

Councillor R. Phillips
Chair, Scheme Advisory Board
Local Government Association
18 Smith Square
Westminster
LONDON
SW19 3HZ

Lincolnshire County Council
County Offices
Newland
Lincoln LN1 1YL

Tel: [REDACTED]

Ref: EmpConts

Date: 27 July 2021

Dear Councillor Phillips

EMPLOYER CONTRIBUTIONS

I am writing to you in my role as Independent Chair of the Lincolnshire Local Pension Board. One area that our Board takes a very keen interest in is in ensuring that all employers in the Lincolnshire Pension Fund are meeting their statutory requirements in terms of paying over contributions and submitting correct data to the administrator. Generally compliance is very good, however there are a very small number of employers that appear to be incapable of towing the line.

Officers of the Fund have been in meetings with other partner funds within the Border to Coast asset pool to discuss the common issues they have with this very small number of problem employers, some of which are common across funds. I have detailed below the issues that they are finding, and would expect this to be an issue across all funds within the LGPS, as they are within the funds of Border to Coast.

I thought it would be useful to bring this to your attention so that you could consider whether there is any guidance or additional actions that could be taken to assist funds in dealing with this small minority of employers that take up a disproportionate amount of the administrator's time and that can leave their members without access to up-to-date information on their pension record.

These are generally companies that have taken staff through TUPE from academies, when outsourcing their catering or cleaning, therefore are generally just a few members transferring to the new admitted body.

The common issues are:

- 1) Late payment of contributions
- 2) Late submission of monthly or year-end data
- 3) Late payment of secondary (deficit) contributions

- 4) Late/delayed signing of the admission agreement
- 5) Late/delayed bond agreements being put in place

Despite regular contact, training offered, reminders of their responsibilities and even threats of reporting to TPR, there is often little or no improvement, and just an on-going battle each month.

Within the regulations, aside the nuclear option of termination of the admission agreement, the only option that funds have is in regulation 70, as set out below:

Additional costs arising from Scheme employer's level of performance

70.—(1) This regulation applies where, in the opinion of an administering authority, it has incurred additional costs which should be recovered from a Scheme employer because of that employer's level of performance in carrying out its functions under these Regulations.

(2) The administering authority may give written notice to the Scheme employer stating—

(a) the administering authority's reasons for forming the opinion mentioned in paragraph (1);

(b) the amount the authority has determined the Scheme employer should pay under regulation 69(1)(d) (payments by Scheme employers to administering authorities) in respect of those costs and the basis on which the specified amount is calculated; and

(c) where the administering authority has prepared a pension administration strategy under regulation 59, the provisions of the strategy which are relevant to the decision to give the notice and to the matters in sub-paragraphs (a) or (b).

Some funds do and have issued fines, however employers have at times refused to pay, and the cost of taking it through the court system is disproportionate to the amount of the fine, therefore we funds are somewhat limited in the stick that they can wield.

The funds will be taking this to the National Technical group for discussion, and also taking legal advice as to whether charges can be made to the ceding employer when their contractor fails to fulfil their responsibilities.

As mentioned above, I should be grateful if you would give this some consideration, to see if there was some scheme wide guidance or advice that could assist funds with this concern.

Yours sincerely

Roger Buttery
Independent Chair of the Lincolnshire Local Pension Board

This page is intentionally left blank