



PENSIONS COMMITTEE

21 FEBRUARY 2023

REPORT TITLE:	LOCAL GOVERNMENT PENSION SCHEME (LGPS) UPDATE
REPORT OF:	DIRECTOR OF PENSIONS

REPORT SUMMARY

This report informs Members that following a review of the classification of the Further Education (FE) sector - FE colleges, sixth form colleges and designated institutions - and their subsidiaries in England, the Office for National Statistics (ONS) has reclassified colleges and their subsidiaries as public sector bodies.

RECOMMENDATION/S

That Pensions Committee be recommended to note the outcome of the ONS review of the FE sector and the implications for the LGPS.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 There is a requirement for the Pensions Committee to be fully informed of national directives and legislative developments to carry out its fiduciary duty when managing employer risk.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 This is the most appropriate option for informing Pensions Committee of industry developments.

3.0 BACKGROUND INFORMATION

- 3.1 Pensions Committee were apprised of the Office for National Statistics (ONS) activity to review the classification of colleges at its meeting of 28 September 2022, minute 25 refers.
- 3.2 The ONS is an agency independent of ministers, and periodically reviews the classification of all sectors of the economy for the purposes of the national accounts.
- 3.3 To add historical context to the position, when colleges were incorporated in 1993, they were designated as 'private sector not-for-profit' organisations. In 2010, colleges were moved into the public sector following an ONS decision. This was later reversed in 2012 by a change in law, and colleges remained in the private sector prior to this review.
- 3.4 In May 2022, the ONS announced a further review of the classification of the Further Education (FE) sector, following the enactment of the 'Skills and Post-16 Education Act 2022', the ONS review was undertaken independently of Government with international benchmarks used to determine the classification.

The outcome of the review was to reclassify the FE sector into the central government sector, communicated as part of the government response and policy paper published on 29 November 2022.

- 3.5 The government response confirms that colleges will retain many of the flexibilities they currently have, for example, the ability to keep and spend any surpluses, and to dispose of fixed assets and keep the proceeds. It is envisaged that day-to-day operations will continue with minimal changes, so colleges can maintain a smooth delivery of educational services.
- 3.6 The response does indicate that the reclassification changes how colleges and their subsidiaries will report to, and interact with government - requiring colleges to ensure their systems of financial control support public sector standards of accountability.

As such they are subject to the framework for financial management set out in the managing public money policy, guidance on senior pay and other central government guidance.

Impact on LGPS

- 3.7 Schedule 2 Part 1, paragraph 14 of the LGPS Regulations 2013, mandates that FE colleges must offer their non-teaching staff membership of the LGPS.
- 3.8 As the Department for Education (DfE) does not currently provide a central government guarantee for the FE sector, there is a high-risk of a poor outcome for LGPS funds if an FE body becomes insolvent.

This poorer covenant results in a more prudent funding approach for FE bodies than academies or councils.

- 3.9 The government response states there is no action for colleges with regard to the LGPS, although, Administering Authorities await confirmation from the DfE as to whether they will provide additional covenant assurances or guarantees for FE employers.
- 3.10 If such a central government guarantee was provided, then it would need to be considered in the context of funding and contribution requirements as it would potentially provide more comfort in terms of support for the liabilities.
- 3.11 In the absence of a guarantee there would be no material change from the status quo in funding terms and the impact of the reclassification would need to be assessed for each individual college.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The absence of a directive from DfE as to the provision of a guarantee means that the current funding basis applicable to the FE sector will be retained and the provisional contribution rates issued to the colleges will be expressed on the 2022 Actuarial Valuation Rates and Adjustment Certificate.
- 4.2 The cumulative liabilities of the seven FE colleges as at 31 March 2022, assessed on a valuation funding basis, amounts to £269.5m, set against the whole fund liability position of £10,362m which equates to 2.6% of the total fund liabilities.

5.0 LEGAL IMPLICATIONS

- 5.1 The reclassification of FE colleges into the central government sector is likely to result in the FE sector being encompassed within the current His Majesty's Treasury (HMT) consultation on public sector exit payments, applicable to all entities that are classified as 'Central Government' bodies.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The reclassification of the FE colleges from the private to the central government sector will bring the FE sector within the scope of the Fair Deal Pensions Guidance for Staff Transfers from Central Government .

This sets out standards of practice for staff who are compulsorily transferred from the public sector, in that they should be offered continued access to the public service pension scheme rather than being offered a broadly comparable private pension scheme.

7.0 RELEVANT RISKS

7.1 The Fund instructed the actuary to calculate provisional contribution schedules for FE sector employers, providing appropriate mitigation as to the risk of delay in finalising the valuation. This plan, also assisted the colleges with their medium-term budgetary planning with regard to cash commitments to the LGPS over the inter-valuation period.

8.0 ENGAGEMENT/CONSULTATION

8.1 The Fund Actuary and Officers commenced early engagement with the FE sector employers to achieve insight into individual circumstances, to manage risk and to set appropriate funding plans. The Government response to the reclassification of the FE sector will be taken account of in finalising the funding strategy for colleges.

9.0 EQUALITY IMPLICATIONS

9.1 Department for Levelling Up, Housing and Communities (DLUHC) and the Pensions Regulator undertake equality impact assessments regarding the provisions of the LGPS Regulations and the administration and governance of public service pension schemes.

The Equality Statement published on the introduction of the Local Government Pension Scheme 2014 can be viewed at: <https://mpfund.uk/lgpsequalitystatement>

DLUHC and HMT undertake equality impact assessments with regard to the statutory reform of the public sector pension schemes and LGPS.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The Fund continues with its digital strategy across all operational areas and communications with stakeholders, with the aim to improve service delivery and to reduce its internal carbon footprint.

10.2 The Fund's strategic asset allocation to low carbon equities and renewable energy opportunities is monitored by Pension Committee which informs the derivation of the discount rate for the appropriate investment bucket applicable to employers with similar characteristics when assessing the present value of the liabilities and contribution rates.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are none directly arising from this report.

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BACKGROUND PAPERS

**Further Education Reclassification: Government response-
Published 29 November 2022**

<https://www.gov.uk/government/publications/further-education-reclassification/further-education-reclassification-government-response#:~:text=Following%20the%20reclassification%2C%20colleges%20and,and%20other%20central%20government%20guidance>

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Standing Agenda Item	28 September 2022