



Liverpool  
City Council

# Schools Finance Handbook

**Schools Finance**

**Version Sept 2021**



## Contents

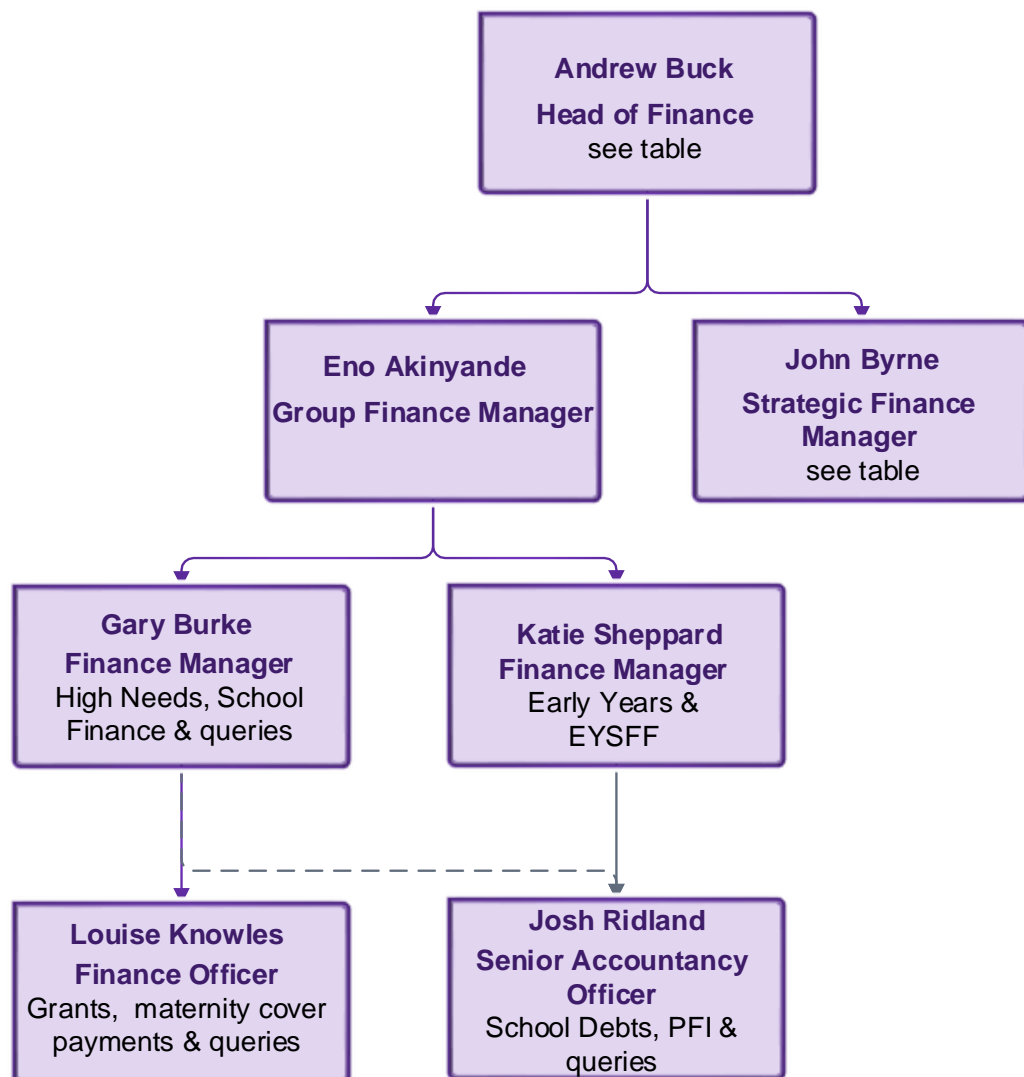
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# 1 Statutory Functions

Function	Description	LCC Finance	School Improvement Liverpool
Budget	<ul style="list-style-type: none"> <li>Calculate School Budget Allocation</li> <li>In year redetermination</li> <li>Manage funding allocations at authority level</li> </ul>	<p>X</p> <p>X</p> <p>X</p>	
Closedown	<ul style="list-style-type: none"> <li>Pack preparation – MSE, debtors and creditors</li> <li>Out-turn invoices</li> <li>School balances calculation</li> </ul>	<p></p> <p></p> <p>X</p>	<p>X</p> <p>X</p>
Schools in Deficit	<ul style="list-style-type: none"> <li>Coordination, meetings and monitoring</li> <li>Support in production of deficit recovery plans</li> <li>Cashflow production</li> </ul>	<p>X</p>	<p>Traded</p> <p>Traded</p>
Statutory Returns	<ul style="list-style-type: none"> <li>SFVS</li> <li>Budget submission</li> <li>CFR</li> </ul>	<p>X</p> <p>X</p>	<p>X</p>
Grant	<ul style="list-style-type: none"> <li>Payment to schools</li> <li>Dealing with queries</li> <li>Maternity payments</li> </ul>	<p>X</p> <p>X</p> <p>X</p>	

Statutory Guidance	• Scheme of Financing Schools	X	
	• Financial Guidance	X	
Queries	• School debt repayment out-turn	X	
	• PFI Statement	X	
	• Excess balances	X	
	• Schools in deficit	X	

## 2 Team Structure



Post	Roles
Head of Finance	Deputises for Section 151 officer  Pensions, flexible retirement  TUPE transfer & contract changes  Approvals (notice of concern, schools in deficit)
Strategic Finance Manager	Schools Forum  Statutory finance advice  School Funding Consultation  School funding changes and updates

To contact the schools finance team:

Email: [schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk)

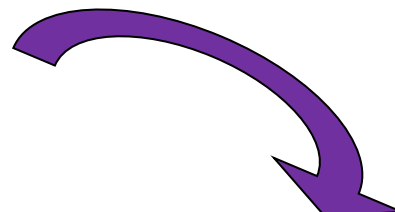
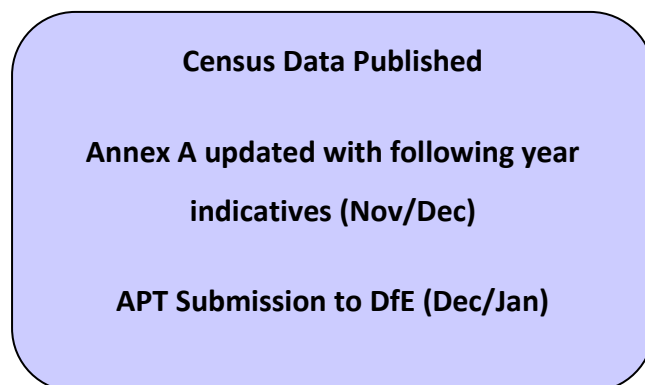
Phone: 0151 233 0384

For specific early years queries: [EarlyYearsFin@liverpool.gov.uk](mailto:EarlyYearsFin@liverpool.gov.uk)

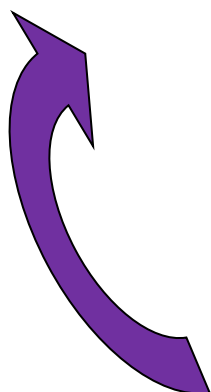
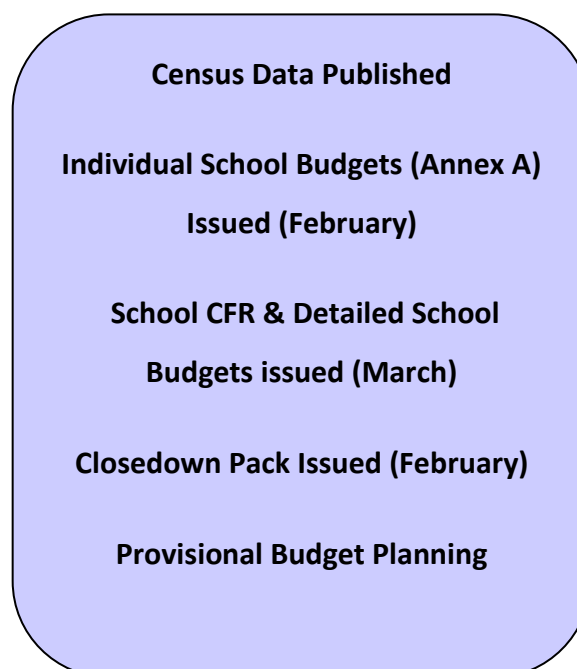
### 3 Calendar 2021-2022

#### Finance Cycle

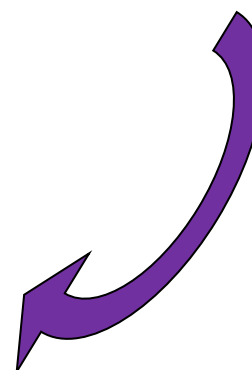
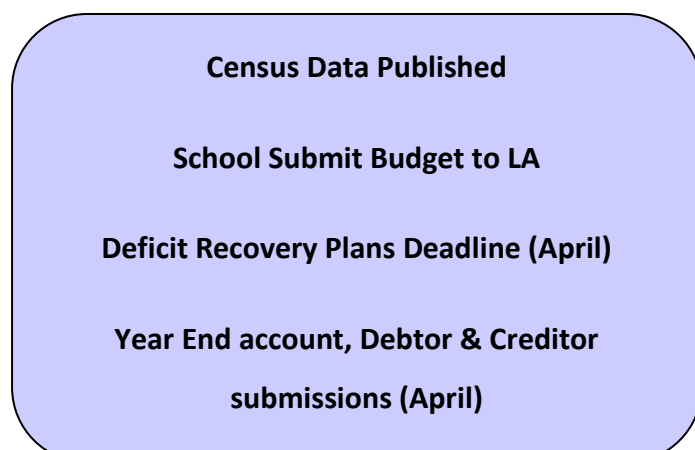
##### Autumn Term



##### Spring Term



##### Summer Term



**Please note dates are subject to change from the DFE**

	April	May	June
<b>Statutory</b>		SFVS Return deadline 28 <sup>th</sup> May	Submission of School Budgets 30 <sup>th</sup> June
<b>Grants</b>		PE & Sports - Term 3 Payment W/c 3 <sup>rd</sup> May  Covid 19 Mass Testing - Ph1 W/c 3 <sup>rd</sup> May  Covid 19 Workforce Fund W/c 3 <sup>rd</sup> May  Teachers Pay Grant (nursery & 6 <sup>th</sup> form) - Apr-Aug W/c 3 <sup>rd</sup> May  Teachers Pensions Grant (nursery & 6 <sup>th</sup> form) -Apr-Aug W/c 3 <sup>rd</sup> May	Covid 19 Catch Up Premium – 20/21 3 <sup>rd</sup> Payment W/c 1 <sup>st</sup> June  Covid 19 Mass Testing - Ph1 W/c 1 <sup>st</sup> June  Pupil Premium – 1 <sup>st</sup> Payment W/c 5 <sup>th</sup> July  Universal Infant Free Schools Meal W/c 5 <sup>th</sup> July
<b>Other</b>	Estimated PFI Statement 21-22		

	July	Aug	Sept
<b>Statutory</b>	CFR Return		
<b>Grants</b>			



	Oct	Nov	Dec
<b>Statutory</b>			
<b>Grants</b>	Pupil Premium – 2 <sup>nd</sup> Payment W/c 4 <sup>th</sup> Oct	PE & Sports Term 1 & 2 W/c 1 <sup>st</sup> Nov	

	Jan	Feb	Mar
<b>Statutory</b>			Year End Returns
<b>Grants</b>	Pupil Premium – 3 <sup>rd</sup> Payment W/c 3 <sup>rd</sup> Jan		PE & Sports Newley Eligible - TBC
<b>Other</b>			Final PFI Statement 21-22

## 4 Procedures

### 4.1 Additional Cash Advance (V1 Dec 2020)

#### **Purpose of Document**

Following on from discussions held with schools, the current process for applying for additional cash advances for maintained schools has been updated. This document has been produced to provide clarity to schools, on the updated process for applying for cash advances.

#### **Background**

If schools are experiencing short term cash flow issues (i.e. in current financial year), the Local Authority may agree to provide a cash advance to schools. Any cash advances approved by LCC would be recovered from the school in either the current financial year or the next financial year.

#### **Application Process for Cash Advances**

To ensure any cash advances are approved for payment, schools will need to complete a cash flow statement and complete a repayment plan template. This template should clearly specify the amount of cash advance required and when the cash advance will be repaid back to LCC. Cashflows and payment plans should be sent through the Schools Finance Mailbox. It is vital for schools to indicate when the additional cash will be repaid back to the Local Authority.

To request templates please contact - [Schools.Finance@liverpool.co.uk](mailto:Schools.Finance@liverpool.co.uk)

Once cash advance requests are received by schools, they will be reviewed on a case by case basis by Schools Finance. If necessary, further discussions may be required to be held requesting schools before any cash advance approvals are given. This will allow the Local Authority to recover the cash advances over an agreed time period. These discussions will be documented and will require sign off by the Headteacher and Chair of Governors. Once agreed cash advance requests

are approved, they will be paid out by Schools Finance in due course. Schools and Finance officers will be notified of pending payments accordingly.

Any queries, please forward to - [schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk)

## 4.2 Deficit Recovery

### Contents

Section	Heading
1	Identification of school in financial difficulty
2	Working with school in financial difficulty
3	Application for a Licensed Deficit
4	Deficit Recovery Action Plan
5	Cash flow forecast
6	Local Authority intervention

## Introduction

This is a supplement to the current Liverpool Scheme for Financing Schools (approved by School Forum in July 2019) and the Schools Financial Regulations, which requires a school to maintain a balanced budget.

### **Section 1 – Identification of Schools in Financial Difficulty**

What does “financial difficulty” mean?

A school is defined as being in “financial difficulty” when either or both the following circumstances occur:

- If the school plans to be in a cumulative deficit in the current financial year when setting its first annual budget.
- If the school forecasts that it will be in a cumulative deficit in the current financial year following an in year review of its budget unless remedial action is undertaken.

### **Why is it important?**

- The Schools Financial Regulations require that all schools maintain a balanced budget. However, regulations also recognise that circumstances may mean that this is not always possible, so provision is made for the Authority to agree a “**Licensed Deficit**” with the school.
- A Licensed Deficit is an agreement between the school and the Authority. The school specifies the actions it proposes to take to return its budget to balance, and the timetable for their implementation. This is known as the **Recovery Plan**.
- The proposed approach supports schools in preparing a recovery plan and implementing it.

## **The Process of Identification**

- Ideally, the process should start by the school formally notifying the Local Authority that, as a result of internal budget setting or monitoring, it is planning or forecasting a cumulative deficit position. This notification should be addressed to the Head of Finance (Adults and Children's Services), and should acknowledge the situation and seek an early meeting to discuss the formulation of a Recovery Plan.
- The Local Authority has its own arrangements to monitor schools budgets based on the reporting requirements in Schools Financial Regulations. On the basis of these arrangements, the Authority may detect that a school is in financial difficulty, and has neither notified the Authority, nor has an existing Licensed Deficit in place. In this case, the Authority would write to the school upon detection to request the school comply with the requirement for a Licensed Deficit.
- The key to successfully 'Recovering the Deficit' is early identification of potential financial difficulties, followed promptly by consideration of what the school needs to do to return its budget to long-term financial balance.

## **Section 2 – Working with schools in financial difficulty**

- The ultimate responsibility for formulating a recovery plan proposal lies with the Head teacher and the Governing Body of the school. Each school has its own arrangement for financial support. When formulating a recovery plan, it is vital that the school engages with its financial support partner at an early stage in the process.
- It is also recommended that the school consider involvement from other contacts in the formulation of the recovery plan, the School Improvement Partner for example, so that educational standards are not compromised. Also, if employment issues are involved, Management Support (Human Resources) must also be involved.

Every school will have its own unique circumstances and problems, but in working through the process of formulating a recovery plan, the school and its advisers should cover the range of issues listed below.

- A clear understanding of why the budget problem has arisen e.g. Is it as a result of a single event or some underlying ongoing situation?
- Are the forecasts of income and expenditure underlying the identified deficit robust?
- Does the school's expenditure pattern differ significantly from others of similar size and profile of needs? This may inform the areas where cost savings may be sought. This should include an analysis of use of staffing and consideration of alternative ways of organising the school. Does the school maximise income from lettings and other local sources?
- Has the school identified a series of proposed actions that will return the budget to balance? Are these specific, measureable, realistic, achievable and time bound?
- Has the school robustly projected income and expenditure, incorporating the proposed actions, for each year until the budget returns to balance? In particular, are any pupil number forecasts robust?
- Has the school identified the risks inherent in their proposed actions, and what steps have been put into place to minimise the impact of these risks?
- What specific monitoring arrangements have been put into place so that the Governing Body can monitor the successful fulfilment of the recovery plan?
- The Governing Body should formally consider and endorse the recovery plan prior to submission to the Authority.
- The over-riding consideration is to formulate a plan that:
  1. Returns the school to a sustainable position of cumulative surplus as soon as possible,
  2. Does not compromise educational standards
- It is worth noting that this list broadly corresponds to the issues to be included in the ultimate application to the Authority for a Licensed Deficit and Deficit Agreement, and the criteria the Authority will use to consider the application.

### **Section 3 - Applying for a Licensed Deficit (section 4.10 of the scheme of financing schools)**

To apply for a Licensed Deficit, a school must write formally to the Head of Finance (Adults and Children Services) and Director of Children Services (DCS) and send it through the school finance mailbox - [Schools.Finance@liverpool.gov.uk](mailto:Schools.Finance@liverpool.gov.uk) prior to;

1. Approving their **annual budget**, any application should be received by no later than 30th April 2022 so it can be considered prior to the school setting its budget by the required deadline of 30th May 2022.  
OR
2. When **Subsequent budget changes** following an updated review of the budget shows that school will produce a cumulative deficit by the end of the current financial year.

The letter must include an attachment detailing the following information:

- A completed 'Schools Licensed Deficit Application'  
To request a form please contact - [Schools.Finance@liverpool.co.uk](mailto:Schools.Finance@liverpool.co.uk)
- A full description of the circumstances leading to the forecast or planned cumulative deficit or why the deficit is anticipated.
- Demonstrate via Deficit Recovery Action plan that the budget will be brought into balance over a period of up to three financial years
- A description of the steps the school intends to take to reduce expenditure and / or increase income so as to return their budget to balance. This should include costings and other relevant calculations. In addition, the planned timing of implementation should be made explicit.
- An assessment of the risks associated with these planned actions, and the steps taken by the school to mitigate these risks.
- The amount of cash required to finance the deficit stated in a cash flow forecast identifying the additional cash advance and repayment of funds

To request a cash flow forecast please contact - [Schools.Finance@liverpool.co.uk](mailto:Schools.Finance@liverpool.co.uk)



### **Note: Approach for schools with small one-off deficit**

It is recognised that some schools may have gone into a small deficit at 31st March 2022 or are projecting a small deficit at 31st March 2022 but will recover from that the following year and return to surplus. Therefore, any school either currently with or projecting a deficit at the end of 2021-22 of the greater of £20,000 or 1% of the school budget allocation does not need to undertake the full deficit recovery process outlined above. Any schools in this position should outline email the Head of Finance (Adults and Children Services) via the email [Schools.Finance@liverpool.gov.uk](mailto:Schools.Finance@liverpool.gov.uk) prior to setting their budget. Schools should attach a copy of their 3 year budget showing the schools return to a surplus position within 12 months and giving a brief explanation of the reason the school has incurred a small deficit.

Any other school will need to complete the deficit recovery process. The review process will usually involve a visit to the school by a member of the Local Authority (LA) Finance Team. The next step in the process is that the school will receive a Deficit Agreement form from the Authority. The Agreement Form will be signed by the LA Section 151 officer or their nominated deputy. The Deficit License will only be activated when the Headteacher and the Chair of Governors sign the form on behalf of the School; and then return the original agreement form.

When the Authority receives the final signed agreement and the repayment schedule of cash advance (from agreed deficit), and deficit recovery plans. The LA will monitor any significant deviation from the deficit recovery plans on a regular basis and any amendments will require LA approval.

## **4. Deficit Recovery Action Plans**

The School Headteacher, Senior Leadership team and school governors are responsible for the completion, implementing actions, monitoring and reviewing of the recovery plan. This should be a standing agenda item for the meeting and to

submit copies of the minutes to LA finance Team. The LA will monitor the progress of all live recovery plans.

To request a Deficit Recovery Action please contact -  
[Schools.Finance@liverpool.co.uk](mailto:Schools.Finance@liverpool.co.uk)

## **Step 1: Financial Assessment, Support and Challenge**

Financial advice will be available to support schools in the form of:

- Recovery Planning Meetings, in most cases once every term, however this will be arranged in line with individual school issues
- Production of regular cash flow forecasts, at least once every term
- Prior to the submission of the recovery plan, the following checks will be completed by the Authority to ensure that the plan is reasonable:
- Actions included in the recovery plan are realistic and will generate the required level of savings
- Any areas that are unclear or not achievable will be queried with the school.

## **Step 2: School Recovery Plan Monitored**

- The school must submit regular updates to the recovery plan at termly intervals until a return to surplus.
- Any significant deviation should be reported to the LA as soon as possible and a revised action plan to get back on track within the existing agreement.
- All agreements and any renegotiation of the agreement must be approved the Authority.

If the school returns to a cumulative surplus then the license will be formally declared expired and the Authority will notify the school in writing.

## **5. Cash flow Forecast**

This is to indicate the additional cash advance (deficit funding) required for the financial year and forecast the repayment of cash advance (arising from the deficit), showing the timing of major cash receipts and payments.

To request templates please contact - [Schools.Finance@liverpool.co.uk](mailto:Schools.Finance@liverpool.co.uk)

## **6. LA Intervention**

LA intervention will apply where:

- School will not engage in the deficit recovery process
- Deficit is worsening and no action is being taken by the school

### **Levels of Intervention**

#### **Level 1 – Financial Review Meeting**

Financial review meeting with the Director of Finance (or nominated deputy) and Director of Children Services (or nominated deputy) with the Headteacher and Chair of Governors.

#### **Level 2 – Notice of Concern – Final warning**

If a school continues to refuse to take the necessary action will be required to attend a notice of concern meeting with Senior LA Officers. They will be given a formal notice of the action the LA recommends they should take to bring budget back in to balance. The school will have to adhere to the deadlines as specified in the notice of concern.

### **Level 3 – Withdrawal of delegation or Interim arrangement**

Where a school is unable or refuse to take action identified by the Authority, the decision will be to suspend delegation following a meeting with the Director of Children Services. The Authority will exercise its powers to take back control of the school budget and seek to take the necessary action to return the school to financial balance before returning control to the Governing Body. During the suspension school staff would be responsible to the Authority for the day to day financial administration in the school. Depending on the severity of deficit, further actions may be required.

## 4.3 Out-turn Settlement Recovery

### Overview

#### **Purpose of Document**

This document has been produced on behalf of all schools. It aims to clearly outline the process of out-turn settlements, and to support schools in the recovery of out-turn settlement invoices.

The process is split into two scenarios; Schools with an outstanding out-turn settlement invoice that are reporting a cashflow surplus, and schools with outstanding out-turn settlement invoice that are reporting a deficit cashflow balance.

#### **Schools in surplus**

A statement listing all outstanding settlement bills summarised by financial year will be issued to each school. This will be accompanied by a repayment plan template to be completed by each school. Schools Finance will provide a deadline for all templates to be completed and submitted.

Alternatively, all schools have the option to request for their out-turn settlement to be recovered via a deduction from their cash advance. This request can be sent to the Schools Finance mailbox - [schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk).

#### **Schools in deficit**

As per the deficit recovery procedures all schools are required to submit a signed licensed deficit application, repayment plan and deficit recovery plan. However, discussions will be held with individual schools to commence the recovery of outstanding amounts. These discussions will be documented and will require sign off by the Headteacher and Chair of Governors.

Any queries, please forward to - [schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk)

## 4.4 Maternity Grant

### Overview

#### Purpose of Document

To provide guidance on the process of claiming for maternity grant.

#### Background

The grant is dedelegated from the School Block in agreement with School Forum. It is a grant that schools, special schools and nurseries can apply for to offset cover costs for teachers on maternity leave, paternity leave and statutory adoption leave up to £4,725. The amount payable will be reduced pro rata for part time teachers e.g. 0.6 FTE get 60% of £4,725.

#### Grant Claim Process

Once a school has been informed a teacher is to go on maternity leave and received a copy of the MATB1 the Maternity Claims form needs to be completed.

The information required on the claims form includes

- Name and oracle number of teacher on maternity leave
- Teachers FTE (the amount of grant is pro rate depending on FTE)
- Details of cover – payroll or agency. If payroll the name and oracle of the teacher covering is required.

The form and a copy of the MATB1 should then be forward to -

[schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk)

Once Schools Finance have confirmed the teachers has gone on maternity leave and if cover is through payroll is on payroll, the grant is paid approximately 18 weeks from the start of the maternity leave. You will receive an email notifying you of the payment.

Please contact [schools.finance@liverpool.gov.uk](mailto:schools.finance@liverpool.gov.uk) to request a copy of the claims form or if you have any queries.



## 4.5 Pensions

### A Briefing note for all Liverpool Schools

#### A brief guide to pensions and other related matters

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##### 1. Introduction

The Local Government Pension Scheme (LGPS) and the Teacher's Pension Scheme (TPS) have recently been amended. The aim of this note therefore is to advise schools of a number of important pension issues which have implications for both schools themselves and the City Council. It is recommended that schools familiarise themselves with the note and have regard to it at all times to ensure the proper administration of the pension schemes provided to their employees and to avoid potential breaches of legislation.

##### 2. Pension Fund Basics

Schools provide their employees with access to 2 pension funds: either the LGPS or the TPS.

It is usually up to each school to decide if an employee is eligible to join the TPS based on the role the person is employed in. Generally, if a person is involved in a role that is predominantly a teaching role, is 16 or over and is not over 75 then they should be enrolled into the TPS whether they work full or part-time.

If an employee does not meet the criteria to join the TPS then they will be entitled to join the LGPS provided they have a contract of employment for three months or more and are not more than 75 years of age. For employees with contracts of less than three months different rules apply (see section on auto enrolment).

Membership of both schemes is contractual and employees are not allowed to opt out of either scheme prior to taking up employment. It is currently an offence for an employer to discourage an employee from joining a pension fund or to provide incentives for them not to join.

Both schemes have recently been substantially reformed and details can be found at <http://www.lgps2014.org/> for the LGPS and for the TPS at <https://www.teacherspensions.co.uk/change2015>. Employees in both schemes will have received notifications about these changes and updates provided through the City Council's website. It is anticipated that those schools which have externalised their payroll function will have made their own arrangements, although the implications of this are considered later in the note.

### 3. Who is the Employer for pension purposes?

#### LGPS

For Community Schools the question of who is the employer is straightforward. The employer is the local authority.

This is not the case for non-community schools, i.e. foundation, foundation special or voluntary aided schools, where in accordance with s36 of the Education Act 2002 the Governing Body is responsible for employment matters, but is not responsible for pension matters as Part 4 of Schedule 2 of the LGPS Regulations 2013 places this responsibility with the **local authority** and not the governing body.

#### TPS

Similar provisions are also in place for the TPS, where Regulation 3 of the Teachers' Pension Scheme Regulations 2014 defines the term "employer", for a person employed by the governing body of a school maintained by a local authority, as the local authority and not the governing body. A school maintained by a local authority being: a community school; a foundation or trust school; a voluntary aided school and a voluntary controlled school.

#### What does this mean?

This legal clarification that the City Council is the employer for all pension matters has important consequences for both schools and the City Council. Whilst the governing body is the employer, it is the City Council that assumes responsibility for pensions matters and is held responsible for all issues of non-compliance by the Pension Ombudsman and Pension Regulator and who will deal with appeals relating to pension matters.

In order to ensure that pensions are properly administered therefore each employer is required to have robust procedures and policies in place to avoid potential breaches of legislation and maladministration which can lead to costly and time-consuming appeals. In practice this means that the City Council will expect that all schools will have proper arrangements in place to ensure that pensions are correctly administered. This will apply whether the school is a community school or a voluntary aided or foundation school and whether the school uses the in-house service or an external supplier for payroll and pension purposes.

### 4. Employer Responsibilities

In essence therefore, and irrespective of whether a school has outsourced its pay and pensions function or not, it is the City Council that is responsible for:

- Ensuring that deductions from salary for pension contributions are correct and that they are transferred to the scheme administrators by the appropriate due dates. This also applies to employer contributions. The scheme administrators being Merseyside Pension Fund (MPF) for the LGPS and Teachers' Pensions (TP) for the TPS.
- That information with regard to statutory pension returns and other information requests is provided in a timely manner. This enables appropriate pension records to be

maintained so that the right amount of pension is calculated for employees and accurate benefit statements produced.

- That all recruitment processes give due regard to pensions matters
- That a policy on discretionary pension decisions is approved, published and maintained and that arrangements are in place for making decisions relating to that policy.
- That the statutory provisions relating to Auto Enrolment are complied with
- That appropriate ill-health and sickness monitoring arrangements are in place so that employers can make decisions regarding early retirement due to ill-health.
- That the provisions relating to TUPE legislation are complied with, i.e. when staff are transferred to third party providers (mainly catering services for schools)
- That members are provided with or directed towards accurate information with regard to pension matters, i.e. how to apply for flexible retirement, how to make a complaint, etc.

Most of the above are undertaken on behalf of schools by the Council's in-house payroll and pensions department, however, this does not lessen the requirement that schools should follow proper procedures at all times and be aware of pension issues. For those schools that do not use the Council's payroll and pension service or the advisory services of SEAT (now part of SIL) then the City Council will expect that such schools will have robust arrangements in place to ensure that all pension matters are appropriately dealt with. Any breaches either of procedure or legislation may well result in the City Council having to deal with member appeals relating to the actions of schools and in some cases being fined and censured by the Pension Regulator and the Pension Ombudsman. The City Council may well seek to recover any losses from schools arising from such incidents.

Some of the employer duties referred to above are now considered in more detail below.

## **5. Discretionary pension policies**

### **LGPS**

The LGPS regulations allow employers to make a number of discretionary pension decisions, i.e. there is a choice as to whether to do something or not. Examples of discretionary decisions include the following:

- whether to grant flexible retirement
- , whether to award additional pension
- , whether to waive actuarial reductions arising from early retirement

A full list of discretionary decisions can be found <http://connect2hrp.liverpool.local/your-life-at-work/your-pension/employer-discretions/>.

The same regulations require the City Council to prepare and keep under review a written statement of its policies with respect to the application of these discretions.

Any complaints relating to discretionary decisions are considered under the City Council's Internal Dispute Resolution Procedure (IDRP). Details of these procedures are considered below.

The key point for schools to be aware of is that when making any decision under the allowed discretions that they will be doing so acting as the City Council and not as the school. As such, they must have full regard to the City Council policy at all times and it is anticipated that they will liaise with the Council's officers when making such decisions. Any costs arising from the exercise of a discretionary decision, such as a decision to award additional pension, will be met by the school and not the City Council.

## **TPS**

Employers do not have the same scope with the TPS for making discretionary decisions as with the LGPS. In the main, employers are limited to premature retirement decisions.

## **6. Dealing with pension disputes**

### **LGPS**

In addition to potential appeals arising from the exercise of pension discretions, appeals can arise from other employer decisions, i.e. a refusal to grant ill-health retirement. When a decision is made affecting a member of the LGPS it must be based on correct information and properly notified in writing to the individual concerned. Whilst there are no binding time limits under which decisions must be made the regulations state that they should be made as soon as is reasonably practicable.

If a member is not satisfied with any decision made in relation to their pension they have the right to ask for it to be looked at again under the formal complaints procedure. (They also have the right to use the procedure if a decision should have been made but this has not happened). The complaints procedure is termed the Internal Dispute Resolution Procedure (IDRP). The City Council's IDRP can be found at <http://connect2hrp.liverpool.local/your-life-at-work/your-pension/lgps-complaints-procedure/> .

The formal complaints procedure has two stages:

**First stage complaint:** when a 1<sup>st</sup> instance decision is delivered (i.e. a refusal to grant flexible retirement), the pension fund member should be advised in writing that they can appeal the decision and that any appeal must be made within 6 months of the day they were advised of that decision (although that in itself is subject to discretion) and that it will be reviewed under stage 1 of the IDRP.

The complaint will then be considered carefully by the person specified by the employer to do this. This person is known as "the Adjudicator" and Mel Creighton, Director of Finance and Resources, performs this function for Liverpool City Council. The Pensions Liaison Officers (Richard Arnold/Anne Green 233 0375) will, acting on her behalf, request all information and documentation relating to the initial decision and the matter will be fully investigated. In the case of ill health retirement, a 2<sup>nd</sup> medical opinion will normally be sought. The decision of the Adjudicator will then be provided to the member in writing.

If the Adjudicator's decision is contrary to the decision complained about, then the complaint is upheld and the matter must be dealt with in accordance with the Adjudicator's decision. If the decision complained about concerned the exercise of an employer discretion, the

Adjudicator can decide that a review of how that discretion was exercised is appropriate and it will therefore be necessary to reconsider the original decision.

If the Adjudicator's first-stage decision does not uphold the appeal then the decision should also include details of how the member may take their complaint forward to the next stage within 6 months of notification of the decision.

**Second Stage complaint:** the 2<sup>nd</sup> Stage appeal is considered by the pension scheme administering authority (MPF). The member will need to contact MPF in writing (within 6 months) and the review will then be undertaken by a person not involved in the first stage decision.

MPF will request all information pertinent to both the initial decision and the 1<sup>st</sup> stage appeal and will consider the complaint. They will then provide their decision in writing. If the member is still unhappy following the administering authority's second stage decision, they can take the case to the Pensions Ombudsman provided they do so within 3 years of the date of the original decision.

Note that an LGPS member can ask someone else to take their complaint forward on their behalf. This could be a colleague, trade union official or a representative of the pensions Advisory Service (tPAS). At no point can a charge be made to the member for investigating a complaint under the IDRP.

At all stages of the appeal process it is essential that the member is informed that they have the right to contact the Pensions Advisory Service (tPAS) for free advice and information about their rights and responsibilities.

### **Pensions Ombudsman**

If the dispute remains unresolved after exhausting the IDRP then the member can involve The Pensions Ombudsman who investigates complaints and settles disputes about pension schemes.

The Pensions Ombudsman is an independent body and acts as an impartial adjudicator. Their role and powers have been decided by Parliament. There is no charge for using the Pensions Ombudsman's services. The Ombudsman cannot investigate matters where legal proceedings have already started but, subject to that, they can settle disputes about matters of fact or law as they affect occupational pension schemes. They can also investigate and decide any complaint or dispute about maladministration, i.e. the way in which a decision is taken. Examples of maladministration would be unreasonable delay, neglect, providing incorrect information, not adhering to procedures and discrimination. The Ombudsman's decision is final and binding on all the parties, subject to any appeal made to the High Court on a point of law.

### **TPS appeals**

There is a two-stage procedure for dealing with complaints and disputes. The process is member driven with the first stage considered by Teachers Pensions and the second stage by the Department for Education. The Pensions Ombudsman will consider complaints once the two stage procedure has been exhausted. Further details of the procedure can be found

[https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwj45Yvp2JfKAhWC2T4KHWHjALkQFggoMAI&url=https%3A%2F%2Fwww.teacherspensions.co.uk%2F-%2Fmedia%2FFiles%2FDocuments%2FStakeholders%2FComplaints%2520and%2520Disputes%2520Leaflet.ashx&usq=AFQjCNEzzwW\\_qJLRDcOQ6IRXO1JO1QH6Dg&bvm=bv.110151844.d.bGg](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwj45Yvp2JfKAhWC2T4KHWHjALkQFggoMAI&url=https%3A%2F%2Fwww.teacherspensions.co.uk%2F-%2Fmedia%2FFiles%2FDocuments%2FStakeholders%2FComplaints%2520and%2520Disputes%2520Leaflet.ashx&usq=AFQjCNEzzwW_qJLRDcOQ6IRXO1JO1QH6Dg&bvm=bv.110151844.d.bGg) .

It is essential that schools have regard to the complaints procedure at all times and seek appropriate guidance if in doubt about any aspect of a decision. Failure to follow proper procedures is the biggest cause of maladministration and invariably results in time consuming investigations and often compensatory damages even if the original decision is not changed. It is the City Council that will have to deal with the complaint and any financial consequences. Schools may well be asked to reimburse the City Council for any losses incurred.

## **7. Staff Transfers (TUPE)**

When schools transfer employees to another employer as a result of an out-sourcing or retendering exercise then the employees affected fall within the Transfer of Undertakings Protection of Employment (TUPE) legislative requirements.

In local government TUPE provisions are covered by the Best Value Staff Transfers (Pensions) Regulations 2007. In brief the regulations apply so that:

- where the transferring employer (the school) offers employees access to a pension scheme (LGPS or TPS) the receiving employer (the contractor) must offer a broadly comparable pension
- this is achieved if the transferring employees, after the transfer, have similar or better pension rights they had as employees of the school

For the LGPS, the contractor can request admitted body status with the scheme administrator (MPF) so that the transferred employees can remain in the LGPS. However, prior to any agreement there must be a risk assessment undertaken by an actuary to determine the impact of early termination of the agreement, and depending on the level of risk, the contractor may be required to provide an indemnity or bond in mitigation. In all instances, MPF will ask the Council (as the employer) to act as guarantor to the admission agreement.

Before the admission agreement is entered into the financial implications need to be understood by the contractor. This will include an assessment of the new employer's contribution rate and the treatment of any earlier year's pension deficit. An actuary will determine the financial implications and a charge will arise on completion. These costs are usually borne by the entity transferring the staff.

In the case of non-LGPS pensions, a broadly comparative guarantee can be provided by the Government Actuary Department (GAD) who will issue a "passport" establishing broad comparability to the original pension fund.

With regard to timescales, a comparable pension must be in place on the day that the transfer takes place. Therefore the pension arrangements may have an impact on the date of the transfer. It can take between two to six months for an admission agreement to be put in place.

As the City Council will invariably be asked to provide a guarantee by MPF for all school outsourcing to third parties then schools must contact the City Council at the earliest opportunity. Whilst the Director of Finance and Resources has delegated power to provide such a guarantee, it will only be provided after due consideration of risk. If schools do not inform the City Council prior to awarding a contract then no guarantee can be provided and

this will at best severely delay the admission process and could possibly be brought to the Pension Regulator's attention. For schools that purchase services from SEAT then they should contact their SEAT support officer. All other schools should contact Richard Arnold either by phoning on 0151 233 0375 or email at [Richard.arnold@liverpool.gov.uk](mailto:Richard.arnold@liverpool.gov.uk).

## **8. Ill-health retirement**

### **LGPS**

If a pension fund member has to give up work because of illness, they may qualify for an ill-health pension. To qualify for an ill-health pension, an Independent Registered Medical Practitioner (IRMP) appointed by the employer, must be satisfied that the member is permanently unable to do their job due to ill-health until normal pension age and that they are not capable of undertaking any gainful employment.

Normal pension age is linked to state pension age (with a minimum of age 65). Gainful employment is defined as paid employment for not less than 30 hours a week for a period of not less than 12 months. Ill-health benefits can be paid at any age and are not reduced on account of early payment, and in certain circumstances, an enhanced pension may be awarded.

When an ill-health pension is awarded there are 3 tiers of award:

**Tier 1:** Immediate benefits are payable for life. The decision is based on the employee being medically certified as unlikely to be capable of undertaking gainful employment before normal pension age. Tier 1 benefits are based on a full accrual of pension to normal pension age.

**Tier 2:** Immediate benefits are payable for life. The decision is based on the employee being medically certified as unlikely to be capable of gainful employment within three years of leaving, but likely to be capable of doing so before normal pension age. Tier 2 benefits are based on the pension built up at the date of leaving plus 25% of the pension the member would have built up to normal pension age.

**Tier 3:** Immediate time limited benefits are payable (maximum of 3 years). The decision is based on the employee being medically certified as being incapable of carrying out the duties of their employment but are considered likely to be capable of gainful employment within three years of leaving. Tier 3 benefits are based on the pension built up at the point of leaving with no enhancements. All Tier 3 decisions are subject to an 18 month medical review (arranged by the employer). Where a member is considered to be in employment during the term of the tier 3 pension award the employer may seek to recover any ill-health pension payments made during the period of that ill-health pension

Note that in the case of the LGPS, where a member has entered into a nil pay situation arising from prolonged absence due to sickness they are still considered to be in pensionable service and pension benefits are calculated using assumed pensionable pay.



## **TPS**

Ill-Health retirement benefits may be payable if a member becomes permanently unfit to teach due to illness before reaching normal pension age. The ill-health retirement procedures are very different for teachers with less involvement by employers. In the TPS the ill-health retirement process is driven by the member and not by the employer although it is anticipated that schools will have obtained medical reports from occupational health professionals as part of the absence management procedures. In the TPS the teacher member must make their own application to TP to receive an ill-health pension.

Schools should be aware though that a prolonged period of sickness absence that results in a nil pay situation can be detrimental to the member's pension. For purposes of TPS administration a period of nil pay equates to an "out of service" period. Should a member then unfortunately die whilst in a nil pay situation and still employed by the school they will not be entitled to a death in service pension. This will lead to the member's dependents receiving a substantially lower pension than would otherwise have been the case. Schools are strongly urged therefore to maintain robust sickness procedures as any failures in the application of those procedures that have pension implications can lead to appeals and possible fines which the City Council may well have to pay.

### **General points**

In the context of ill health retirement, the role of the employer begins a long time before employment is terminated and the question of entitlement to an ill health retirement benefit arises. In the majority of instances ill-health retirement will arise out of the organisations sickness or absence management policy and will involve the services of Occupational Health.

In all instances the proper application of the absence management policy is recommended as any failures can have implications for both the member's pension benefits and the employer.

### **Appeals**

All decisions made by the employer relating to ill-health retirement can be appealed. This can include the actual decision itself not to award a pension and also the tier at which the pension is awarded. Appeals will be made to the City Council's adjudicator / Pension Liaison Officer (see above for appeals process) in the case of the LGPS. Ill-health retirement appeals relating to the TPS are made to TP and further details of the process can be found <https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCEQFjAAahUKEwiuksXamqHIAhXC0hoKHWs3Dkl&url=https%3A%2F%2Fwww.teacherspensions.co.uk%2F~%2Fmedia%2FFiles%2FDocuments%2FStakeholders%2FIllhealthretirement%2520appeals.ashx&usq=AFQjCNED2d2CyEXQyUEEkRR9peTChk0cVQ> (open PDF document).

Note that where a pension fund member is currently being assessed as to whether they can receive their pension and a decision is then made to terminate their employment either by



mutual agreement or through capability then any appeal is likely to be on the basis of them being an employee (first stage decision) and not as a leaver.

Ill-health LGPS retirement applications can also be received from former employees (deferred members). These are dealt with by the Pension Liaison Officer in the first instance.

## **9. Auto Enrolment**

The Pension Act 2008 requires all employers to automatically enrol (AE) their staff into a workplace pension scheme and make contributions. Note that the legislation governing AE is different to that which regulates the administration of the LGPS and the TPS. Consequently, any employer failures associated with AE are the fault of the employer and this will not be the City Council for non-community schools. This is in contrast to pension administration issues where the employer is always the City Council. Failure to comply with auto enrolment legislation can lead to censure and fines.

The date from which AE applies (the staging date) was 1 March 2013 for the City Council. The same date applied to all schools sharing the Council's PAYE reference number. For those schools with separate PAYE numbers the staging date may be different. Every three years employers are required to AE employees back into a pension scheme if they have opted out. For Liverpool City Council the re-enrolment date was 1 March 2016.

AE does not apply to all employees. To qualify an employee must:

- Be at least 22 years old but under state pension age
- Earn more than the minimum earnings threshold (currently £10,000 pa)

Employees who do not meet this criterion do not have to be auto-enrolled but given the option to elect to join the pension scheme.

## **LGPS**

The City Council already applies a form of AE (to those employees whose contracts are longer than 3 months) through contractual enrolment regardless of age and earnings. Employees cannot opt out before taking up employment.

If an employee wants to opt out of the scheme, they must contact MPF directly who will then provide the necessary opt out forms in a format prescribed by the Pensions Regulator

If a qualifying employee opts-out of the pension scheme their employer will be required to automatically re-enrol them every three years, although they can choose to opt-out again.

However, due to legislative conflicts between contractual enrolment and auto-enrolment, the City Council has to monitor its workforce to ensure that employees who previously did not qualify for AE (say for age and earnings) and who are currently not in a pension fund are AE'd the moment they meet the criteria.

Under current LGPS regulations only those workers with a contract of three months or more are contractually enrolled, however, the LGPS regulations have been amended so that employees with contracts of less than three months (casual workers), whilst not contractually

enrolled are given the option of joining. However, in order to remain compliant with AE legislation the employer is required to issue an AE postponement notice each time that they work. If the postponement notice was not issued then the LGPS would not meet the requirements as a qualifying scheme. An example postponement notice can be found at appendix A.

## **TPS**

The TPS regulations require that all employees whose main role is teaching and are aged over 16 and under 75 are contractually entered into the Scheme. Employees can choose to opt out of the Scheme once they have been automatically enrolled. However, under AE legislation, as with the LGPS, employers must re-enrol all workers who aren't currently in a pension scheme three years after the initial staging date and every three years after that.

Where an employee opts out after being contractually entered into the Teachers' Pension Scheme and is below age 22; and earning less than the specified minimum, they must be re-entered into the TPS after reaching age 22 and becoming an "eligible job holder".

## **General**

For those schools using the council's payroll service the AE duties are handled centrally with the appropriate monitoring and communications taking place as appropriate.

Schools should be aware that in this instance AE duties apply to the relevant employer and therefore those non-community schools that do not use the Council's payroll service and which fail to comply with AE legislation will be held responsible for any breaches and not the City Council (see first paragraph above). Those community schools not using the Council's payroll provider will be expected to fully comply with AE legislation as the Council is the employer and will be held responsible for non-compliance.

Further details of AE can be found at

<http://www.local.gov.uk/documents/10180/11975/workforce-pensions+Brief+Automatic+Enrolment+Guide+v+3+clean.pdf/9c010f9d-a43a-478c-86b3-aa01a0400001>.

## **10. Converting to Academy**

When an existing school converts to an academy, TUPE law will apply and all existing employees at the maintained school will automatically transfer to become employees of the Academy Trust, on their same contractual terms and conditions.

## **LGPS**

Academies are scheduled bodies for the purposes of the LGPS and therefore existing members who transfer to the academy continue to remain in the scheme. The academy has a statutory obligation to enrol new support staff into the scheme (although the employees can later opt out if they wish) and the academy must comply with LGPS rules.

Before converting to academy status the school should contact the MPF at the earliest opportunity so that a calculation of the employer contribution rate can be made. It is important to note that most pension funds are currently managing a deficit (MPF included) and the deficit in respect of pensionable service prior to conversion will transfer from the City

Council to the academy. The actuarial calculation of the employer contribution rate will take into account the amount needed to pay off any past service deficit and meet future accruals over a specified period (normally 20 years for academies).

**TPS**

All teaching staff will continue to be entitled to membership of the TPS.

**11. Other information**

Details of the Local Government Pension Scheme can be found at <http://www.lgpsregs.org/> and [www.lgps.org.uk](http://www.lgps.org.uk). This provides a wealth of information on the scheme along with Questions and Answers.

Details of the Teacher's Pension Scheme can be found at <https://www.teacherspensions.co.uk/>.

Further guidance is available online at the Pension Regulator's website at <http://www.thepensionsregulator.gov.uk/>. This website has a beginner's guide and online tools.

Merseyside Pension Fund can be contacted at <http://www.merseysidepensionfund.org.uk/>

**R Arnold**

**March 2016**

## Appendix A

### Template Letter

**(DATE)**

### **Postponement Notice for Casual/Sessional Employees**

*Guidance for manager's: please insert the date at the top of this document if printing off a hard copy for employees. Ensure that the employee signs the document and take a copy for your records. If timesheets or signing-in sheets are used you may copy and insert this text on to the relevant documentation so that the employee has sight of the notice each time they work.*

*(Insert date/s relevant to period of work the employee is undertaking here if applicable)*

**Period of work – Date from..... Date to.....**

If you are a casual employee and have not already opted to join the Local Government Pension Scheme (LGPS) then the Council's policy, as allowed by law under the, *The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010*, is to postpone for a period of 3 months from the commencement of each period of work you undertake for us a decision about bringing you into a pension fund. This does not apply to teachers who are contractually enrolled regardless of employment status.

Therefore if you are not already a member of either the LGPS we will not enrol you into a pension fund when you work for us. However, you have the right to opt to join the LGPS or if you so wish and details of how to do this are given below.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit:  
[www.mpfmembers.org.uk](http://www.mpfmembers.org.uk) ,

### **What to do if you want to join an Employers Pension Scheme**

If you want to join the LGPS please contact Human Resources and Payroll in writing either by:

- sending a letter, signed by you, to Human Resources and Payroll, 5<sup>th</sup> Floor, Cunard Building, Pier Head, water Street, L3 1DS stating the name of the post in which you wish to join the scheme; or
- sending an email with your request containing the phrase 'I confirm I personally submitted this notice to join a workplace pension scheme' to [Connect2HRP@liverpool.gov.uk](mailto:Connect2HRP@liverpool.gov.uk)

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

Please note, however, that if you hold a Fixed Protection certificate from HMRC (which protects the total value of all pension benefits you can have at £1.25 million (£1 million from 1 April 2016) without triggering an excess benefits tax charge) or an Enhanced Protection certificate then you may lose your Fixed or Enhanced Protection if you opt to join a pension fund.

If you join the LGPS both you and the Council will pay into the scheme each pay period and the government will also contribute through tax relief.

Both the LGPS and the TPS comply with the requirements of the Pensions Act 2008 as both an automatic enrolment scheme and a qualifying scheme.

For more general information about pensions and savings for retirement visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions)

If you join the LGPS or the TPS we must continue to maintain your membership (unless you choose to opt out or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government targets.

If you join the LGPS and we were ever to cease to offer you membership, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under 75 and earn more than £5,824, immediately have to put you in another scheme that meets the government standards.

Please note that if you work for a continuous period of 3 months and at the end of that period you are aged 22 or over and under state pension age and earning more than £10,000 we will enrol you into either the LGPS or the TPS. You do not have to do anything – it will happen automatically.

I confirm that I have read and understood the contents of this postponement notice

Employee signature.....

Date.....

## 5 SLA & other key Contacts

1. Payroll & Pensions	Tracey Sherlock	<a href="mailto:tracey.sherlock@liverpool.gov.uk">tracey.sherlock@liverpool.gov.uk</a>
2. Insurance	Steve Johnson	<a href="mailto:steve.johnson@liverpool.gov.uk">steve.johnson@liverpool.gov.uk</a>
	Julia Bagot	<a href="mailto:julia.bagot@liverpool.gov.uk">julia.bagot@liverpool.gov.uk</a>
	Graham McCann	<a href="mailto:graham.mccann@liverpool.gov.uk">graham.mccann@liverpool.gov.uk</a>
3. Legal Services	Jon Mackenzie	<a href="mailto:jon.mackenzie@liverpool.gov.uk">jon.mackenzie@liverpool.gov.uk</a>
	Kieran Whelan	<a href="mailto:Kieran.whelan@liverpool.gov.uk">Kieran.whelan@liverpool.gov.uk</a>
4. GDPR	Mike Jones	<a href="mailto:dpo@liverpool.gov.uk">dpo@liverpool.gov.uk</a>
5. Capital Team	Rob Gilland	<a href="mailto:Rob.Gilland@liverpool.gov.uk">Rob.Gilland@liverpool.gov.uk</a>
	Angela Birch	<a href="mailto:Angela.Birch@liverpool.gov.uk">Angela.Birch@liverpool.gov.uk</a>
6. AP Team		<a href="mailto:appayments@liverpool.gov.uk">appayments@liverpool.gov.uk</a>
7. Behaviour Support	Carol Sarath	<a href="mailto:socialinclusion@liverpool.gov.uk">socialinclusion@liverpool.gov.uk</a>
8. Admissions	James Power	<a href="mailto:Admissions@liverpool.gov.uk">Admissions@liverpool.gov.uk</a>
9. Procurement	Paul Christie	<a href="mailto:CommercialProcurement@liverpool.gov.uk">CommercialProcurement@liverpool.gov.uk</a>
10. Cash collections		<a href="mailto:RBS.CashOffice@liverpool.gov.uk">RBS.CashOffice@liverpool.gov.uk</a>
11. Rates	Alex Percival	<a href="mailto:Business.Unit@liverpool.gov.uk">Business.Unit@liverpool.gov.uk</a>
12. High Needs		<a href="mailto:HighNeedsSupportTeam@liverpool.gov.uk">HighNeedsSupportTeam@liverpool.gov.uk</a>
13. ESFA queries portal		<a href="#">Education &amp; Skills Funding Agency (ESFA) enquiry form</a>

## 6 Legislative and Operational Guidance

The following documents are available through Ednet

- Liverpool City Council Scheme for Financing Schools (2021)
- Liverpool City Council Regulations & Procedures (2020)

DFE Returns:

- CFR – deadline tbc (July 22)
- SFVS – deadline 31<sup>st</sup> March 22

Detailed guidance will be published by DfE

## 7 Training and Support

A training offer is being developed and details will be published in Autumn 2021.