

## London Borough of Tower Hamlets – Policy on Prepayments

### 1. Introduction

The purpose of this policy is to set out the administering authority's approach to the prepayment of regular contributions due by participating employers.

It should be noted that this statement is not exhaustive and individual circumstances may be taken into consideration where appropriate.

#### 1.1 Aims and objectives

The administering authority's aims and objectives related to this policy are as follows:

- To provide employers with clarity around the circumstances where prepayment of contributions will be permitted.
- To outline the key principles followed when calculating prepayment amounts.
- To outline the approach taken to assess the suitability of a prepayment as sufficient to meet the required contributions.

#### 1.2 Background

It is common practice in the LGPS for employers to pre-pay regular contributions that were otherwise due to be paid to the Fund in future. Employer contributions include the 'Primary Rate' – which is expressed as a percentage of payroll and reflects the employer's share of the cost of future service benefits, and the 'Secondary Rate' – which can be expressed as a percentage of payroll or a monetary amount and is an additional contribution designed to ensure that the total contributions payable by the Employer meet the funding objective.

On 22 March 2022, following a request from the LGPS Scheme Advisory Board, James Goudie QC provided an Opinion on the legal status of prepayments. This Opinion found that the prepayment of employee and employer contributions was not illegal, subject to the basis for determining the prepayment amount being reasonable, proportionate and prudent. Further, the Opinion set out specific requirements around the presentation of prepayments.

#### 1.3 Guidance and regulatory framework

The Local Government Pension Scheme Regulations 2013 (as amended) set out the way in which LGPS funds should determine employer contributions and contain relevant provisions regarding the payment of these, including the following:

- Regulation 67 – sets out the requirement for employers to pay contributions in line with the Rates and Adjustments (R&A) certificate and specifies that primary contributions be expressed as a percentage of pensionable pay of active members.
- Regulation 62 - sets the requirement for an administering authority to prepare an R&A certificate.
- Regulation 9 – outlines the contribution rates payable by active members.

## 2. Statement of principles

This statement of principles covers the prepayment of regular employer contributions to the Fund. Each case will be treated on its own merits, but in general:

- The administering authority will permit the prepayment of employer contributions. • Prepaying contributions expressed as a percentage of pay introduces the risk that the prepayment amount will be insufficient to meet the scheduled contribution (as a result of differences between expected and actual payroll). Prepaying contributions is therefore only permissible in the case of secure, long-term employers (e.g. local authorities).
- The prepayment of employee contributions is not permitted.
- A discount will be applied where employer contributions are prepaid, to reflect the investment return that is assumed to be generated by the Fund over the period of prepayment.
- The Fund actuary will determine the prepayment amount, which may require assumptions to be made about payroll over the period which the scheduled contribution is due.
- Where contributions expressed as a percentage of pay have been prepaid, the administering authority will carry out an annual check (and additional contributions may be required by the employer) to make sure that the actual amounts paid are sufficient to meet the contribution requirements set out in the R&A certificate.
- Prepayment agreements will be documented by way of correspondence between the administering authority and the employer.
- The R&A certificate will be updated on an annual basis to reflect any prepayment agreements in place. • Employers are responsible for ensuring that any prepayment agreement is treated appropriately when accounting for pensions costs.
- Prepayment agreements can cover any annual period of the R&A (or a consecutive number of annual periods).

## 3. Policy

### 3.1 Eligibility and periods covered

The Fund is happy to consider requests from any employers to pre-pay certified primary and secondary contributions. However, in general, this is most appropriate for large, secure employers with stable active memberships.

Employer contributions over the period of the existing R&A certificate (and, where a draft R&A certificate is being prepared following the triennial valuation, the draft R&A certificate) may be pre-paid by employers.

Prepayment of contributions due after the end of the existing (or draft) R&A certificate is not permitted, i.e. it would not be possible to prepay employer contributions due in the 2026/27 year until the results of the 2025 valuation are known and a draft R&A certificate covering the 2026 to 2029 period has been prepared.

### 3.2 Request and timing

Prior to making any prepayment, employers are required to inform the Fund in writing of their wish to prepay employer contributions and to request details of the amount required by the Fund to meet the scheduled future contribution.

This request should be received by the Fund within 2 months of the start of the period for which the prepayment is in respect of.

The Fund will then provide the employer with a note of the prepayment amount and the date by which this should be paid. In general, the prepayment should be made as close as possible to the beginning of the appropriate R&A period and by 31 May at the latest.

Failure to pay the prepayment amount by the specified date may lead to the need for an additional and immediate payment from the employer to ensure that the amount paid is sufficient to meet the certified amount set out in the R&A certificate.

### 3.3 Calculation

The Fund actuary will determine the prepayment amount required. Where the prepayment is in respect of contributions expressed as a percentage of pay:

- The Fund actuary will determine the discounted value of scheduled contributions based on an estimate of payroll over the period (using the information available and assumptions set at the previous valuation) and the discount rate set for the purpose of the previous actuarial valuation (as specified in the previous actuarial valuation report).
- A sufficiency check will be required at the end of the period (see section 3.4) Where the prepayment is in respect of contributions expressed as a monetary amount:
- The Fund actuary will determine the discounted value of scheduled contributions based on the discount rate set for the purpose of the previous actuarial valuation (as specified in the previous actuarial valuation report).

- No sufficiency check will be required Employers may pay more than the prepayment amount determined by the Fund actuary.

No allowance for expected outsourcing of services and/or expected academy conversions will be made in the Fund actuary's estimation of payroll for the prepayment period.

### 3.4 Sufficiency check

Where required, the Fund actuary will carry out an annual assessment to check that sufficient contributions have been prepaid in respect of that period. Specifically, this will review the prepayment calculation based on actual payroll of active members over the period and this may lead to a top-up payment being required from the employer.

If this sufficiency check reveals that the prepayment amount was higher than that which would have been required based on actual payroll (i.e. if actual payroll over the period is less than was assumed), this will not lead to a refund of contributions to the employer.

The sufficiency check will not compare the assumed investment return (i.e. the discount rate) with actual returns generated over the period. i.e. the check considers payroll only. Any shortfall arising due to actual investment returns being lower than that assumed will form part of the regular contribution assessment at the next valuation (as per the normal course of events).

The administering authority will notify the employer of any top-up amount payable following this annual sufficiency check and the date by which any top-up payment should be made.

### 3.5 Documentation and auditor approval

The Fund will provide the employer with a note of the information used to determine the prepayment amount, including:

- Discount rate used in the calculations
- The estimate of payroll (where applicable)
- The effective date of the calculation (and the date by which payment should be made)
- The scheduled regular payments which the prepayment amount covers. The prepayment agreement will be reflected in the R&A certificate as follows:
- The unadjusted employer regular contribution rate payable over the period of the certificate

- As a note to the contribution rate table, information relating to the prepayment amount and the discount applied, for each employer where a prepayment agreement exists.

The R&A certificate will be updated on an annual basis to reflect any prepayment agreements in place. Employers should discuss the prepayment agreement with their auditor prior to making payment and agree the accounting treatment of this. The Fund will not accept any responsibility for the accounting implications of any prepayment agreement.

### 3.6 Costs

Employers entering into a prepayment agreement will be required to meet the cost of this, which includes (but is not limited to) the actuarial fees incurred by the administering authority.

### 3.7 Risks

Employers enter into prepayment agreements on the expectation that the Fund will be able to generate higher returns than they can over the prepayment period. Employers should be aware that future returns are not guaranteed, and it is possible that the returns generated on prepayment amounts may generate a lower return than that which can be generated by the employer.

It is also possible that negative returns will lead to the value of any prepayment being less than that which was scheduled to be paid. In such circumstances, a top-up payment would not be required (as the sufficiency check only considers the effect of actual payroll being different to that assumed in the prepayment calculation), however the employer's asset share would be lower than it would have been if contributions were paid as scheduled. This would be considered by the Fund actuary at the next triennial valuation (as per the normal course of events).

## 4 Related Policies

The Fund's approach to setting regular employer contribution rates is set out in the Funding Strategy Statement, specifically "Section 2 – How does the Fund calculate employer contributions?"

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