

Review of Academies

Purpose of the Report

1. This report informs Members of the current position concerning schools who are converting to academy status and the impact that this has on the Wiltshire Pension Fund (“the Fund”)

Introduction & Background

2. Currently, 59 schools have converted to academy status in Wiltshire & Swindon. Nearly all of these conversions have occurred since September 2010 (see list in the Appendix A).
3. Under the Local Government Pension Scheme (LGPS) Regulations, there is a mutual obligation on the academy and the appropriate LGPS Fund - the academy must become a Scheme Employer and the Fund must accept them.
4. In schools and academies, teachers are eligible for the Teachers Pension Scheme and only the support staff are eligible for the LGPS. Currently, there are approximately 3,200 LGPS active members of the Wiltshire Pension Fund working for an academy. These members are split between 35 Wiltshire based academies (representing £28.5m in liabilities movements from Wiltshire Council to the academies, as valued as at the date of each transfer) and 24 Swindon based academies (£17.8m of liabilities movements from Swindon Borough Council to the relevant academies, as valued as at the date of each transfer).
5. In the absence of clear and definitive guidance from the Department for Education (DfE) & Department for Communities and Local Government (CLG) on the treatment of pensions for academies, officers have considered and taken advice from the actuary and legal advisers to form a consistent approach on how to deal with converting schools.
6. Due to this lack of legislation and clear guidance LGPS funds have taken different approaches towards academies. The Fund’s view is its current stance is aligned to the objectives of the DfE and CLG of broadly treating academies no more or less favourably than maintained schools. However, approaches vary significantly between funds and debate continues over what is considered as ‘fair’ for all the parties concerned.
7. As further guidance is issued from the DfE and CLG, the Fund will consider this against the policy it has taken. The Secretary of State issued a statement on 2 July 2013 in regards to a proposed guarantee to be provided by the government in respect of the pension liabilities of academies. A consultation on the treatment

of academies from CLG is also expected in the autumn which may lead to subsequent legislation changes.

Main Considerations for the Committee

The Conversion Process

8. When a school converts to academy status, the new academy is treated as an independent employer with our Fund. All schools considering converting are provided with a pack outlining their pension responsibilities, and guidance on the process and administration is provided by the Fund's Employer Relationship Manager. Where appropriate, or on request, visits are made to schools and meetings are held with either their Bursary / Business Managers or board of governors. When each academy converts, they are directed to the appropriate contacts and to the information on the website. The website outlines the pension position and the Fund's policies (including information on the costs and risks involved). The Fund also provides new academies with an actuarial report which outlines the details of the conversion.
9. The actuary calculates a new employer contribution rate for the academy and determines the appropriate amount of assets that need to be moved from the relevant Local Authority (LA) to the academy in respect of the transferring liabilities.
10. As academies are standalone employers, they are responsible for all of the pension costs relating to their staff including pension strain costs such as redundancies. Their employer contribution rate is reviewed as part of the Triennial Valuation and depending on the results, the rate is adjusted accordingly

Starting Assets / Share of Deficit

11. The Fund's approach to calculating the starting assets is to use a 'Share of Deficit' basis. Under this basis the actuary first determines the amount of pension liabilities being transferred across to the new academy in respect of the transferring active members to determine the appropriate amount of assets to follow these liabilities across they then apply the estimated current funding level of the relevant local authority to the amount of transferring liabilities.
12. For example, if the liabilities of the transferring active members were £1m and current funding level of the appropriate Local Authority (LA) was 75% then the new academy would be credited with £0.75m in assets. Appendix A shows the assets transferred for all academies to date.
13. Some pension funds fund take a similar approach but also hold back assets for the LA in respect of a 'notional' share of liabilities to fully cover deferred and pensioners not transferring to the academy. This leaves academies with a substantially lower funding position, which will lead to higher contributions being required – this is a contributing factor to some of the higher contribution rates seen elsewhere for academies.

Contribution Rates

14. One of the reasons academies are paying a higher contribution rate is that they are less secure than the LAs. This means that their pension deficit recovery period will be shorter than the LAs 20 years.
15. Some LGPS funds have taken as little as 7 years for this deficit recovery period as this was the maximum length of time academies funding was guaranteed for. The Fund's view is that academies are less secure than the LAs but to "treat academies equitably" as far as possible use a starting deficit recovery position of 14 years in setting their contribution rate.
16. Other factors that impact on contribution rates include the differences in membership profile and economic conditions at the date of conversion which means that there cannot be a guarantee that there will be no significant divergence in employer contribution rates upon conversion.
17. The approach the Fund has taken does mitigate these differences as far as possible. Furthermore, where the new contribution rate for the academy is significantly higher than the one that applied prior to conversion, the Fund has allowed academies to phase in their increases using the "Contribution Rate Relief" policy as implemented for all non-tax raising employers as part of the 2010 Fund Valuation. Appendix A shows the contribution rates implemented for all the academies with the Fund.

'Pooling' Academies

18. The DfE have proposed LGPS funds should 'positively consider' pooling academies in their geographical area with the Local Authority as a solution to the differences in employer contribution rates between maintained schools and academies.
19. A 'pooling' arrangement appears to make little sense apart from covering up the underlying funding issues. The financial independence the academy status brings would be lost and this could turn out to be better or worse for them in terms of contribution rates in the long term. It also means that there will be a loss of control in relation to financial decisions and discretions applied. This will impact on the funding levels of by both the LA and the academy (e.g. salary increases increasing liabilities). Currently, the view amongst most LGPS funds and actuaries is that they feel the principle of pooling is not the most appropriate way for the DfE to meet its stated aim. To date, there has been limited request for 'pooling' within the Fund.

Government Guarantees

20. The funding guarantee announced by the Government to Parliament on 2 July 2013 alludes to covering the outstanding pension liabilities, should an academy close. This is welcomed as it provides additional assurances. It is also expected to underpin any proposals relating to the pooling of academies that are set out in the forthcoming consultation.

21. However, the guarantee still leaves a number of questions. One of these relates to the right of the DfE to 'withdraw at any time' from this position. This is linked to the Contingent Liability ceiling that represents the DfE's maximum total exposure (see Appendix B - briefing note from Hymans Robertson for further detail).
22. However, until more detail is released officers are of the opinion this doesn't change the stance already taken. A stance which attempts to treat the academies as equitably as possible within the current LGPS regulations.

Implementation on 2013 Valuation

23. The timing of the above announcement and pending consultation on pooling poses a number of questions for the current 2013 Valuation work. Questions are now raised as to whether academies should be included as part of the Stabilisation Policy as a result of the additional guarantees? Should deficit recovery periods be extended? Should pooling arrangements be implemented / considered? These areas will be discussed further as part of the review of the Stabilisation Policy and the 2013 Valuation.

Next Steps

24. As part of the 2013 Valuation process, officers will be reviewing the covenants of all employers including academies and taking a view on the appropriateness of recovery periods and offer academies the ability to 'phase in' any contribution rates to mitigate any significant increases.
25. However, it is likely that when the results of the Valuation are known there could be more pressure for 'pooling arrangements' which may need further consideration.
26. The Fund will also await the forthcoming consultation on academies and formally respond through this committee should time frames allow.

Risks Assessment

27. At whole fund level, the main additional risk to the Fund is the movement of pension deficit from "secure" Local Authorities to the new academies. This does pose an element of risk to the Fund in that if some academies failed there would be no specific employer who would be responsible for the former employees' pension liabilities. The default option would be that all the other employers in the Fund would be responsible for all these liabilities. An alternative would be to pool academies to share these liabilities between all the other academies and the LEAs.
28. However, in all cases we would expect the recent parliamentary guarantee to help mitigate this potential risk even though it is still unclear how this would work in practice and there is still the possibility that this guarantee could be withdrawn at any time.

Financial Implications

29. The actuarial fees involved in setting up academies are re-charged to the academy concerned. However, the administration of the Fund has become more complex due to the significant increase in the number of employers and this additional work will have an impact on resources and will need to be reviewed when setting the 2014/15 budget.

Safeguarding Considerations/Public Health Considerations/Equalities Impact

30. There are no known implications at this time.

Legal Implications

31. No direct legal implications

Proposals

32. The Committee is asked to note the report.

MICHAEL HUDSON
Service Director - Finance

Report Author: Andy Cunningham, Employer Relationship & Fund Development
Manager

Unpublished documents relied upon in the production of this report: NONE

Appendix A – List of Academies
Appendix B – Briefing Note from Hymans Robertson

APPENDIX A

All Academies - Actives								
					Assessed Starting Employer Contribution Rate %	Agreed Current Employer Contribution Rate %	LEA Rate	Diff
Name	No of Actives	Local Authority	Conversion Date	Starting Assets £	Contribution Rate %	Contribution Rate %	%	%
United Learning Trust	153	Swindon	01 April 2013	746,000	14.6%	14.6%	19.9%	-5.3%
Goddard Park	102	Swindon	22 September 2010	681,000	11.9%	11.9%	19.9%	-8.0%
Wootton Bassett	59	Swindon	01 April 2011	1,135,000	20.6%	20.6%	19.9%	0.7%
Ridgeway Acad	62	Swindon	01 August 2011	504,000	20.1%	20.1%	19.9%	0.2%
Commonweal Acad	83	Swindon	01 August 2011	832,000	20.8%	20.8%	19.9%	0.9%
Holy Rood Infants	37	Swindon	01 August 2011	172,000	21.9%	21.9%	19.9%	2.0%
Holy Rood Junior	39	Swindon	01 August 2011	198,000	18.3%	18.3%	19.9%	-1.6%
Lethbridge Acad	50	Swindon	01 August 2011	261,000	21.0%	21.0%	19.9%	1.1%
Lydiard Acad	53	Swindon	01 August 2011	1,028,000	24.3%	24.3%	19.9%	4.4%
St Josephs Swindon Acad	71	Swindon	01 August 2011	1,101,000	21.4%	21.4%	19.9%	1.5%
St Marys Swindon	29	Swindon	01 August 2011	152,000	23.4%	23.4%	19.9%	3.5%
Kingsdown Acad	89	Swindon	01 August 2011	1,051,000	21.5%	21.5%	19.9%	1.6%
Churchfields Acad	52	Swindon	01 September 2011	1,108,000	23.2%	23.2%	19.9%	3.3%
Eastrop Acad	15	Swindon	01 September 2011	76,000	24.0%	24.0%	19.9%	4.1%
Gorse Hill Acad	49	Swindon	01 April 2012	280,000	22.1%	22.1%	19.9%	2.2%
Southfield Junior Acad	23	Swindon	01 September 2011	104,000	21.3%	21.3%	19.9%	1.4%
St Leonards Acad Swindon	15	Swindon	01 November 2011	104,000	23.5%	23.5%	19.9%	3.6%
Colebrook Infants	10	Swindon	01 November 2011	78,000	23.7%	23.7%	19.9%	3.8%
Dorcan Tech	55	Swindon	01 December 2011	1,059,000	26.4%	26.4%	19.9%	6.5%
Sevenfields Acad	35	Swindon	01 April 2012	133,000	20.4%	20.4%	19.9%	0.5%
King William Street Swindon	23	Swindon	01 August 2012	101,000	23.2%	23.2%	19.9%	3.3%
White Horse Federation	164	Swindon	01 July 2012	1,037,000	21.8%	21.8%	19.9%	1.9%
Holy Family Acad	35	Swindon	01 September 2012	172,000	22.8%	22.8%	19.9%	2.9%
St Catherines Acad	16	Swindon	01 September 2012	149,000	26.8%	26.8%	19.9%	6.9%
	1,319		Swindon	12,262,000	21.6%	21.6%	19.9%	1.7%
					Assessed Starting Employer Contribution Rate %	Agreed Current Employer Contribution Rate %	LEA Rate	Diff
Name	No of Actives	Local Authority	Conversion Date	Starting Assets £	Contribution Rate %	Contribution Rate %	%	%
Wellington Acad	61	Wiltshire	01 September 2009	497,000	18.1%	18.1%	19.5%	-1.4%
Sarum Acad	41	Wiltshire	01 September 2010	955,000	15.6%	15.6%	19.5%	-3.9%
Hardenhuish Acad	89	Wiltshire	01 September 2010	866,000	17.2%	17.2%	19.5%	-2.3%
Bishop Wordsworth Acad	55	Wiltshire	01 February 2011	550,000	18.9%	18.9%	19.5%	-0.6%
South Wilts Grammar	43	Wiltshire	01 January 2011	517,000	19.3%	19.3%	19.5%	-0.2%
Lavington Acad	48	Wiltshire	01 January 2011	574,000	21.1%	21.1%	19.5%	1.6%
Corsham Primary Acad	51	Wiltshire	01 April 2011	218,000	16.4%	16.4%	19.5%	-3.1%
Corsham Secondary Acad	76	Wiltshire	01 April 2011	784,000	18.8%	18.8%	19.5%	-0.7%
Sheldon Acad	73	Wiltshire	01 April 2011	1,003,000	20.8%	20.8%	19.5%	1.3%
Pewsey Vale Acad	44	Wiltshire	01 July 2011	427,000	21.1%	21.1%	19.5%	1.6%
Highworth Warneford	63	Wiltshire	01 July 2011	605,000	21.1%	21.1%	19.5%	1.6%
Malmesbury Sec Acad	65	Wiltshire	17 August 2011	615,000	22.3%	22.3%	19.5%	2.8%
Kingdown Acad	64	Wiltshire	01 August 2011	985,000	21.3%	21.3%	19.5%	1.8%
St Laurence Acad	74	Wiltshire	01 August 2011	892,000	20.5%	20.5%	19.5%	1.0%
Holy Trinity Great Chev	18	Wiltshire	01 September 2011	99,000	22.8%	22.8%	19.5%	3.3%
St Augustines Acad	55	Wiltshire	01 September 2011	829,000	24.1%	24.1%	19.5%	4.6%
St Edmunds Calne	19	Wiltshire	01 September 2011	96,000	24.1%	24.1%	19.5%	4.6%
St Josephs Devizes Acad	21	Wiltshire	01 September 2011	103,000	21.3%	21.3%	19.5%	1.8%
Springfields Acad	70	Wiltshire	01 September 2011	1,207,000	23.1%	21.1%	19.5%	1.6%
John Bentley Acad	92	Wiltshire	01 November 2011	992,000	22.8%	22.8%	19.5%	3.3%
Woodford Valley Acad	32	Wiltshire	01 June 2012	126,000	23.2%	23.2%	19.5%	3.7%
St Edmunds, Salisbury	70	Wiltshire	01 February 2012	920,000	30.5%	23.4%	19.5%	3.9%
John of Gaunt Acad	99	Wiltshire	01 April 2012	1,195,000	25.7%	23%	19.5%	3.5%
By Brook Valley	28	Wiltshire	01 May 2012	51,000	20.5%	20.5%	19.5%	1.0%
The Mead Acad	75	Wiltshire	01 May 2012	270,000	21.6%	21.6%	19.5%	2.1%
Holy Trinity Calne Acad	29	Wiltshire	01 May 2012	216,000	29.0%	22.9%	19.5%	3.4%
Excalibur Academy	76	Wiltshire	01 September 2012	1,255,000	24.6%	21.4%	19.5%	1.9%
Devizes Acad	81	Wiltshire	01 September 2012	1,220,000	25.0%	21.5%	19.5%	2.0%
The Manor Acad	41	Wiltshire	01 September 2012	265,000	21.2%	21.2%	19.5%	1.7%
Education Fellowship	55	Wiltshire	01 December 2012	710,000	23.1%	23.1%	19.5%	3.6%
Rowde Academy	22	Wiltshire	01 January 2013	206,000	24.5%	24.5%	19.5%	5.0%
Wansdyke Acad	27	Wiltshire	01 February 2013	240,000	24.3%	24.3%	19.5%	4.8%
Oasis Community Learning Acad	17	Wiltshire	01 April 2013	102,000	26.6%	22%	19.5%	2.5%
Education Fellowship Pembroke	33	Wiltshire	01 December 2013	710,000	23.1%	23.1%	19.5%	3.6%
Malmesbury Primary Acad	39	Wiltshire	01 June 2013	275,000	23.9%	23.9%	19.5%	4.4%
	1,846		Wiltshire	20,575,000	22.2%	21.4%	19.5%	1.9%
			Overall	32,837,000	21.8%	21.4%	19.7%	1.7%