would previously have paid. This was not the government's intention.

3.2 The Department for Education (DfE) and Communities & Local Government (CLG) therefore issued a joint note clarifying their intention **"that there is a consistency of approach across LGPS administering authorities so that an Academy in one part of the country is not treated in a different manner to one in another and no Academy pays unjustifiably higher employer pension contributions to the LGPS compared to maintained schools in the local area."** In the note they drew attention to pooling with the local education authority (LEA) as a possible approach to achieving this; pointed out that it was already permissible under existing regulations and made it clear that, if inconsistencies in contribution levels persisted or contribution levels remained unjustifiably high, further steps including regulatory changes would be considered. They stated that supporting guidance on academy arrangements was being developed for educational establishments and LGPS administering authorities and this would include how to deal with the contribution arrangements of existing academies who wished to join a pool but had not been treated hat way previously.

3.3 The Association of Consulting Actuaries (ACA), of which our Fund Actuary is a member, is currently investigating the above proposal but has yet to publish its conclusion.

3.4 The approach that has been adopted to date within the Essex Pension Fund has been to allow academies broadly the same deficit recovery periods as their former LEA and as a result they have been asked to pay broadly the same level of contributions as the maintained schools. We had not therefore anticipated that academies in Essex would be dissatisfied and want to change the existing non-pooled arrangements.

3.5 However DfE subsequently issued a letter to prospective academies advising them of the above note and the perceived advantage in terms of maintaining existing contribution levels of being pooled with their LEA. As a result of this advice we are now receiving a number of requests for to be pooled.

3.6 At the moment we are responding by acknowledging the request, providing some background to the advice that has been issued, explained the Essex approach and promised to write again when the promised supporting guidance on academy arrangements the views of this Board have been obtained.

3.7 Before coming to you for your views we intend to examine the supporting guidance, once it is issued, and obtain the views of the Fund Actuary and the ACA and provide you with a full report and recommended approach.

4. Request for continuing participation with no active membership

4.1 We have been approached by one of the Admitted Employers which currently has only one active member accruing benefits in the Fund. Although there is at present no immediate indication that the situation will change, under our current policy, if that member were to cease accruing benefits a termination event would be triggered and the Employer would be required to pay a termination amount, calculated on a “least risk” basis, and have no further involvement with the Fund.

4.2 The Employer has asked that we should consider changing our policy to permit them to continue in the Fund as an employer with no active members, paying contributions in respect of its unfunded liabilities with a similar recovery period and funding assumptions as currently.

4.3 This approach has been adopted by other Funds and, subject to the appropriate sureties for the Fund, could by reducing risk in respect of orphan liabilities be quite an attractive proposition for the Fund.

4.4 We need to research the practicalities and legalities of such an arrangement and will bring you a full report and recommendations in due course.

5. Background Papers

5.1 Joint note from DfE and CLG dated December 2011
5.2 Letter from Academies Delivery, DfE dated 3 January 2012
5.3 Letter from Robert Drake Primary School dated 23 January 2012
5.4 Letter from Head of Investments to Robert Drake Primary School dated 8 February 2012
5.5 Email correspondence from Punter Southall and Moat Housing Association dated 7 February 2012