

## Exit Credits

Under the Regulations Administering Authorities may determine, at their absolute discretion, the amount of any exit credit payment due, having regard to any relevant considerations.

The Administering Authority's approach is set out below. It should be noted:

- As set out in the Regulations, any existing exit credits that had not been paid by 20 March 2020 (even if overdue) are now subject to the Administering Authority's exercising of its discretion, as set out below.
- Any exit credit payments which have been paid shall be treated as if the Administering Authority had exercised its discretion to pay that amount, and the Administering Authority may not seek to change the amount due or exercise its discretion retrospectively.
- Exit credits are to be authorised payments in accordance with section 176 of the Finance Act 2004 (payments by public service pension schemes).
- 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 Regulations would apply. The Pensions Ombudsman also has jurisdiction to hear complaints of maladministration against LGPS administering authorities, if the internal dispute resolution process is unsuccessful.

When a body becomes an exiting employer, the Administering Authority will notify the employer, the Scheme employer in connection with that body and any other body that has given a guarantee in respect of the admission body and obtain from the Fund Actuary an actuarial valuation as at the exit date of the liabilities of the West Sussex County Council Pension Fund in respect of benefits of the exiting employer's current and former employees.

When commissioning the valuation from the Fund Actuary, the Administering Authority will request that the Fund Actuary confirms:

- a. the extent to which there is an excess of assets in the Fund relating to the employer over the value of the liabilities on the employer's exit basis; and
- b. the proportion of any excess of assets which has arisen because of the value of the employer's contributions.

These will be taken into account by the Administering Authority when making its determination on the exit position alongside:

- any representations made to the Administering Authority by the exiting employer, the Scheme employer in connection with that body and (where the employer is an admission body) any of the following:
  - a. a person who funds the admission body in whole or in part, the connected Scheme employer
  - b. a person who owns, or controls the exercise of the functions of the admission body; and

- c. the Secretary of State but only in the case of specific admission bodies (such as those established by or under any enactment and providers of probation services).
- any other relevant factors including, but not limited to:
  - a. the date that the original contract (where applicable) was entered into (ie. before May 2018)<sup>1</sup>
  - b. the level of pensions risk the employer has taken on during its period of participation (including pooling arrangements the employer has benefited from)
  - c. any agreements on the treatment of the employer on exit from the scheme;
  - d. whether there are any outstanding sums owed to the Fund; and/or
  - e. the effects of changes in assumptions, investment performance or other factors

The amount of the payment will be determined by the Director of Finance and Support Services, per the County Council's Constitution.<sup>2</sup> The reasons for the decision will be documented.

Once the determination has been made the Administering Authority will pay the exit credit within six months of the exit date, or such longer time as the Authority and the exiting employer may agree. Once the exit credit has been paid, no further payments are due from the Authority to the exiting employer in respect of the surplus.

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<sup>1</sup> The original contract could not have been drafted with regard to the May 2018 regulation changes that implemented exit credits retrospectively and, subject to any representations to the contrary, that the employer priced the contract accordingly.

<sup>2</sup> Part 3, Section 2v, No. 257