

North Yorkshire Pension Fund

Appendix 5+

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Admissions and Terminations Funding Policy



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1 Introduction

- 1.1 This document details the North Yorkshire Pension Fund's (**Fund**) policy on admissions into the Fund and the methodology for assessment of a deficit or surplus payment on the exit of an employer's participation in the Fund. It supplements the general funding policy of the Fund as set out in the [Funding Strategy Statement \(FSS\)](#).

2 Admissions to the Fund

- 2.1 Admission bodies are a specific type of employer under the Regulations that do not automatically qualify for admission into the Local Government Pension Scheme (**Scheme**) and must satisfy certain criteria set out in the Local Government Pension Scheme Regulations 2013 (as amended) (**Regulations**). Admission bodies are required to have an 'admission agreement' with the Fund. In conjunction with the Regulations, the admission agreement sets out the conditions of participation of the admission body including which employees (or categories of employees) are eligible to be members of the Fund.
- 2.2 North Yorkshire County Council (**NYCC**) as the Administering Authority for the Fund will decide which bodies can become an admission body in the Fund. The Fund will enter into an admission agreement that is 'open' or 'closed' to new employees depending on the circumstance of the admission. Whether the admission is 'open' or 'closed' is generally at the option of the applicable transferring employer (if any) and admission body, but there might be an impact on the rate of contributions payable.
- 2.3 In general paragraph 1(d) admission bodies will be admitted on a 'fully funded' basis i.e. a funding shortfall or surplus will not be passed to the admission body unless the transferring employer requests that a proportion of (or all of) the funding shortfall or surplus is passed to the admission body.
- 2.4 All actuarial and legal fees will be recharged to the transferring employer or the admission body. The Administering Authority will ask for confirmation of who is paying the fee before the invoice is issued.

3 Subsumption, guarantor or bond requirements for entry

- 3.1 The Regulations require the admission body to carry out (to the satisfaction of the Fund and where applicable the transferring employer) an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up, or liquidation of the admission body. The Regulations further require that where the level of risk identified by the assessment is such as to require it, the admission body shall enter into an indemnity or bond in a form approved by the Fund with a third party financial services organisation. If for any reason a bond is not desirable the Regulations require that the admission body secures a guarantee in a form acceptable to the Fund.

¹ The FSS can be found on the Fund's website at www.nypf.org.uk > Pension Fund / Investments > Policies and Strategies.

- 3.2 Whilst each application is assessed on its own merits under the above criteria, the Administering Authority wishes to limit the risk to the Fund and to other employers arising from any proposed admission. The Administering Authority's expectation is that in the substantial majority of all admissions it will require the admission body to provide either a qualifying bond or guarantee. The Administering Authority further considers that the costs inherent in the provision of a third party bond by the admission body is sufficient reason why it may not be desirable for the admission body to secure a bond. Therefore, the Administering Authority will in most cases be prepared to accept that the admission instead proceeds on the basis of a guarantor being offered. This is most often the transferring employer.
- 3.3 Further, when considering applications for admission body status the Administering Authority's clear preference is that there should be a subsumption commitment from a suitable Scheme employer (as well as a guarantor from within the Fund). However, where there is no suitable party willing to give a subsumption commitment and/ or where there is no suitable and willing guarantor, the Administering Authority will still consider applications on a case-by-case basis.
- 3.4 A subsumption commitment means that a Scheme employer in the Fund (usually the transferring employer) agrees that they will take on responsibility for the future funding of the liabilities of the admission body once they have exited the Fund, and (where relevant) the admission body has paid any exit payment as determined by the actuary.
- 3.5 A guarantor provides a commitment to meet any obligation or liability of the admission body under the admission agreement.
- 3.6 The guarantor must be a party permitted to give such a guarantee under the Regulations and must be acceptable to the Administering Authority. Usually, this is the transferring employer.
- 3.7 The Administering Authority will, if it deems appropriate, accept an admission where there is no guarantee or subsumption commitment offered. This acceptance may be subject to additional conditions. Such conditions will often include the following:
- the Fund's actuary will be asked to use the low risk funding target or the ongoing orphan funding target to assess contribution requirements; and/or
 - the admission body must have a bond or indemnity from an appropriate third party in place. Any bond amount will be subject to review on a regular basis in line with the Regulations; and
 - the admission body may be subject to any other requirements, such as monitoring specific factors, as the Administering Authority may decide.
- 3.8 Some relevant factors that the Administering Authority may consider when deciding whether to apply any of the conditions above, in the absence of a guarantor or subsumption commitment, are:
- uncertainty over the security of the organisation's funding sources e.g. the admission body relies on voluntary or charitable sources of income or has no external funding guarantee/reserves;
 - if the admission body has an expected limited lifespan of participation in the Fund;
 - the general trading risk of the proposed admission body and their financial record;

- the average age of employees to be admitted and whether the admission is closed to new joiners.

Admission bodies formerly known as Transferee Admission Bodies (TABs)

- 3.9 The most frequent category of admission body is those admitted under paragraph 1(d)(i) of Part 3 to Schedule 2 of the Regulations, namely that the proposed admission body is providing (or will provide) a service or assets in connection with the exercise of a function of a Scheme employer as a result of the transfer of the service or assets by means of a contract or other arrangement.
- 3.10 The settlement of commercial terms between the transferring employer and the proposed admission body (including any mitigations that might be offered to the proposed admission body in respect of the usual costs of participation as an employer in the Scheme) are a commercial matter which the Administering Authority will not be involved in.
- 3.11 Deficit recovery periods for these admission bodies will be set in line with the Fund's general policy as set out in the FSS.

Admission bodies formerly known as Community Admission Bodies (CABs)

- 3.12 Where a body believes that it is eligible for admission other than under paragraph 1(d)(i) of Part 3 to Schedule 2 of the Regulations and requests admission into the Fund, the Administering Authority will consider each application on a case-by-case basis.

Town and Parish Councils

- 3.13 New town and parish councils entering the Fund will be treated as follows:
- If there is a subsumption commitment from a suitable Scheme employer, then the participation will be approved with the valuation funding basis used for the termination assessment and calculation of ongoing contribution requirements.
 - If there is no subsumption commitment from a suitable Scheme employer, then the town or parish council must pre-fund for termination with contribution requirements assessed using the low risk funding target or ongoing orphan funding target.
- 3.14 Deficit recovery periods will be determined consistent with the policy set out in the FSS. Alternatively, the Administering Authority may determine an employer specific deficit recovery period will apply.

Grouped bodies

- 3.15 The Fund groups the following types of employers for setting contribution rates.
- Grouped Scheduled Bodies (Town and Parish Councils admitted prior to 1 April 2008, Drainage and Burial Boards).
 - Local Management of Schools (LMS) Pools (NYCC LMS pool and the City of York Council (CoYC) LMS pool) admitted prior to 1 April 2019.
- 3.16 The LMS pool refers to the grouping of a number of transferee admission bodies relating to catering and cleaning contracts within schools who were admitted to the Fund prior to 1 April 2019. Employers in the LMS pool pay the same aggregate total contribution rate as that payable by NYCC or the CoYC depending on which pool they are in.

3.17 At each triennial valuation, the actuary will pool together the assets and liabilities of the council with the other employers within the appropriate LMS pool to determine the employer contribution rate.

4 Employer contributions and funding targets

4.1 The Fund's actuary will calculate the employer contributions payable from the start of the admission agreement.

4.2 These will consist of the future service rate (FSR) or primary contribution rate, additional (secondary) contributions required to remove any funding shortfall, and an allowance for the possible cost of the McCloud judgement / Cost Management process as set out in paragraphs 4.18 – 4.21. Where the admission body transfers on a fully funded basis (i.e. the level of notional assets is set to be equal to the full value of the transferring liabilities using the appropriate funding target described below) then the initial contribution rate will be equal to the FSR plus the McCloud judgement / Cost Management process allowance. This would generally be the case in an outsourcing of a service or function from a Scheme employer.

4.3 The FSR is net of employee contributions but includes an allowance for the lump sum death benefit payable on death in service and administration costs.

4.4 The actuary will also calculate the funding position of the admission body at the commencement date. This shows the notional assets attributable to the admission body, along with the value of liabilities using the appropriate funding target. This is needed even when the admission body starts fully funded since any accounting figures or calculations at future triennial valuations will use the assets and liabilities at commencement as their starting point. In some cases the asset transfer may need to be re-calculated if the commencement date or data on transferring members is different to that used by the actuary in their initial calculations.

4.5 If the transferring employer is providing a subsumption commitment, the subsumption funding target will be used by the actuary when calculating the FSR and the value of liabilities. The low risk funding target can be used where explicitly requested by the transferring employer. The appropriate funding target to be adopted depends on what will happen to the liabilities of the admission body once the contract ends or it has otherwise exited the Fund (e.g. when the last active member has left).

Scheduled and subsumption body funding target

4.6 This approach can be used for new long term secure scheduled bodies where the participation is assumed to be of indefinite duration and for admission bodies that have a 'subsumption commitment' from a suitable secure Scheme employer (usually the transferring employer). It is used to calculate the initial assets allocated to the admission body and its contributions as well as for the exit valuation (updated to allow for financial market conditions at the exit date). This approach results in the same assumptions being used to set contributions for the admission body as apply to the Scheme employer letting the contract (although the assumptions are updated to allow for financial market conditions at the calculation date, whether that is the date of commencement or exit).

4.7 The assumptions used under the scheduled and subsumption body funding target assume investment in assets that are the same as the long term investment strategy of the Fund as a whole.

- 4.8 Therefore the potential outperformance over low risk investment in government bonds (gilts) is factored in, giving a lower contribution rate but also there is exposure to the volatility of equity based investments and the risk of the expected outperformance not being achieved and the impact on the contributions.
- 4.9 This funding target gives a lower contribution rate but less certainty that the liabilities are being fully covered compared with a new employer on the low risk funding target (see below) with assumed notional investment in government bonds, and can therefore lead to volatility in the FSR over the life of the admission agreement and increases the risk of a shortfall or surplus emerging over the period of participation of the admission body in the Fund.

Intermediate funding target

- 4.10 This approach is used for certain employers that are considered by the Administering Authority to be less financially secure than the long-term tax raising Scheduled Bodies.
- 4.11 This approach would also be used to set contributions and at exit for admission bodies that have an appropriate subsumption commitment provided by a suitable Scheme employer that is subject to the intermediate funding target.
- 4.12 This funding target is set with reference to government bond yields but includes an allowance to reflect the expected out-performance above government bonds of the Fund's assets. This allowance will generally be reviewed at each triennial actuarial valuation of the Fund.

Ongoing orphan funding target

- 4.13 This approach is used where the transferring employer is not prepared to offer a subsumption commitment in relation to the admission body. This means that no employer exists in the Fund that would be prepared to take on future responsibility of the liabilities of the admission body once the admission body has exited the Fund.
- 4.14 On the exit of the admission body, its liabilities will become 'orphan liabilities' in the Fund. This means that should a shortfall arise in respect of these liabilities after the admission body has exited the Fund, all remaining employers in the Fund would be required to pay additional contributions to pay off this shortfall.
- 4.15 In that case, the exit valuation of the admission body would be carried out on the low risk funding target in order to protect the other employers in the Fund. This assumes that after the exit of the admission body the Administering Authority would wish to back the orphan liabilities with low risk investments such as government bonds.
- 4.16 The assumptions used under the ongoing orphan funding target are broadly designed to target the low risk funding target at exit of the admission body but reflect the fact that exit of the admission body will occur at some point in the future and allow for the possibility of the expected return on government bonds changing before the exit date.
- 4.7 Prior to the exit date it is still assumed that the assets of the admission body are invested in line with the long term investment strategy of the Fund as a whole and this is reflected in the "in-service" discount rate adopted as part of the ongoing orphan funding target.

4.8 This funding target would generally result in a higher initial contribution rate than if a subsumption commitment existed (where the subsumption funding target would be adopted), but a lower initial contribution rate than if the low risk funding target is adopted (see below), although unlike the matched approach described below investment risk underlying the Fund's investment strategy is retained under this approach.

Low risk funding target

4.19 This approach is used to reduce the risk of an uncertain and potentially large shortfall being due to the Fund at the exit of the admission body.

4.20 The low risk approach assumes a notional investment in government bonds for the admission body. Under this approach the investment risk is substantially reduced and it is expected that the assets and liabilities of the admission body would move broadly in line with either other. It does not eliminate investment risk and other funding risks remain, but it gives more certainty that the employer rate is providing funding to 'match' the liabilities. However, it gives a substantially higher contribution rate as no allowance for any expected outperformance of the Fund's assets over the low risk funding target is factored in.

Allowance for McCloud judgement / Cost Management process and GMP equalisation / indexation

4.21 For employers commencing participation in the Fund on or after 1 April 2019 allowance will be included in the employer contribution rate for the potential additional costs arising due to the McCloud judgement / Cost Management process equal to 0.9% of Pensionable Pay.

This figure was determined by the Fund actuary based on calculations carried out as part of the 2019 valuation across the Fund as a whole on the scheduled and subsumption body funding target based on information available when this was calculated.

The McCloud consultations for the LGPS (in England and Wales) were published on 16 July 2020, which set out the following key proposals:

- Compensation will apply to members who were in the LGPS on 31 March 2012 and who have active membership of the Scheme on or after 1 April 2014
- Benefits will be the better of those accrued in the 2014 Scheme (up to 31 March 2022) and those accrued in the 2008 Scheme, backdated to 1 April 2014 (i.e. an 'underpin' approach)
- Compensation will apply to members who leave with a deferred benefit and those who retire from active service with immediate pension benefits, through voluntary age retirement, ill health retirement, flexible retirement or redundancy
- The remedy will apply to deaths in service
- The remedy will apply to spouses' and dependants' benefits

Whilst there are some differences between the proposals set out in the consultation and the assumptions made at the time of calculating the potential additional costs arising due to the McCloud judgement / Cost Management process as part of the 2019 valuation and set out above, given the uncertainty associated with any cost management changes and that employer contributions will be reviewed from 1 April 2023 as part of the next triennial valuation of the Fund, for pragmatic reasons the allowance to be included in the employer contribution rate will be equal to 0.9% of Pensionable Pay. The same allowance will generally be made for any new employer, irrespective of their membership and funding target.

- 4.22 When determining the notional level of assets to be allocated to the new employer no allowance will generally be made for the potential past service liabilities arising due to the McCloud judgement / Cost Management process.
- 4.23 When determining the notional level of assets to be allocated to a new employer commencing participation in the Fund on or after ~~1 April 2019~~^{23 March 2021}, the Fund actuary will allow for fully inflationary increases on GMPs for those reaching State Pension Age ~~on or after~~^{between} 6 April 2016 ~~and 5 April 2021~~. ~~No allowance will be made for the potential extension of this solution indefinitely.~~
- 4.24 In determining the approach set out above, the Administering Authority has had regard to the advice of the Fund actuary. It will be kept under regular review as further information on the McCloud judgement ~~and~~ ^{Cost Management process} ~~and approach to GMP equalisation / indexation~~ becomes available. In exceptional circumstances any future change in approach may be backdated if considered necessary in light of the specific circumstances of a particular employer. However, no changes are envisaged to asset transfers for employers that commenced participation before 1 April 2019.

5 Termination of an employer

Exit events

- 5.1 In accordance with Regulation 64 the LGPS Regulations 2013, when an employer (including an admission body) leaves the Fund, an exit valuation is carried out by the Fund's actuary to determine the level of any surplus or deficit in the outgoing employer's share of the Fund. All actuarial and legal fees relating to the exit will be passed on to the exiting employer unless a prior agreement is in place with the transferring employer.
- 5.2 There are a number of events that will trigger an exit:
- when a contract comes to an end;
 - when a contract is terminated early;
 - when the employer no longer has any active members in the Fund;
 - when the admission body is in breach of its obligations under the admission agreement, or the admission agreement is otherwise terminated by one of the parties;
 - the insolvency, winding up or liquidation of the admission body
 - the withdrawal of approval by HMRC to continue as a Scheme employer; or
 - the admission body fails to pay any sums due in a timely manner.

- 5.3 When an admission agreement comes to an end or a scheduled body exits the Fund, any active employees may transfer to another employer, either within the Fund or elsewhere. If this is not the case the employees will retain pension rights within the Fund i.e. either deferred benefits or immediate retirement benefits.

Basis of exit valuations

- 5.4 An exit valuation is carried out to value the liabilities of the employer at the date of exit. The basis used to calculate the liabilities depends on the circumstances of the exit and in particular who takes responsibility of any future liabilities. The Fund's policy is outlined below; however, each exit will be assessed on a case by case basis.
- 5.5 If the employer has a subsumption commitment in place from a suitable Scheme employer within the Fund, the appropriate subsumption funding target will be used as the basis of the exit valuation unless otherwise indicated below. If the transferring employer requested that the low risk funding target was adopted on admission to the Fund, the same funding target will be used as the basis of the exit valuation. The subsuming employer will, following any termination payment made by the employer, be responsible for any future liabilities that arise in relation to the former employees of the exiting employer. Any liabilities formally attributable to the exiting employer will be assessed at each Triennial Valuation and the subsuming employer's contribution rates will be adjusted to reflect this.
- 5.6 For all other exiting employers where there is no subsumption commitment in place, the Fund's policy is to use the low risk funding target as the basis of the exit calculation. This is to protect the other employers in the Fund who will become responsible for any future 'orphan liabilities' that arise in relation to the former employees of the exiting employer post exit.

Grouped Scheduled Bodies - Town and Parish Councils admitted prior to 31 March 2008

- 5.7 On termination of participation within the grouped scheduled bodies, the exit valuation is based on a simplified share of the group deficit amount, which is calculated on the Scheduled and subsumption body funding target. This involves calculating the notional deficit share, as at the last triennial valuation, based on the proportion of payroll that body has within the group. An adjustment to the date of exit will normally be made in line with the assumptions adopted as at the last triennial valuation unless the actuary and Administering Authority consider that the circumstances warrant a different treatment, for example, to allow for actual investment returns over the period from the last actuarial valuation to exit. Any liability that cannot be reclaimed from the exiting employer will be underwritten by the group and not all employers in the Fund.
- 5.8 Following the termination of the grouped body, any residual assets and liabilities will be subsumed by any guarantor body for the group, or in the absence of a guarantor, subsumed by the Fund as a whole.

Grouped Bodies - LMS Pools admitted prior to 1 April 2019

- 5.9 On termination of an admission body within the LMS pool, a termination valuation will generally be calculated on the Scheduled and subsumption body funding target. The assets and liabilities relating to the active employees will, assuming there is a subsumption commitment in place in the admission agreement relating to that admission body, be subsumed by NYCC or the CoYC depending on which pool they are in. If there is no subsumption commitment in place, the

parties will be offered the opportunity to put one in place on exit. If this option is not taken then the low risk funding target will be used to calculate the exit position.

Allowance for McCloud judgement / Cost Management process and GMP equalisation / indexation

5.10 For employers exiting the Fund on or after 1 April 2019 the Fund actuary will add 1% to the value of the exiting employer's liabilities as a prudent margin given the possibility of additional liabilities arising due to the McCloud judgement / Cost Management process and covering the potential costs of GMP equalisation / indexation.

However, the Administering Authority will not seek to recalculate the exit liabilities for exits on or after 1 April 2019 where the exit deficit (or credit) has already been paid as at the date this policy comes into effect.

5.11 In determining this margin, the Administering Authority has had regard to guidance prepared by the Scheme Advisory Board and the advice of the Fund's actuary. It will be kept under regular review as further information on the McCloud judgment / Cost Management process becomes available.

Notification of termination

5.12 In many cases termination of an admission agreement can be predicted, for example, because the admission body wishes to terminate their contract. In this case admission bodies are required to notify the Fund of their intention as soon as possible. The Fund requires a minimum of 3 months' written notice for early termination of an admission agreement.

5.13 Where termination is disclosed in advance or in the opinion of the Administering Authority there are circumstances which make it likely that an employer will become an exiting employer, the Fund may request a revised certificate from the Actuary that specifies the amount that the rates should be adjusted by prior to exit in line with Regulation 64(4) of the Regulations.

5.14 A valuation under Regulation 64 will assess the assets held as at the exit date in the Fund in respect of the exiting employer, as compared to the liabilities of the Fund in respect of benefits attributable to the exiting employer's current and former employees. The exit valuation will usually show that there is either:

- a deficit, in that the liabilities have a higher value than the assets. In this situation paragraphs 5.17 to 5.28 below will apply; or
- a surplus, in that the assets have a higher value than the liabilities. In this situation paragraphs 5.29 to 5.38 below will apply.

5.15 In the event that a valuation under Regulation 64 results in there being no deficit or surplus, then no further payments will be due from or to the exiting employer (save for any unpaid liability arising before the exit valuation).

5.16 It should be noted that existence of a subsumption commitment or other agreement entered in relation to any liabilities of the exiting employer does not mean that the exit valuation does not need to be carried out.

Payment of exit debt

- 5.17 If the Fund actuary has calculated a deficit at the exit date the exiting employer is liable for payment of that deficit under the Regulations. The Administering Authority will usually require a lump sum payment from the exiting employer in the first instance. Where an exit payment cannot be met in full or in part by the exiting employer the Administering Authority will attempt to recover any outstanding payment from a bond or alternative indemnity that may be in place.
- 5.18 Following the use of any bonds or indemnities (if any), any remaining debt will be recovered in a lump sum payment from the guarantor (if there is one). However, where the terms of the guarantee allow it, the Administering Authority reserves the right to demand payment of any exit debt from the guarantor as a primary liability (i.e. without first seeking payment from the exiting employer)
- 5.19 If there is no guarantor any outstanding debt will be recovered from any related employer in the case of a Schedule 2, Part 3, 1(d)(i) body. The Administering Authority may request a lump sum payment or it may be agreed, if the related employer is a contributing employer of the Fund, that the rates and adjustment certificate be revised to allow for the recovery of the remaining debt over a reasonable period of time, as determined by the Administering Authority.
- 5.20 In any other case the debt will be subsumed by all other employers in the Fund. The rates and adjustment certificate for all contributing employers will be revised to allow for the recovery of any remaining exit debt over a reasonable period of time, determined by the Administering Authority, at the next triennial valuation following exit.
- 5.21 Any lump sum payments will be required within 30 days following the issue of the revised rates and adjustment certificate showing the exit payment due unless another period is specified by the Administering Authority. Any late payments will incur charges in accordance with the Fund's Charging Policy.
- 5.22 In exceptional circumstances the Administering Authority may consider allowing an exiting employer to pay an exit payment over an agreed period of time, where it is not considered to pose a material risk to the solvency of the Fund and the Administering Authority is satisfied that the exiting employer is able to make the agreed payments.

Suspending payment of exit amounts

- 5.23 At the absolute discretion of the Administering Authority, a suspension notice may be awarded to an exiting employer under Regulation 64(2A) of the Regulations. This can be for a period of up to three years after the exit date (the maximum period permitted by the Regulations).
- 5.24 Any application for the Administering Authority to grant a suspension notice will normally only be considered if the following criteria apply;
- the employer can provide evidence that it is likely to admit one or more new active members to the Fund within the period of the suspension notice;
 - the employer is not a 'closed' Admitted Body (no new active members are permitted to join the Fund); and
 - any application for the Administering Authority to grant a suspension notice is made within three months of the exit date.

- 5.25 The Administering Authority reserves the right to withdraw a suspension notice if the terms of the agreement to award a suspension notice are not being upheld by the employer.
- 5.26 If a suspension notice is awarded, the exit valuation will be deferred until the earlier of
- the end of suspension period, or;
 - the point at which the suspension notice is withdrawn (for any reason).
- 5.27 If one or more new active members are admitted to the Fund the employer's full participation in the Fund will resume.
- 5.28 During the period of any suspension notice, the employer must continue to make contributions to the Fund as certified in the rates and adjustments certificate.

Surplus on Exit

- 5.29 As soon as is practicable after the production of the applicable exit valuation, the Administering Authority will notify the exiting employer and, where the exiting employer has been admitted to the fund as an admission body:
- any party that has given a guarantee under paragraph 8 of Part 3 to Schedule 2 to the Regulations; and
 - (in respect of admissions under paragraph (1)(d) of Part 3 of Schedule 2 to the Regulations) any scheme employer who was providing a service or assets in connection with the exercise of a function of the exiting employer
- of the fact that the exit valuation shows a surplus, that the Administering Authority intends to make a determination of whether this surplus should be passed in whole or in part to the exiting employer, and to request that each party, within 14 days, provides their written representations to the Administering Authority in relation to any factors which, in their view, would influence such a decision and make the payment of a surplus to the exiting employer more or less appropriate.
- 5.30 The representations of the parties mentioned in paragraph 5.29 above may (but need not) detail any risk sharing arrangement agreed between the parties as regards the participation of the exiting employer in the Fund.
- 5.31 The Administering Authority will make a determination of the amount of the exit credit (if any) payable to the exiting employer. In reaching this decision the Administering Authority will have regard to the following factors:
- a) the amount of the surplus in question;
 - b) the proportion of the excess of assets which has arisen because of the value of the exiting employer's contribution;
 - c) the representations received by the parties under paragraph 5.29 above;
 - d) whether the surplus arises in whole or in part because of any agreement by another scheme employer to subsume the liabilities of the exiting employer;

- e) (where the Administering Authority is aware of the same) whether or not the exiting employer has been exposed to the full financial risk of participation in the Fund and the existence of any risk-sharing arrangements in place with third parties;
- f) where part or all of the surplus relates to an increase in the value of the assets of the Fund as at the exit date due to better-than-expected investment growth or returns, the extent to which that increase in asset value can be regarded as a stable and long-term value increase, or alternatively the extent that the asset value might have been affected by a temporary rise due to unusual or exceptional market conditions;
- g) any other relevant factors.

5.32 Whilst the Administering Authority reserves its discretion to come to a different determination where circumstances indicate this might be reasonable, it expects that in the majority of cases, it will apply the following principles in making a determination:

- in respect of paragraph 5.31(b), that the value of any surplus returned to the exiting employer will be capped at one hundred per cent (100%) of the total value of employer contributions made by the exiting employer during the course of its relevant participation in the Fund (and subject to further adjustment by reference to other factors). For the avoidance of doubt, the relevant sum will be limited to employer (and not employee) contributions, and without any investment return or interest on those contributions;
- in respect of paragraph 5.31(d), where the surplus arises wholly or in part due to favourable actuarial assumptions arising from the existence of an enforceable subsumption commitment from another scheme employer, the Administering Authority will not normally pay the surplus to the exiting employer (and will instead retain the same within the Fund). Where an exit valuation has been prepared on the basis that a subsumption commitment exists and this shows a surplus, the exiting employer will be offered the option, at its own cost, to have the exit valuation undertaken again on the low risk funding target. In cases where a surplus would still exist where calculated on the low risk funding target, the total available for distribution to the exiting employer will be capped at the surplus when calculated on the low risk funding target (and subject to further adjustment by reference to other factors); and
- in respect of paragraph 5.31(e), the Administering Authority may (but is not required to) request additional information or documentation in support of any claim by either party that a risk sharing arrangement exists. Where the Administering Authority reasonably believes that an exiting employer has not been exposed to a material extent to the usual financial risks associated with participation in the Fund by reason of a risk sharing arrangement with a third party, then in general no surplus will be distributed to the exiting employer. Examples of relevant "risk sharing" arrangements might include, but are not limited to:
 - an agreement whereby the exiting employer will be protected from, or reimbursed in respect of, any deficit which arises under Regulation 64 of the Regulations, either in whole or to a material extent; and/or
 - an agreement which protects the exiting employer from variation in respect of the level of its ongoing employer contributions to the Fund, either in absolute terms, or within a defined range (often referred to as a "cap and collar" arrangement).

5.33 In making a determination under paragraph 5.31, the Administering Authority will take such legal, actuarial and investment advice as it considers appropriate.

- 5.34 The Administering Authority will notify each of the parties identified in paragraph 5.29 of the amount of any surplus which it has determined should be returned to the exiting employer, if any (the "exit credit").
- 5.35 Where the Administering Authority has determined that an exit credit will be paid, the Administering Authority will make the payment to the exiting employer: by the later of:
- six months after the date of the exit event; or
 - six months after the date on which the Administering Authority is provided with information needed to carry out the exit valuation; or
 - such later date as the Administering Authority and the exiting employer may agree.
- 5.36 Payment will be made by BACS in the absence of a compelling reason why this is not appropriate. If there are any sums due from the exiting employer connected to their participation in, or exit from, the Fund, then these sums will be deducted from any exit credit due to the exiting employer before payment.
- 5.37 If the scheme employer and admission body wish to change the default position on the payment of an exit credit then they should include suitable provisions in any service agreement between themselves. Where the Administering Authority determines that an exit credit is to be paid, this will in all circumstances be paid to the exiting employer and not to any other party (even where, for example, the exiting employer requests it or the exiting employer has already agreed to pass that payment to a third party).
- 5.38 When an exit credit payment is made, or if the Administering Authority determines that no exit credit is due, no further payments are due from the Administering Authority in respect of any surplus assets relating to the benefits of any current or former employees of the exiting employer.