



Pension Fund

Exit Policy

This documents sets out the approach of Durham County Council (the "Administering Authority") as administering authority of the Durham County Council Pension Fund (the "Fund") to exiting employers from the Fund. This revised policy takes into account changes introduced by the Local Government Pension Scheme (Amendment) Regulations 2020.

1. Where an employer becomes an exiting employer, an exit valuation will be carried out in accordance with Regulation 64 of the Regulations. That valuation will take account of any activity as a consequence of exit regarding any existing contributing members (for example any bulk transfer payments due, and any asset transfer associated with the transfer of active members to another employer in the Fund) and the status of any liabilities that will remain in the Fund.
2. In particular, the Administering Authority will seek to minimise the risk to other employers in the Fund that after exit any deficiency arises on the liabilities of the exiting employer such that this creates a cost for those other employers to make good the deficiency. To give effect to this, the Administering Authority will seek funding from the outgoing employer sufficient to enable it to match the liabilities with low risk investments, generally Government fixed interest and index linked bonds.
3. The exit valuation 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 normally conclude that there is either:
 - 3.1. a deficit, in that the liabilities have a higher value than the assets; or
 - 3.2. a surplus, in that the assets have a higher value than the liabilities.
4. When calculating the liabilities in the Fund in respect of the exiting employer, an increase of 0.6% will be applied to these liabilities to allow for the potential increase in benefits due to the cost management process and the McCloud¹ judgement. The form and extent of any such increase in benefits is currently uncertain, and so this is an approximate allowance calculated to cover the expected increase in liabilities for an average employer in the fund. The adjustment to apply to liabilities on exit has been calculated consistently with the addition to contribution rates applied at the 2019 valuation (see paragraph 5).
5. The 0.6% above is calculated as follows:
 - 5.1. 2.8% of pay increase to active past service liabilities, equivalent to 0.35% of total liabilities; plus
 - 5.2. Increase in contribution rate capitalised over the 3-year period of the Current Rates and Adjustments Certificate, equivalent to 0.26% of total liabilities.
6. Where the exit valuation shows a deficit, an exit payment will usually be required from the exiting employer. The administering authority, at its sole discretion, may allow phased payments.

¹ Lord Chancellor and Secretary of State for Justice and another v McCloud and others; Secretary of State for the Home Department and others v Sargeant and others, [2018] EWCA Civ 2844

7. The Administering Authority may, with the consent of the scheme employer in question, allow another employer in the fund to subsume the assets and liabilities of the exiting employer. This may include the Administering Authority agreeing to the other scheme employer accepting ongoing liability for any deficit in substitution of the requirement for an exit payment from the exiting employer.
8. For exits on or after 14 May 2018, where the exit valuation shows that there is a surplus in the Fund in respect of the exiting employer, the Administering Authority will follow the process set out in paragraphs 9 to 15 below.
9. 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:
 - 9.1. any party that has given a guarantee under paragraph 8 of Part 3 to Schedule 2 to the Regulations;
 - 9.2. (in respect of admissions under paragraph (1)(d) of Part 3 of Schedule 2 to the Regulations) any scheme employer connection with the exercise of whose function the exiting employer was providing a service or assets; and
 - 9.3. any employer who has provided a subsumption guarantee in respect 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.

10. The representations of the parties mentioned in paragraph 9 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.
11. 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:
 - 11.1. the extent to which there is a surplus;
 - 11.2. the proportion of the excess of assets which has arisen because of the value of the exiting employer's contributions;
 - 11.3. the representations received by the parties under paragraph 9;
 - 11.4. where part or all of the surplus relates to an increase in the value of the assets of the Fund as at 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;
 - 11.5. (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;

- 11.6. whether the payment of the surplus to the exiting employer would have a materially negative effect on the position of other employers in the Fund; and
 - 11.7. any other relevant factors.
12. 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 under paragraph 11:
- 12.1. in respect of the consideration detailed in paragraph 11.2, that the value of any surplus returned to the exiting employer will be capped in all circumstances at the total value of employer contributions made by the exiting employer during the course of its relevant participation in the Fund. Beyond this, the Administering Authority will consider whether a lower cap may be justified on a case by case basis. For the avoidance of doubt, only employer contributions (and not employee contributions) would be counted for this purpose;
 - 12.2. in respect of the consideration detailed in paragraph 11.3, the Administering Authority may (but is not required to) request additional information or documentation in support of any claim made by a party in their representations;
 - 12.3. in respect of the consideration detailed in paragraph 11.4, the Administering Authority will in particular have regard to whether there were any unusual market movements in the run up to or shortly after the exit date – whether, for example, the surplus arose because of a short-term spike in asset value, or an asset value which later materially reduced;
 - 12.4. in respect of the consideration detailed in paragraph 11.5, where the 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:
 - 12.4.1. 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
 - 12.4.2. 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).
13. In making a determination under paragraph 11, the Administering Authority will take such legal and actuarial advice as it considers appropriate.
14. The Administering Authority will notify each of the parties identified in paragraph 9 of the amount of any surplus which it has determined should be returned to the exiting employer, if any (the "**exit credit**").

15. The Administering Authority will, unless otherwise agreed with the exiting employer, pay any exit credit to the exiting employer within 6 months of the later of the exit date and the date when the employer has provided all the necessary information required by the Administering Authority to enable the Fund Actuary to calculate the final assets and liabilities on exit.

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