

## **Rotherham Schools Forum**

**Venue: Town Hall,  
Moorgate Street,  
Rotherham**

**Date: Friday, 8th April, 2011**

**Time: 8.30 a.m.**

### **A G E N D A**

1. Apologies for Absence.
2. Minutes of and any Matters Arising from the Previous Meeting (Pages 1 - 4)
3. Y & H Grid for Learning - Funding for 2011/12 (Pages 5 - 10)
  - Sue Wilson, CYPS, to present
4. DSG Budget - Central Spend 2011/12
  - Joanne Robertson to circulate at the meeting
5. DfE Consultation on School Financial Value Standard (SFVS) (Pages 11 - 25)
6. Transfer of Services (Pages 26 - 58)
7. Schools Forum
  - Constitution
  - Powers and Responsibilities 2011/12 (page 59)
8. Date of Next Meeting
  - Friday, 24<sup>th</sup> June, 2011 at 8.30 a.m.

**ROTHERHAM SCHOOLS FORUM  
FRIDAY, 18TH MARCH, 2011**

**Present:-**

Mr. G. Jackson <b>(Chairman)</b>	High Greave Infant School
Val Broomhead	Unison
Roger Burman	Winternhill School
Jane Fearnley	Herringthorpe Junior School
Geoff Gillard	Sheffield Diocese
Margaret Hague	The Arnold Centre
Peter Hawkridge	Teacher Unions
John Henderson	Whiston Worrygoose/Canklow Primary Schools
Russell Heritage	Wingfield Business and Enterprise College
Ruth Johnson	Pre-School Learning Alliance
Paul Lakin	Borough Councillor
Philip Robins	Primary Governor
David Silvester	Wath C. of E. Primary School

**Officers:-**

David Hill	Children and Young Peoples' Services, RMBC
Joanne Robertson	Schools Finance, RMBC
Vera Njegic	Schools Finance, RMBC
Joyce Thacker	Strategic Director, Children and Young Peoples' Services
Sue Wilson	Children and Young Peoples' Services, RMBC
Dawn Mitchell	Democratic Services, RMBC

**161. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted by Anita Burtoft, Steve Clayton and Dorothy Smith.

**162. MINUTES OF THE PREVIOUS MEETING HELD ON 4TH MARCH, 2011**

Agreed:- That the minutes of the previous meeting held on 4<sup>th</sup> March, 2011, be approved as a correct record.

**163. DEDICATED SCHOOLS GRANT - BUDGET - CENTRAL SPEND 2011/12**

Further to Minute No. 151 of 4<sup>th</sup> March, 2011, Joanne Robertson, Finance Manager, CYPS, reported that the figures were still being worked through so unfortunately a final detailed breakdown of the Dedicated Schools Grant could not be presented.

Joyce Thacker, Strategic Director CYPS, stated that there was an issue with the requirement to include 2 year olds for which there was no trend data to assist in the calculations.

Agreed:- That the final breakdown of the Dedicated Schools Grant be submitted to the 8<sup>th</sup> April meeting.

**164. YORKSHIRE AND HUMBER GRID FOR LEARNING - FUNDING 2011/12**

Further to Minute No. 157, Sue Wilson, Performance and Quality Manager, CYPs, reported that she had followed up on the issues raised at the previous meeting.

Unfortunately the connectivity could not be paid for on its own. It had to be the £90,000/£60,000 split as it stood. It was proposed that CYPs contribute £50,000 with the remaining £100,000 coming from the DSG. This had been discussed earlier in the week and had not been met with favourable response from Head Teachers. It has been ascertained that other authorities had never funded such provision and had always passed the costs back to schools.

The possibility was being explored that, once the 2GB upgrade was in place from April, it being used corporately by the Council. To this end, the Council was to pay £90,000 towards the installation costs of the upgrade.

If Notice was served to terminate the contract, £90,000 per annum for the next 3 years of the contract would have to be paid.

Should schools fund the £100,000, a formula would have to be drawn up as to how they would be charged i.e. size of the school.

The payment was not just for connectivity and the increased band width but also exploiting and using YHGFL better than had been previously. There were a lot of resources there that were not being used. As the £90,000 had to be paid, the service might as well be used to its fully potential and examine what value for money was derived. YHGFL actually ran sessions and had staffing resources to come out to schools.

The following issues were raised:-

- It would be easy to agree to the £100,000 coming from the DSG but less easy to say which funding lines would suffer
- GFL was very costly, issues of compatibility and delivery
- Virgin Media offered a similar service for 1/3 of the cost
- Schools were to challenge the position

A letter had been received from 1 secondary school with regard to the Service Level Agreement and quality of Service which was to be fed into a meeting with RBT. Customer satisfaction work was also to be carried out and reported back to RBT. Any evidence schools could provide would be helpful to discussions. A group of schools and Children Services Officers were working with RBT on what they wanted from the system.

Agreed:- That the cost per school be established and the benefits to schools submitted to the next meeting.

**165. SCHOOLS FINANCE REGULATIONS 201**

Joanne Robertson, Finance Manager CYPS, introduced The School Finance (England) Regulations 2011 a copy of which had been circulated with the agenda. Within the document was a summary of the changes which included:-

- Early Years Single Funding Formula
- Mainstreaming of Grants
- Central Expenditure
- Minimum Funding Guarantee
- Special Educational Needs
- Exclusions
- Federations
- Carbon Reduction Commitment
- Service Children
- Academies
- Notification of Budget Shares
- Technical Changes

The changes came into effect as from 1<sup>st</sup> April, 2011, which had been incorporated into Rotherham's processes.

Discussion ensued on school crossing patrols the cost of which must not be included within a school's budget. All schools that had such a facility had been written to informing them that the Authority would no longer be funding such.

It was noted that, although the Regulations stated that there should be 1 budget for schools in a Federation but, if requested, the 2 budgets could remain.

Agreed:- That the report be noted.

#### **166. CONSTITUTION OF SCHOOLS FORUM**

David Silvester reported that Governor representation was to be part of the new constitution for the Forum.

He was to attend the next meeting of the Chairs and Vice-Chairs to explain the new constitution and seek nominations.

Once the membership was known discussion was to be held on the range of issues including Chairmanship – should it be a Head Teacher – time and venue of meetings, linkage to cluster meetings.

Agreed:- That the report be noted.

#### **167. ANY OTHER BUSINESS**

It was reported that Rev. Ann Wood had resigned from the Forum due to her having moved from the area. She had also expressed her concern regarding the proposed exclusion of the Governors from the reconstituted Forum.

Agreed:- That the Chairman send Rev. Wood on behalf of the Forum thanking

her for her attendance and contributions and informing her of the inclusion of Governors.

**168. DATE OF NEXT MEETING**

Agreed:- That a further meeting of the Forum be held on Friday, 8th April, 2011 at 8.30 a.m. in Rotherham Town Hall.

**ROTHERHAM BOROUGH COUNCIL  
SCHOOLS FORUM MEETING – Friday 8<sup>th</sup> April 2011**

**Yorkshire and Humber Grid for Learning**

**Background**

Yorkshire and Humber Grid for Learning (YHGfL) is an award-winning, not-for-profit organisation owned and funded by 12 of the local authorities in the region. Established in 2000, YHGfL commissioned and maintains a regional grid which connects local authority networks with Janet – the national broadband network for public services around the country. A new grid will be put in place in April this year which will provide high-bandwidth and high-reliability connectivity around the region – this network is for educational use and does not suffer from the high levels of contention provided by commercial providers.

For many years Rotherham has been part of the Yorkshire and Humber Grid for Learning (YHgFL). The funding for this has historically come from the Broadband for Schools Capital Grant and more recently the Harnessing Technology Grant (25% centrally held).

**Funding Issues**

The cost is currently £150K per year - £90K connectivity, £60K membership/value added, the funding for this in the past has previously been from the 25% centrally held Harnessing Technology Grant which was cut as part of the coalition governments cuts.

As part of the re-procurement of the new grid last year a letter of intent was signed committing Rotherham to the new grid which is currently being installed in the Civic Buildings. The new contract is currently with Legal Services.

An additional £90,000 is required for installation in 2011/12 which could be potentially funded from the councils corporate ICT budget.

**School Forum discussions**

Following attendance at the Schools Forum meeting on Friday 4<sup>th</sup> March further information was obtained to establish if connectivity only could be paid for at an annual cost of £90,000. A conference call took place on Tuesday 8<sup>th</sup> March between Sue Wilson ( P&Q Manager), Susan Gray (Systems and Change Manager, CYPS) and Phil Moore ( Chief Executive of YHGFL). It was clear during the conference call that the costs could not be reduced to connectivity only as the running of the grid, the foundation and the consortium membership is the full amount, currently estimated at £151,000 ( £90,000 connectivity and £61,000 membership) Other local authorities in the region are generally continuing to pass on the costs of YHGFL to schools to fund, whereas in Rotherham the LA have always funded this from the centrally held Harnessing Grant.

At the Schools Forum meeting on the 18<sup>th</sup> March discussions took place in relation to CYPs being willing to fund £51,000 of the cost and schools were requested to fund the remaining £100,000. Further information was requested at the meeting:

1. What would the cost to each school be if we split the £100k across schools
2. What value do schools get from YHGFL
3. What notice period would we have to serve?

**1. The attached spreadsheet shows the possible costings for schools if the amount was split on a per pupil basis, with and without academies.**

**2. What does YHGfL do for local authorities and schools?**

As well as providing the bandwidth which schools need to embed the use of ICT effectively across the curriculum, we provide a range of other services which directly meet the demands from local authorities and their schools:

- **Aggregating demand across the region** – enabling us to purchase services and products much more cheaply than individual schools or local authorities could achieve on their own: last year, we brought savings and benefits amounting to £6m to the region
- **Support for eSafeguarding**– consultancy, resources and CPD, addressing the whole continuum of eSafety/eSecurity from the attitudinal/ behavioural aspects to technical considerations in schools and local authorities
- **Access to high quality eLearning Resources** – from our own website ([www.yhgfl.net](http://www.yhgfl.net)) and from the National Education Network ([www.nen.gov.uk](http://www.nen.gov.uk)), of which we are a member
- **Access to consultancy, expertise and advice** - ranging from educational aspects such as the effective use of ICT to support teaching and learning through to strategic ICT development through to significant technical expertise ranging from network design, implementation and security
- **Delivering high-quality specialist and bespoke workshops, conferences and training** for the region, including events including, for example, eSafeguarding, animation, video conferencing and personalised learning through learning platforms
- **Sharing regional and national best practice** – through seminars, conferences, online collaborative areas and the facilitation of regional groups such as the Primary ICT Consultants' Group and the eSafety and eSecurity Group: we also are part of the National Education Network which brings together organisations across the whole of the UK, providing a national perspective which is being lost through the closure of Becta
- **Technical services and products** – including network health checks, low-cost VPN, domain and web hosting

### **3. Notice Period**

The new contract runs from 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2014 ( 3 years), there is a requirement for 15 months notice on the connectivity element with notice being required by December 2011 to terminate the contract by March 2013. We would therefore have to pay the full amount of £151,000 in 2011/12 and £90,000 2012/13.

There maybe some technical implications for RGFL connectivity so further work would have to be done with RBT / YHGFL to check out any implications. We would also have to contact Corporate ICT as there had been some discussions about the possibility of the link being used for corporate internet traffic in the future.



# Spring School Census - 20th January 2011

Number on Roll (NOR) - Numbers  
Recharge Figures - Data Request

	Local Authority NOR Inc Academies	Recharge at	Equals	Price Per Pupil :-
Includes All Pupils on Roll - Nursery (N1) to NCY - Year 14	37582	£100,000	=	£2.660848

DFES	School Name	NOR summary	Price Per Pupil	Overall Cost Per School
		All pupils		Total - 100000
1000	The Arnold Centre	79.8	2.66	212.34
1001	Rawmarsh Childrens Centre	67.8	2.66	180.41
1002	Aughton Early Years	47.4	2.66	126.12
2003	Badsley Moor Junior	329	2.66	875.42
2004	Badsley Moor Infant	232	2.66	617.32
2005	Blackburn Primary	313.2	2.66	833.38
2006	Broom Valley Community Primary	443.2	2.66	1179.29
2008	Coleridge Primary	204	2.66	542.81
2010	East Dene J&I	316.2	2.66	841.36
2013	Ferham J&I	225.2	2.66	599.22
2017	Herringthorpe Junior	257	2.66	683.84
2018	High Greave Junior	165	2.66	439.04
2019	High Greave Infant	172	2.66	457.67
2021	Redscope Primary	345.4	2.66	919.06
2022	Kimberworth Community Primary	225.4	2.66	599.76
2023	Meadow View Primary	264.4	2.66	703.53
2029	Thornhill Primary	230	2.66	612.00
2032	Thorpe Hesley Junior	257	2.66	683.84
2034	Herringthorpe Infant	240.8	2.66	640.73
2036	Roughwood Primary	272.2	2.66	724.28
2037	Sitwell Junior	309	2.66	822.20
2038	Rockingham J&I	294.6	2.66	783.89
2042	Sitwell Infant	210	2.66	558.78
2050	Aston Fence J&I	177	2.66	470.97
2051	Swallownest Primary	164	2.66	436.38
2052	Bramley Sunnyside Junior	323	2.66	859.45
2053	Brampton Cortonwood Infant	103.6	2.66	275.66
2054	Brinsworth Manor Junior	318	2.66	846.15
2055	Brinsworth Manor Infant	276	2.66	734.39
2058	Listerdale J&I	224	2.66	596.03
2060	Dinnington Community Primary	224.2	2.66	596.56
2061	Harthill Primary	165	2.66	439.04
2063	Crags Community School	366.6	2.66	975.47
2064	Maltby Hall Infant	192.2	2.66	511.41
2066	Ravenfield Primary	184	2.66	489.60
2067	Rawmarsh Ashwood J&I	220.4	2.66	586.45
2070	Rawmarsh Rosehill Junior	198	2.66	526.85
2071	Rawmarsh Ryecroft Infant	156	2.66	415.09
2074	Kilnhurst Primary	188.4	2.66	501.30
2075	Swinton Queen Primary	298.2	2.66	793.46
2079	Laughton J&I	158.6	2.66	422.01
2081	Wales Primary	192	2.66	510.88

2082	Kiveton Park Infant	166.4	2.66	442.77
2083	Kiveton Park Meadows Junior	149	2.66	396.47
2085	Wath Victoria J&I	232.6	2.66	618.91
2087	Aston Lodge Primary	189.6	2.66	504.50
2088	Dalton Foljambe J&I	97.6	2.66	259.70
2090	Monkwood Primary	359	2.66	955.24
2092	Wath Central Primary	428.4	2.66	1139.91
2093	Whiston J&I	193	2.66	513.54
2094	Bramley Sunnyside Infant	291.4	2.66	775.37
2095	Anston Park Junior	282	2.66	750.36
2096	Thurcroft Junior	202	2.66	537.49
2097	Thurcroft Infant	200.2	2.66	532.70
2099	Lilly Hall Junior	203	2.66	540.15
2100	Aston Springwood J&I	178	2.66	473.63
2101	Rawmarsh Sandhill Primary	161	2.66	428.40
2104	Anston Park Infant	217	2.66	577.40
2105	Bramley Grange Primary	300.6	2.66	799.85
2106	Todwick J&I	198	2.66	526.85
2108	Brinsworth Whitehill Primary	287.6	2.66	765.26
2109	Wickersley Northfield Primary	451	2.66	1200.04
2110	Rawmarsh Thorogate J&I	208	2.66	553.46
2111	Whiston Worrygoose J&I	220.2	2.66	585.92
2112	Maltby Redwood J&I	135.4	2.66	360.28
2116	Catcliffe Primary	140.8	2.66	374.65
2120	West Melton J&I	91.4	2.66	243.20
2121	Brinsworth Howarth Primary	172.2	2.66	458.20
2122	Aughton Primary	114	2.66	303.34
2124	Anston Greenlands J&I	202	2.66	537.49
2130	Anston Hillcrest Primary	221.6	2.66	589.64
2131	Thorpe Hesley Infant	206.4	2.66	549.20
2132	Flanderwell J&I	192.2	2.66	511.41
2133	Aston Hall J&I	186	2.66	494.92
2134	Woodsetts Primary	198.6	2.66	528.44
2135	Greasbrough Primary	245	2.66	651.91
2136	Thrybergh Primary	163	2.66	433.72
2137	St Ann's J&I	398	2.66	1059.02
2138	Swinton Brookfield Primary	257.6	2.66	685.43
2139	Canklow Woods Primary	171	2.66	455.01
2140	Anston Brook Primary	188.6	2.66	501.84
3001	St Thomas CE Primary (Kilnhurst)	132	2.66	351.23
3003	Wentworth CE J&I	122	2.66	324.62
3322	St Mary's Catholic Primary (Herringthorpe)	210	2.66	558.78
3327	Wath CE Primary	233.6	2.66	621.57
3328	Thrybergh Fullerton CE Primary	104	2.66	276.73
3329	Laughton All Saints CE (A) Primary	89	2.66	236.82
3330	Brampton the Ellis CofE Junior	254	2.66	675.86
3331	Brampton the Ellis CofE Infant	151.2	2.66	402.32
3332	St Alban's CE Primary	227.4	2.66	605.08
3333	Aston CofE J&I	212	2.66	564.10
3334	Trinity Croft CE J&I	109	2.66	290.03
3335	St Mary's Catholic Primary (Maltby)	175.4	2.66	466.71
3336	St Gerard's Catholic Primary	114	2.66	303.34
3337	Our Lady and St Josephs Catholic Primary	197.4	2.66	525.25

3338	St Joseph's Catholic Primary (Dinnington)	213.6	2.66	568.36
3339	St Joseph's Catholic Primary (Rawmarsh)	195	2.66	518.87
3340	St Bede's Catholic Primary	304.2	2.66	809.43
3341	Treeton CofE (A) Primary	260	2.66	691.82
3342	Swinton Fitzwilliam Primary	313.6	2.66	834.44
3343	Maltby Manor Primary	363.4	2.66	966.95
4000	Clifton - A Community Arts School	1171	2.66	3115.85
4003	Oakwood Technology College	1057	2.66	2812.52
4010	Winterhill School	1285	2.66	3419.19
4011	Wingfield Comprehensive School	838	2.66	2229.79
4016	Rawmarsh School - A Sports College	948	2.66	2522.48
4017	Wath Comprehensive - A Language College	1872	2.66	4981.11
4018	Wickersley School and Sports College	1946	2.66	5178.01
4020	Thrybergh Comprehensive School	574	2.66	1527.33
4021	Aston Comprehensive School	1643	2.66	4371.77
4022	Dinnington Comprehensive School	1328	2.66	3533.61
4023	Swinton Community School	924	2.66	2458.62
4601	Saint Pius X Catholic High School	652	2.66	1734.87
4800	St Bernard's Catholic High School	687	2.66	1828.00
7000	Newman Special School	80	2.66	212.87
7001	Abbey Special School	100	2.66	266.08
7003	Kelford Special School	92	2.66	244.80
7006	Milton Special School	90	2.66	239.48
7009	The Willows	87	2.66	231.49
7011	Hilltop Special School	98	2.66	260.76
<b>Rotherham Local Authority Inc Academies</b>		<b>37582</b>		<b>99999.99</b>

## 1. INTRODUCTION

1.1 The Financial Management Standard in Schools (FMSiS) was withdrawn by the Secretary of State with effect from 15 November 2010. Consequently, local authorities' Chief Finance Officers (section 151 officers) will not be required to give any assurance in relation to the attainment by schools of FMSiS during the financial year 2010 2011.

1.2 A new standard, provisionally named the Schools Financial Value Standard (SFVS), will be introduced in the summer 2011 term and will become operational from September 2011.

1.3 The Department for Education are currently consulting on the provisional standard. The consultation period is from 10 March 2011 to 30 April 2011. The Department for Education have requested responses to a series of questions relating to the new standard which are included at **Appendix A**. Details of the consultation are also available on the Department for Education website at the following address: [www.education.gov.uk/SFVSconsultation](http://www.education.gov.uk/SFVSconsultation)

## 2. SCHOOLS FINANCIAL VALUE STANDARD (SFVS)

2.1 The DfE are consulting on the Schools Financial Value Standard (SFVS) alongside a consultation on accountability arrangements. Schools will be expected to conduct an assessment against SFVS once a year. The first reports from schools will be due before September 2012. However, those schools which never attained FMSiS will be expected to report against SFVS before April 2012. Schools Financial Value Standard reports signed by the Chair of Governors must be sent to the local authority.

2.2 Nationally schools manage billions of pounds of public money and it is very important that this management is done well in order both to safeguard public funds, and to get the best value from them. Formal responsibility within schools lies with governing bodies, and the SFVS is in the first place aimed at school governors. It takes the form of a series of questions which school governing bodies should formally discuss with their head teacher and other senior staff. The DfE recommend that this is done annually

2.3 There is no prescription of the level of evidence or assurance that the governing body should require. The important thing is that the governing body should be in a position to feel confident about their answers. The DfE website includes advice and tools for governing bodies in relation to each question, which they can use to provide assurance (examples provided in **Appendix C**). The advice and tools provide clarification of what the question implies, examples of good practice, and access to materials which will assist action on that issue where it is necessary

2.4 The governing body may wish to delegate the consideration of the questions to a Finance Committee or similar, however the Chair of Governors must sign the completed form. There should be at least a minuted report to the full governing body.

## 3. SCHOOLS FINANCIAL VALUE STANDARD SECTIONS

3.1 There are five sections to complete in the SFVS with a series of questions to complete (25 questions in total) within each section (per **Appendix B**). The five sections cover the following:

- i) The Governing Body
- ii) The School Employees
- iii) Budget Setting
- iv) Value For Money
- v) Protecting Public Money

3.2 Each question within each section requires an answer of 'Yes', 'In Part', or 'No'. Where the answer is 'In Part' or 'No', the column for comments, evidence and proposed actions should be used to enter a very brief summary of the position and proposed remedial action. Where the answer is 'Yes', the column should be used to indicate the main evidence on which the governing body based its conclusions. There is also a section to complete which requires a summary of remedial actions and the timetable for reporting back.

## 4. ASSESSMENT OF SFVS

4.1 The standard will not be formally assessed like FMSiS. However, a copy of each signed record must be sent to the Council's finance department, where it will be used to inform the programme of financial assessment and audit.

Local authority and other auditors will have access to it, and when they conduct an audit will be able to check whether the self-assessment is in line with their own judgement. They will be required to make the governing body and the local authority aware of any discrepancies in judgement.

4.2 In the course of developing the SFVS, questions have arisen about what will happen to schools which do not carry out the assessment as required. One suggestion is that the names of schools not reporting against SFVS should be published. For 2011/2012 this would be only those schools which had failed to attain FMSiS, but from 2012/2013 it could be any school. Publication by local authorities would seem less burdensome than for the DfE to collect all the names and publish them.

### **5. CHIEF FINANCIAL OFFICER STATEMENT**

5.1 With effect from the financial year 2011 2012 the DfE intend to include SFVS in the outturn statement in regard to the Dedicated Schools Grant which is signed by Chief Finance Officers. The draft (**Appendix D**) shows what this might look like. Chief Finance Officers would be expected to say each year how many SFVS reports from schools they had received, and give an assurance that they are taking the contents of these reports into account in planning their future programme of audit. They would also be expected to give a general assurance that they have a system of audit in place which gives them adequate assurance over schools' standards of financial management and the regularity and propriety of their spending. For 2011/2012 only, they would be expected to make a supplementary statement about those schools that had never attained FMSiS.

### **6. RECOMMENDATION**

6.1 Members are asked to note the contents of this report and are encouraged to respond to the consultation either individually or by group to the Department for Education at the following email address: [financial.management@education.gsi.gov.uk](mailto:financial.management@education.gsi.gov.uk) no later than 30 April 2011.

**APPENDIX A**

CONSULTATION ON THE SCHOOLS FINANCIAL VALUE STANDARD (SFVS)

Name of respondent (in full)

Contact details (email / phone)

Name of establishment (LA/school/other?)

The questions below indicate the range of issues we are particularly interested in receiving your views on. You do not have to respond to every question and are welcome to submit a general response if you prefer.

1. Do you consider the new standard - Schools Financial Value Standard - to be an improvement on FMSiS?

Content

2. Does the new standard – Schools Financial Value Standard - cover the right range of topics for effective financial management and securing value for money in schools?
3. Please provide any specific comments on the range and content of the topics and questions.

Process

4. Do you think it is reasonable to expect schools to review the standard on an annual basis? If not, what would be appropriate?
5. Do you think the right individuals in the school are required to be involved in the standard (governing body with head and senior staff)?
6. How will local authorities use the information the standard provides to inform their programme of financial assessment and audit? How far will it support their programme?

Support

7. How useful is the sample draft advice that we have provided and what can we do to make it more useful?
8. What problems do you think schools might have in meeting the new standard and what support would be helpful?
9. What problems do you think local authorities might have in using the new standard as part of their financial assessment and audit programme and reporting back to the Department?
10. How well equipped are governing bodies to confidently assess their schools' financial management and efficiency? What more can we do to help governing bodies support and challenge schools on this?

Please provide any further comments on any aspect of the new standard and assurance arrangements.

**SCHOOLS FINANCIAL VALUE STANDARD (SFVS)**

**APPENDIX B**

	ANSWER (Yes/In Part/No)	COMMENTS, EVIDENCE AND PROPOSED ACTIONS
<p><b>LIST OF QUESTIONS</b></p> <p><b>A: The Governing Body</b></p> <ol style="list-style-type: none"> <li>1. In the view of the Governing Body itself and of senior staff, does the Governing Body have adequate financial competence among its members to fulfil its role of challenge and support in the field of budget management?</li> <li>2. Does the Governing Body have a Finance Committee (or equivalent) with clear terms of reference and a knowledgeable and experienced chair?</li> <li>3. Is there a clear definition of the relative responsibilities of the Governing Body and of the school staff in the financial field?</li> <li>4. Does the Governing Body receive adequate monitoring reports of the school's budget position on at least a termly basis?</li> <li>5. Are business interests of Governing Body members (and senior staff) properly registered and taken into account so as to avoid conflicts of interest?</li> </ol> <p><b>B: The School Staff</b></p> <ol style="list-style-type: none"> <li>6. Does the staff include people who between them supply the school with an adequate level of financial competence?</li> <li>7. Does the school have adequate arrangements to cope with the absence of specialist finance staff, eg on sick leave?</li> <li>8. Does the school have policies and mechanisms for deploying the staff of the school to best effect in view of their talents and competencies and the needs of the school?</li> <li>9. Does the school review its staffing structure regularly?</li> </ol>		

<p><b>C: Setting the Budget</b></p> <p>10. Is there a clear and demonstrable link between the school's budgeting and its plan for raising standards and attainment?</p> <p>11. Does the school make a forward projection of budget, including both revenue and capital funds, for at least three years, using the best available information?</p> <p>12. Does the school set a well-informed and balanced budget each year (with an agreed and timed plan for eliminating any deficit)?</p> <p>13. Is end year outturn in line with budget projections, or if not, is the Governing Body alerted to significant variations in a timely manner, and do they result from genuinely unforeseeable circumstances?</p> <p><b>D: Value for Money</b></p> <p>14. Does the school regularly benchmark its expenditure against that of similar schools and investigate further where any category of spend appears to be high?</p> <p>15. Does the school have procedures for purchasing goods and services that both meet legal requirements and secure value for money?</p> <p>16. Are balances at a reasonable level and does the school have a clear plan for using the money it plans to hold in balances at the end of each year?</p> <p>17. Does the school maintain its premises and other assets to an adequate standard to avoid future urgent need for replacement?</p> <p>18. Does the school consider collaboration with others, eg on sharing staff or joint purchasing, where that would improve value for money?</p> <p>19. Can the school give examples of where it has improved the use of resources during the past year?</p>		
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<p><b>E: Protecting Public Money</b></p> <p>20. Is the Governing Body sure that there are no outstanding matters from audit reports or from previous consideration of weaknesses by the Governing Body?</p> <p>21. Are there adequate arrangements in place to guard against fraud by staff, contractors and suppliers (please note any instance of fraud detected in the last 12 months)?</p> <p>22. Are all staff aware of the school's whistleblowing policy and to whom they should report concerns?</p> <p>23. Does the school have an accounting system that is adequate and properly run and delivers accurate reports, including the annual Consistent Financial Reporting return?</p> <p>24. Does the school have adequate arrangements for audit of voluntary funds?</p> <p>25. Does the school have an appropriate business continuity or disaster recovery plan, including an up-to-date asset register and adequate insurance?</p>		
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**OUTCOME OF SELF-ASSESSMENT**

**F: Summary of agreed remedial action and timetable for reporting back:**

**[signed]**

**Date:**

**Chair of Governors**

APPENDIX C

**SAMPLE GUIDANCE NOTES**

**FINANCIAL COMPETENCIES FOR THE GOVERNING BODY  
WHISTLEBLOWING POLICY &  
SCHOOLS' FINANCIAL BENCHMARKING GUIDANCE**

**MARCH 2011**



Department for Education  
Email: [financial.management@education.gsi.gov.uk](mailto:financial.management@education.gsi.gov.uk)  
Helpline: 020 7340 7775

**Question 1. In the view of the Governing Body itself and of senior staff, does the Governing Body have adequate financial competence among its members to fulfil its role of challenge and support in the field of budget management?**

<p><b>A What the question means</b></p>	<p><b>1 The main financial competencies needed by the governing body.</b>  <i>The Governing Body is able to:</i></p> <ol style="list-style-type: none"> <li>1. <i>provide strategic leadership including:</i> <ul style="list-style-type: none"> <li>• <i>linking the development of strategic plans with available resources;</i></li> <li>• <i>identifying viable options and selecting or recommending those most likely to achieve the school's goals and objectives; and</i></li> <li>• <i>understanding the best financial management practice and moving the school towards it.</i></li> </ul> </li> <li>2. <i>ensure accountability which includes:</i> <ul style="list-style-type: none"> <li>• <i>understanding the statutory and local authority financial requirements applying to the school;</i></li> <li>• <i>undertaking appropriate budget setting and budget monitoring activities; and</i></li> <li>• <i>communicating the school's financial performance to parents and the public.</i></li> </ul> </li> <li>3. <i>act as a critical friend which includes:</i> <ul style="list-style-type: none"> <li>• <i>using analytical skills to challenge constructively</i></li> <li>• <i>asking probing questions of the school management.</i></li> </ul> </li> </ol>
<p><b>2 Why it is important for the Governing Body to have adequate financial competencies.</b></p>	<p><i>It is essential for the Governing Body to have access to adequate financial competencies to ensure they meet their statutory responsibilities for the financial management of the school and can safeguard the large amounts of public money for which they are responsible. Not ALL governors need all these skills, but collectively members of the Governing Body (&amp; Finance Committee or equivalent) should have these competencies among them.</i></p>
<p><b>3 Why it is important for the Governing Body to challenge and support the Head Teacher.</b></p>	<p><i>The governing body has a statutory responsibility to support and challenge the head teacher (see point 4). Members of the governing body do this to ensure that:</i></p> <ul style="list-style-type: none"> <li>• <i>resources are deployed appropriately in line with the school's priorities;</i></li> <li>• <i>planned levels of financial performance are achieved;</i></li> <li>• <i>the school avoids incurring financial loss and waste; and</i></li> <li>• <i>the school receives favourable audit assessments.</i></li> </ul>
<p><b>4 What the key financial roles of the governing body and its committees are.</b></p>	<p><i>The governing body is given its powers and duties as an incorporated body. The statutory responsibilities of the governing body are detailed in section 21 of the Education Act 2002.</i></p> <p><i>Their key financial roles are:</i></p> <ul style="list-style-type: none"> <li>• <i>manage the school budget;</i></li> <li>• <i>decide on how to spend the delegated school budget, depending on any conditions set out in the LA Scheme;</i></li> <li>• <i>be consulted by their LA on funding;</i></li> </ul>

	<ul style="list-style-type: none"> <li>• ensure accurate school accounts are kept;</li> <li>• determine the number and type of staff and a pay policy in accordance with the School Teachers Pay and Conditions; and</li> <li>• act as a 'critical friend' to the Head Teacher by providing advice, challenge and support.</li> </ul>
<b>B</b>	<b>Good Practice</b>
<b>5</b>	<p><b>The school should identify whether the governing body has the right skills.</b> Schools should analyse their governing body's skills to identify any skills gaps. The governing body's skills should be reviewed whenever appropriate, for example if there are significant changes to the membership or to individual governors' roles and responsibilities. A good way for a school to assess their governing body's current skills is to use a matrix that summarises the main financial management competencies that the governing body should have. The matrix will help governors identify the skills they have and those that collectively they need to acquire.</p> <p>See section 8 for further information on how to access an example financial skills matrix. The matrix covers a set of key financial areas, and asks governors to assess whether the key areas are embedded, improving or not in place in their school. Once the school has assessed the areas, they can put in place key actions to help progress the governance in these areas.</p>
<b>6</b>	<p><b>The governing body should not only have but should be seen to have adequate financial competencies.</b> Governors have a collective responsibility for important financial decisions in the school and are answerable to parents and the wider community. Therefore, they should be seen to have adequate financial competencies, and might wish to explain how they meet this requirement on their website and in reports to parents.</p> <p>A well run school must be willing and able to show how it has used its resources and be able to respond honestly to questions about its financial probity. Openness, transparency and integrity are key principles of good governance and financial management.</p>

C	<p><b>What do you do if things are not right in your school?</b></p> <p><b>7</b> <b>What to do if your school's governing body doesn't have adequate financial competencies.</b> If your governing body doesn't have adequate financial competencies, you should identify which specific competencies are lacking. You should think about:</p> <ul style="list-style-type: none"> <li>• what the governing body's collective training needs are;</li> <li>• whether individual governors have the right skills for their particular role;</li> <li>• who the best person is to fill each skills gap;</li> <li>• the best way for a governor to acquire a specific competency; and</li> <li>• how additional skills can be acquired through recruitment.</li> </ul> <p>This can then be developed into an action plan to address the current skills gaps. (See point 8 below for further information on this matter)</p>
8	<p><b>Further information</b></p> <p>Your local authority should be able to provide further information and support. In addition, these websites provide help and advice:</p> <ol style="list-style-type: none"> <li><b>1. Department for Education</b> (<a href="http://www.education.gov.uk">www.education.gov.uk</a>) – you can find information on finding, appointing, training and managing school governors at: <a href="http://www.education.gov.uk/schools/leadership/governance">http://www.education.gov.uk/schools/leadership/governance</a> <a href="http://www.education.gov.uk/schools/adminandfinance/financialmanagement/b0069984/vfm/governance">http://www.education.gov.uk/schools/adminandfinance/financialmanagement/b0069984/vfm/governance</a> - here you can find financial and efficiency information relating to the governing body including a governing body health check tool and an example skills matrix.</li> <li><b>2. National Governors Association (NGA)</b> – <a href="http://www.nga.org.uk">www.nga.org.uk</a> This website provides guidance on everything relating to governors including online finance training. NGA Headquarters, Ground Floor, 36 Great Charles Street, Birmingham, B3 3JY Tel: 0121 237 3780</li> <li><b>3. School Governors One- Stop Shop (SGOSS)</b> <a href="http://www.sgoss.org.uk">www.sgoss.org.uk</a>. This website provides information on recruiting volunteers to serve on school governing bodies. Any school having difficulty recruiting governors with financial expertise can seek assistance from SGOSS. You can find further information about this via this weblink: <a href="http://www.sgoss.org.uk/schools/">www.sgoss.org.uk/schools/</a> School Governors One-Stop Shop, Unit 11, Shepperton House, 83-93 Shepperton Road, N1 3DF email : <a href="mailto:info@sgoss.org.uk">info@sgoss.org.uk</a> &amp; tel: 020 7354 9805</li> <li><b>4. Direct Gov</b> <a href="http://www.direct.gov.uk">www.direct.gov.uk</a> – provides a brief outline of governors' responsibilities and information on how to become a school governor: <a href="http://www.direct.gov.uk/en/Parents/Schoolslearninganddevelopment/Gettinginvolvedwithschoolsandyourchildseducation/DG_10038366">www.direct.gov.uk/en/Parents/Schoolslearninganddevelopment/Gettinginvolvedwithschoolsandyourchildseducation/DG_10038366</a></li> </ol>

**Question 22. Are all staff aware of the school's whistleblowing policy and to whom they should report concerns?**

<b>A</b>	<b>What the question means</b>
<b>1</b>	<b>What whistleblowing is.</b> Whistle blowing means the confidential raising of problems or concerns within an organisation (school) or within an "independent review structure" associated with that organisation (in this case your LA). It provides protection for individuals who disclose malpractice and wrongdoing.
<b>2</b>	<b>Why it is important to schools.</b> It allows individuals to bring to notice such matters as malpractice, wrong-doing and victimisation. As this process is confidential, individuals are more likely to do it.
<b>3</b>	<b>What issues are covered by whistleblowing.</b> Malpractice and wrongdoing will include the following, but the precise coverage and terms used can vary: <ul style="list-style-type: none"> <li>▪ Any unlawful act, whether criminal or a breach of civil law;</li> <li>▪ Maladministration, as defined by the Local Government Ombudsman;</li> <li>▪ Breach of any statutory Code of Practice;</li> <li>▪ Breach of, or failure to implement or comply with Financial Regulations or Standing Orders;</li> <li>▪ Any failure to comply with appropriate professional standards;</li> <li>▪ Fraud, corruption or dishonesty;</li> <li>▪ Actions which are likely to cause physical danger to any person, or to give rise to a risk of significant damage to property;</li> <li>▪ Loss of income to the school;</li> <li>▪ Abuse of power, or the use of the school's powers and authority for any unauthorised or ulterior purpose;</li> <li>▪ Discrimination in employment or the provision of education; and</li> <li>▪ Any other matter that staff consider they cannot raise by any other procedure.</li> </ul>
<b>B</b>	<b>Good Practice</b>
<b>4</b>	The school must have a whistleblowing policy in place. All schools should have a whistleblowing policy in place and governing body minutes should record that they do. This policy should be based on the LA policy (which applies to all schools within their remit) and should be tailored as appropriate for your school.
<b>5</b>	The school staff must have someone trustworthy to report their concerns to. The governing body should agree one or more members of the school's staff whom staff can report concerns to; but also make known to staff one or more people at the LA their staff can report concerns to if they feel a need to go outside the school. All school staff should be made aware of this information.

<b>C</b>	<b>What do you do if things are not right in your school?</b>
<b>6</b>	<p>Making or improving your whistle blowing policy</p> <p>If your school does not have a current whistle blowing policy, the LA will have one which applies to all schools within their remit. You could contact them for a copy of this and/or further advice. You should think how this policy could be tailored so that it fits the specific circumstances of your school and ensure that you have appointed named member(s) of staff whom other staff can report concerns to.</p>
<b>7</b>	<p>Making staff aware of the school's whistle blowing policy</p> <p>If staff are not currently aware of the whistle blowing policy, they should be informed about it and it should be made available for all to see. In particular, they should be made aware of:</p> <ul style="list-style-type: none"> <li>▪ That the protection is available to all members of staff (including e.g. temporary staff and contractors);</li> <li>▪ The areas of malpractice and wrongdoing that are covered; and</li> <li>▪ The routes available within the school and your LA for raising issues.</li> </ul>
<b>8</b>	<p><b>Further information</b></p> <p>Further information should initially be sought from the staff appointed by your LA to deal with whistle blowing. This will almost certainly be on a confidential basis.</p> <p><a href="http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace">www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/Whistleblowingintheworkplace</a></p> <p>The <i>Directgov</i> website provides useful information on whistle blowing policy in public sectors:</p> <p><a href="http://www.pcaaw.co.uk">www.pcaaw.co.uk</a></p> <p>The charity <b>Public Concern at Work</b> provides support for organisations on whistle blowing and confidential independent advice to workers who have concerns about some wrongdoing in the workplace.</p> <p><b>To contact Public Concern at Work</b></p> <p>Write to: Suite 301 16 Baldwins Gardens London EC1N 7RJ Telephone: 020 7404 6609 Email: <a href="mailto:services@pcaaw.co.uk">services@pcaaw.co.uk</a></p>

**Q14. Does the school regularly benchmark its expenditure against that of similar schools and investigate further where any category of spend appears to be high?**

<b>A</b>	<b>What the question means</b>
<b>1</b>	<p><b>What is benchmarking and why it is important</b>  <i>Benchmarking is a process for comparing expenditure in detail with that of similar schools to consider whether and how your school can use resources better. The purpose of benchmarking is to improve the use of resources by identifying where changes can be made. Ideally, this process should be undertaken annually, but benchmarking can also be carried out at any time when reviewing school contracts for procuring goods and services.</i></p>
<b>2</b>	<p><b>The information schools use to benchmark their expenditure</b>  <i>All maintained schools submit their expenditure data using the Consistent Financial Reporting (CFR) framework which schools use to code their income and expenditure. This standardised set of codes enables schools to compare their expenditure with that of similar schools. Schools can produce simple charts and reports for governors to show how their money is spent in comparison to other schools.</i></p> <p><i>Within the benchmarking website, there are 3 ways of selecting comparator schools against which to benchmark:</i></p> <ul style="list-style-type: none"> <li>- <b>Statistical neighbours</b> allows schools to select a number of the most similar schools based on criteria they select::</li> <li>- <b>Manual selection</b> allows schools to select other schools based on a range of values for each of the chosen criteria; and</li> <li>- <b>Specific schools</b> allows schools to select specific schools by name and local authority within the same school phase</li> </ul> <p><i>Some local authorities provide their own benchmarking data as an alternative to the national website.</i></p>
<b>3</b>	<p><b>Why schools need to benchmark against similar schools</b>  <i>So that meaningful comparisons can be made when comparing expenditure. If a school compares itself to all schools or a random group then the differences in spending are likely to reflect the schools' different circumstances, such as proportions of deprived pupils, rather than help the school identify ways to secure better value for money in its spending.</i></p>
<b>B</b>	<b>Good practice</b>
<b>4</b>	<p><b>All schools should ensure they are benchmarking effectively</b>  <i>Schools should use benchmarking as a contributing factor to:</i></p> <ul style="list-style-type: none"> <li>• <i>Planning and managing their budget;</i></li> <li>• <i>Identifying areas for improved use of resource;</i></li> <li>• <i>Setting targets for improved use of resource;</i></li> <li>• <i>Achieving best value in expenditure;</i></li> <li>• <i>Improving the effectiveness of expenditure to improve performance; and</i></li> <li>• <i>Delivering educational services to a defined standard.</i></li> </ul> <p><i>Benchmarking your expenditure can help create a cycle of continuous improvement and develop a culture where it is easier to question the norm and make changes. Benchmarking is not used solely to focus on reducing costs, but to also improve the quality and impact of the school's services. Benchmarking can be most effective where done in collaboration with other schools, and can be used as a tool for improving or bringing about change and raising standards.</i></p>



5	<p><b>Selecting the right schools to benchmark against</b>  <i>It is important to select the right cohort of schools to benchmark against, based on your own school characteristics. You should be selecting “like for like” to get a better understanding of your school expenditure and that of other schools in the benchmark set you have selected. The characteristics of your selected benchmark set should allow sound comparisons to be made, enable you to ask questions about different categories of spending and encourage constructive discussions with comparator schools to help your school make changes in performance over time. Typical parameters for selection would include area, school size and percentage of deprived pupils.</i></p>
6	<p><b>Interpreting the chart data for your school and others</b>  <i>Care should be taken when interpreting comparative income and expenditure data. Objective information of this sort describes the position of a school relative to other schools: it does not in itself explain why a school is in this position, or provide a view on whether it should be in this position. There may be very good reasons for a school to have relatively high or low figures. What is important is that school governors and managers review the differences, question the reasons for them and aim to make changes where there are not adequate reasons for their spending being high in a particular category.</i></p>
C	<p><b>What to do if things are not right in your school</b></p>
7	<p><b>What to do if your school does not regularly benchmark</b>  <i>The school should begin to benchmark immediately. Information about the national benchmarking site is in section 9. The local authority is also a source of advice on benchmarking. As all schools are responsible for spending large amounts of public funds each year they need to demonstrate value for money to parents, auditors and regulators by showing that this money is being well spent to achieve the best outcomes for children.</i></p>
8	<p><b>What to do if a category of spend appears to be too high</b>  <i>First, you should consider whether your school has particular circumstances that create valid reasons for this high spending. If there are not, you should consider what factors have led to this high level of spending and then how the use of these resources can be improved in the future.</i></p>
9	<p><b>Further information</b>  <i>There are a number of sources that schools can use to begin or improve their use of benchmarking.</i></p> <p><i>The national benchmarking website holds data for all maintained schools since 2002. This website provides data that reflects the expenditure codes that schools use to submit their annual CFR returns. It enables comparisons to be made with other similar schools. Schools can access the Schools Financial Benchmarking (SFB) website via this link:</i>  <a href="https://sfb.teachernet.gov.uk/login.aspx">https://sfb.teachernet.gov.uk/login.aspx</a>  <i>Schools can also contact their local authority to obtain any benchmarking data that their authority has. Such data usually relate to a schools within a single authority and can therefore be comparable and easy to interpret. Schools could focus on data relating to a particular area of concern.</i></p>

**OUTTURN 2011-12 DRAFT DSG CFO STATEMENT**

CFO name

LA no LA Name

**Chief Finance Officer's Statement confirming the actual deployment of the Dedicated Schools Grant (DSG) in support of the Schools Budget**

I ...[Insert CFO name].....confirm that the DSG received by this Authority in 2011-12 was fully deployed in support of the Schools Budget in accordance with the conditions of grant and the School Finance Regulations 2011.

I confirm that the audited Note to the Accounts concerning the DSG gives a correct statement of how the DSG was deployed. I attach a copy of this Note which has been completed in line with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom.

**I also confirm that there were no adverse statements in the Authority's audited 2011-12 Statement of Accounts regarding regularity or propriety.**

I confirm that I have in place a system of audit for schools which gives me adequate assurance over their standards of financial management and the regularity and propriety of their spending. During the financial year 2011-12 I received [ ] signed statements from Chairs of governors (out of [ ] schools maintained by the Authority) that they have carried out the assessment of the Schools Financial Value Standard, and I have taken the contents of these into account in planning my future programme of audit. Of those schools which had never attained the Financial Management Standard in Schools (FMSiS), [ ] did not carry out the SFVS assessment.

Signed .....  
Chief Finance Officer

Date.....

1st Floor, Norfolk House, Walker Place, Rotherham S65 1AS  
Tel: (01709) 822677 Fax: (01709) 822501

Where Everyone Matters

Email: [joyce.thacker@rotherham.gov.uk](mailto:joyce.thacker@rotherham.gov.uk)  
Email the Council for **free** @ your local library!

Ref: JT/TM/JC/54 Contact: Joyce Thacker

1st April, 2011.

Dear Headteacher/Chair of Governors,

### Transfer of Services

We have been made aware recently that colleagues in schools are being approached by service brokerages and companies to take on the provision of services to schools. Initial contact with colleagues has suggested that these organisations and individuals are offering superficially attractive prices but closer examination has revealed there may be fundamental flaws with these arrangements, resulting in headteachers and governors being exposed to legal and financial risks.

The purpose of this letter is to outline some of these issues:

- In letting contracts headteachers and governors have a fiduciary duty to act in the best interests of council taxpayers and the community,
- In discharging the fiduciary duty schools are required to comply with bespoke Financial Regulations and Standing Orders, designed to protect the public purse by ensuring that schools get value-for-money.
- The Council follows strict procedures when drawing up and letting contracts. These include procedures for developing specifications, pricing models, risk analyses, TUPE, financial contract management, health and safety etc.
- The Council also adopts tendering strategies to inform the manner in which it engages with the market, compares the services it offers with other providers to ensure value-for-money, conducts due diligence exercises, requires performance guarantees and makes transitional arrangements to ensure the smooth continuity of a service from provider to provider.
- Schools must also ensure that they and any contractors they use comply with the law and discharge any legal requirement to provide the Council with accurate and timely data, including meeting any statutory deadlines associated with the operation of the service.

### TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 protect employees' terms and conditions on the transfer of an undertaking or service provision change.

The Cabinet Office *Code of Practice on Workforce Matters* also applies to schools and requires them to respect the TUPE rights of any employees who may be affected by a change in service provider and therefore employer. Headteachers and governors should ensure they comply with the Code and meet their legal obligations to staff and their representatives.

### **Pensions**

Under the *Code of Practice on Workforce Matters* the pensions of staff who transfer to a new provider must be preserved, either through the new provider obtaining “admitted body status” with the appropriate pensions authority or providing a pension entitlement that is broadly comparable with the pensions authority’s scheme. Section 102 (staff transfers: pensions) of the Local Government Act 2003 make these provisions mandatory in the case of staff employed by a local authority.

Contractors appointed to provide services hitherto provided by local authority staff must therefore offer transferring staff a suitable pension. The options are:

- continued membership of the South Yorkshire Pensions Authority scheme via “admitted body status”; or
- admission to the contractor’s own pension scheme, which must be certified by the Government Actuary’s Department (GAD) as being “broadly comparable” to the local government pension scheme.

To achieve “admitted body” status it is necessary to request SYPA to obtain an actuarial valuation to determine an appropriate employer pension contribution rate to be paid by the appointed contractor and the level of the bond that the SYPA will require in case of default. The Human Resources & Payroll Service has expertise in this field and can assist and advise schools on the process.

There is a cost to undertaking a valuation, and the school, as the party taking the decision to transfer services, would have to meet that cost. The actuary’s fees depend upon the amount of work involved in arriving at a valuation. The cost of the bond is borne by the contractor, who will add this to the contract price.

It is important to stress that for employees to retain unbroken membership of the LGPS and not have their benefits affected, the admission agreement must be signed before the date of transfer; the pension regulations do not allow for retrospective agreements.

More detailed guidance on both TUPE and pensions is contained in the attached documents. Guidance on such matters can also be obtained from Legal Services or the HR Business Partner for Schools.

### **Specifications**

Specifications drawn up by schools, or on their behalf by brokers, are important documents that must comply with legal obligations, such as Health and Safety. Any school contemplating delivery of services by private contractors must also ensure that working practices and operational requirements comply with applicable Council policies and procedures. For example, if financial liability ultimately rests with the Council for the actions of contractors on school premises, the Council must be apprised of any proposals, so that it can satisfy itself as to any potential risks and steps to be taken to mitigate them.

**Conclusion**

This is a complex and sensitive area. It is perhaps worthy of note that all of the above issues are taken into account by the Council when it provides a service or contracts for a service on schools' behalf. We are aware however that some headteachers and governors are electing to carry substantial personal risks, and in some cases may not even be aware of those risks, by letting contracts without complying with mandatory procedures.

In order to achieve economies of scale, the Council spreads the costs of letting and administering contracts for the services it provides across the whole range of services. A decision to cherry pick one or two of these services places all the others at risk of cancellation as the Council may lose its economies of scale and hence its ability to continue to provide them. Moreover, as the services were procured on schools' behalf, schools have an obligation to use those services for the term of the particular contract.

Accordingly, may I respectfully suggest that notices to terminate services where these have been issued are withdrawn pending further discussions with the specific service provider, e.g. for cleaning contracts Environment and Development Services.

We intend to add this as an agenda item at the next meeting of the Schools Forum, but should you have any questions or queries in the meantime, please speak to Paul Fitzpatrick of Human Resources or Richard Waller of Legal Services. Paul Fitzpatrick can be contacted on (01709) 823786 and Richard Waller on (01709) 823553. Richard is on holiday all next week, so please contact Tim Mumford on (01709) 823500 in his absence.

Yours sincerely,



Joyce Thacker  
Strategic Director,  
Children and Young People's Services



Tim Mumford  
Assistant Chief Executive,  
(Legal and Democratic Services)

## **HRP TUPE – Transfer of Undertakings – QUICK GUIDE**

**Please note:**

**This guide is intended to be an easy to follow summary of procedures and is designed to give Manager's a "feel" for the process to follow as well as giving some hints and tips for effective implementation.**

**Please seek guidance, if necessary, from the HR Service Centre or your HR Manager.**

**The following pages include:**

- **A quick guide summarising the main points extracted from the HRP TUPE procedure.**
- **Information on employees to new employer**
- **FAQ's – Frequently Asked Questions.**

### **TUPE – WHAT IS IT?**

The Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794) (often referred to as 'TUPE') were introduced to implement the Acquired Rights Directive 77/187/EC. They are the main piece of legislation governing the transfer of an undertaking, or part of one, to another. The Regulations are designed to protect the rights of employees when a transfer occurs from one employer to another, enabling them to enjoy the same terms and conditions, with continuity of employment, as before.

In incorporating the Acquired Rights Directive into the law of member states, a number of anomalies arose which were addressed by a new Acquired Rights Directive 98/50/EC and various amendments to the UK TUPE regulations. The most recent significant amendments have been subject to an extremely prolonged consultation – changes affecting pensions came into effect on 6 April 2005 with further changes following in April 2006.

The transfer process helps managers follow the appropriate steps to undertake the successful transfer of employees into or out of the Council.

The Regulations protect employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer. However any part of any agreement (whether it is a contract of employment or not) is invalid if it excludes or limits the rights granted under the Regulations.

The Regulations have the effect that:

- **Employees employed by the previous employer when the undertaking changes hands automatically become employees of the new employer on the same terms and conditions. It is as if their contracts of employment had originally been made with the new employer.**

Thus employees' continuity of employment is preserved, as are their terms and conditions of employment under their contracts of employment (except for certain occupational pension rights).

- Representatives of employees affected have a right to be informed about the transfer. They must also be consulted about any measures which the old or new employer envisages taking concerning affected employees.

## COMMITMENT

- The transfer of employees should be transparent and fair.
- If a TUPE transfer applies, all terms and conditions of work and continuity of employment should be preserved. This principle applies to all employees who were employed in the entity transferred immediately before the transfer; and any employee who has been dismissed as a result of a reason connected with the transfer (such dismissal would automatically be unfair).
- Subject to a minimum of a one year qualifying period (one year's continuous service), from either a combination of "old" and "new" employer such a dismissal will be automatically unfair for a reason connected with the transfer unless it is for an 'economic, technical or organisational' (ETO) reason.
- Although TUPE does not specifically cover the issue of pensions, the Government require that local authorities follow a Cabinet Office Statement of Good Practice which requires the pension arrangements with the new employer should be the same or broadly comparable. The assessment of comparability is made by the Government's Actuary Department and a Certificate is issued. From 6<sup>th</sup> April 2005 there is a requirement that the new employer provide a pension that meets certain minimum standards. There may be circumstances in which the new employer applies to the Local Government Pension Scheme for Admitted Body Status. As this process can take a significant period of time this should be built into the timetable for the implementation of the transfer.

## STEP ONE: PROPOSALS

- Identify if a TUPE situation applies, which may require taking legal advice. Managers should always discuss and take advice on any possible situations with the Directorate HR Manager at the earliest opportunity.
- Identify why the change is required, the anticipated extent of the change and the potential implications of the proposals.
- Where appropriate, seek authorisation to commence the process for change. This could be authorisation from Strategic Director, Director or, in the case of a large scale change, may be referred to CMT and/or Elected Members.

- As the transferee takes over the liability for all statutory rights, claims and liabilities arising from the contract of employment, for example: liabilities in tort, unfair dismissal and discrimination claims, it is vitally important that a comprehensive information gathering process is completed. The exception to this rule applies to criminal liabilities. See *Appendix 1* for example template of information required.

### STEP TWO: CONSULTATION

- The employer of any employee who may be affected must tell their representatives:
  - That the transfer is going to take place, approximately when, and why
  - The legal, economic and social implications of the transfer for the affected employees
  - Whether the new employer envisages taking any action (reorganisation for example) in connection with the transfer which will affect the employees, and if so, what action is envisaged. The new employer must give the Council the necessary information so that we are able to meet this requirement, and the information must be provided long enough before the transfer to give adequate time for consultation
  - The pension arrangements that are going to apply.

This should be confirmed in writing to the representatives. [Click here for a sample letter](#)

- If changes are envisaged which will affect the employees, the employer must consult the representatives of the employees affected about that action. The consultation must be undertaken with a view to seeking agreement. During these consultations the employer must consider and respond to any representations made by the representatives. If the employer rejects these representations they must state the reasons.
- If there are special circumstances in which it isn't reasonably practicable for an employer to fulfil any of the information or consultation requirements, they must take such steps to meet the requirements as are reasonably practicable.
- A simultaneous direct consultation should also be carried out with staff that are affected because their duties are wholly or partially affected by the transfer, and depending on the extent of the change, meet with employees as a group or on an individual basis. Where staff are only partially involved in the work which is transferring an assessment must be made about whether or not they are to transfer to the new employer. This assessment would be based on



The employer must:

- Arrange for employees and trades union representatives meet the new employers.
- Write to all the employees with the details of the transfer. Ensure that any employees who are absent receive the same communication. [Click here for a sample letter.](#)
- Consider whether consultation with service users is appropriate, although this may have already been required by this stage.
- Receive feedback from consultation and make any amendments.
- Upon completion of the consultation phase, take into account all feedback received and identify if there are any changes to be made to the proposals.
- Make the final decision about the transfer and how it will be implemented and communicate this decision to trade unions and employees.
- Directorate HR Managers should work closely with managers to advise in the process and support managers direct consultations with employees and their representatives.

### **STEP THREE: IMPLEMENTATION**

- The new employer takes over the contracts of employment of all employees who were employed in the undertaking immediately before the transfer, or who would have been so employed if they had not been unfairly dismissed for a reason connected with the transfer. An employer cannot just pick and choose which employees to take on. Comprehensive details of the employees to transfer will have to be provided to the new employer.
- The new employer takes over any collective agreements made on behalf of the employees and in force immediately before the transfer. Details of the agreements will have to be provided to the new employer. *See Appendix 2* for a list of the types of policies and procedures which the new employer should take on. This list may be added to according to the particular transfer so HR Managers need to be involved.
- An employee's period of continuous employment is not broken by a transfer, and, for the purposes of calculating entitlement to statutory employment rights, the date on which the period of continuous employment started is the date on which the employee started work with the old employer. This should be stated in the employee's written statement of terms and conditions; if it is not, or if there is a dispute over the date on which the period of continuous employment started, the matter can be referred to an employment tribunal.
- Consideration should be given to the ongoing relationship with the Council if, for example, a member of staff applies for a post back in the Council. Agreement would need to be reached about continuity of service.

## **TUPE – EMPLOYEE FREQUENTLY ASKED QUESTIONS**

### **1. *Who is protected?***

Under the TUPE regulations employees who are employed by the old employer at the time of the transfer automatically become employees of the new employer. This covers all employees. Their status remains the same permanent, temporary, or casual.

### **2. *How long does protection last?***

There is no time limit specified in the regulations.

### **3. *What happens to the Conditions of Service, holidays, sickness etc?***

Any existing collective agreements covering holidays, sickness etc are automatically taken over by the new employer therefore the leave and sickness arrangements continue as before. Any changes to these would have to be negotiated.

### **4. *What happens to service with the Council?***

The service is counted as continuous from the date on which employment commenced with the Council.

### **5. *Can I opt for redundancy?***

No, it is not a redundancy situation the jobs transfer to the new employer; therefore there is no loss of jobs.

### **6. *What options are there for early retirement?***

There is no basis for early retirement connected with any transfer that may be agreed. Therefore, there is no change to the present situation.

Anyone who wishes to obtain details of pension information can contact the South Yorkshire Pensions Authority offices based in Rotherham, 01709 823740.

### **7. *Do I have preferred status for redeployment?***

There is no loss of job and thus no redundancy situation therefore; there will be no preferred status for redeployment. However, employees will be able to apply in the normal way for vacancies within the Council.

### **8. *Are there any important matters of which I should be aware?***

One key area that is not covered by TUPE is the provision of pensions. The regulations do not require the same scheme to be available however it should be "broadly comparable."

Example Template of Information Required for Transferring Employees.

SURNAME	FORENAMES	JOB TITLE	PAY REF	ANNUAL SALARY	CONTRACTUAL PAYMENTS (e.g. Overtime)	TOTAL A.NNUAL EARNINGS		DATE JOINED LOCAL GOVERNMENT PENSION SCHEME	GENDER	DATE OF BIRTH	START DATE	EMPLOY,MENT TYPE (temporary, permanent etc)	ACTUAL HOURS	WHOLE-TIME EQUIVALENT HOURS		PAY PROTECTION	INDUSTRIAL INJURY CLAIM	EMPLOYMENT TRIBUNAL CLAIM	LONG TERM SICKNESS	MATERNITY LEAVE

## **Policies, Procedures and Collective Agreements**

The following list of contractual policies and conditions form part of the contracts of employment of Rotherham Metropolitan Borough Council employees which should transfer with employees. Details are contained in the individual documents which can be found on the intranet, or via your Directorate HR Manager.

### ***Equalities/Appointments***

- Equal Opportunities in Employment Policy Statement
- Probationary Procedure
- Making Reasonable Adjustments for Disabled Employees
- Cultural and Religious Observance Policy

### ***Official Conduct***

- Disciplinary Procedure
- Grievance Procedure
- Confidential Reporting Code
- Code of Practice on Official Conduct
- Capability Procedure
- Bullying and Harassment Policy
- Domestic Violence Policy
- Electronic Communications Policy
- Information Access – Code of Practice
- Information Access – Data Protection

### ***Performance and Learning***

- Learning and Development Policy
- Performance and Development Review Policy

### ***Health, Safety and Welfare***

- Health and Safety Policy
- Procedure for Reporting Accidents
- Fire and Bomb Procedure
- Violence to Staff Policy
- Aids and HIV Infection
- Working with DSE
- No Smoking Policy
- Racist Incidents Policy
- Substance Misuse Policy

### ***Pay and Grading***

- Starting Salaries
- Equal Pay Policy
- Re-grading Application Form
- Re-grading Appeals Process
- Trade Union and Other Payroll Deductions Facilities
- Honorarium

### **Leave**

- Annual and Other Leave
- Bereavement Leave
- Disability Leave
- Career Break Scheme
- Time Off for Public Duties
- Time Off for Interviews With Other Authorities
- Absence Due to Inclement Weather
- Special Leave With and Without Pay

### **Sickness**

- The Sickness Scheme
- What To Do When You are ill
- Third Party Claims
- Access to Medical Reports

### **Maternity/Family Related**

- The Maternity Scheme and Related Maternity and Pre-maternity Issues
- Adoptive Parents Leave
- Maternity Support Leave
- Parental Leave(unpaid) and Time Off for Urgent Family Reasons

### **Redundancy Modifications Order**

- Recognition of previous local government service and impact on certain conditions of service
- Cabinet Office Statement of Practice – Staff Transfers in the Public Sector

### **Termination of Employment**

- Redundancy and Redeployment Policy (inc Grade Protection Policy)
- Notice Periods
- Exit Interviews
- Payments in The Event of Death or Permanent Disablement Due to Assault.

### **Trade Union Facilities**

- Time Off Agreement
- Notification of New Starters to Trade Unions

### **Miscellaneous**

- Access to Personal Files
- Relocation Scheme
- Travel and Subsistence Policy (inc. Excess Travel Scheme)
- Flexible Working Scheme
- Flexible Working Scheme – Right to Apply
- Home-based Working
- Job Share
- Long Service Awards/Gratuity Scheme
- Voluntary Retirement Schemes

- Salary Sacrifice Schemes e.g. child care voucher scheme, home computing scheme

**Other areas of consideration**

Managers must complete a leaver form for employees who are TUPE transferring, in line with the leavers process – [click here to view](#). This must be done well before the date of transfer to ensure that payroll remove employees from RMBC's payroll and ICT can make arrangements for removal of ICT equipment (where appropriate).

The Data Protection Officer (Legal Services) should also be informed of any TUPE transfer to review any transfer of information.



SOUTH YORKSHIRE  
PENSIONS AUTHORITY

# Transferee Admission Body Information



CUSTOMER SERVICE EXCELLENCE



[www.sypensions.org.uk](http://www.sypensions.org.uk)

Authorised and regulated by the Financial Services Authority

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## Introduction

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protects employees if the business in which they are employed changes hands. Its effect is to move employees, and any liabilities associated with them, from the old employer to the new employer by operation of law.

Pension provision does not form part of TUPE. However, from October 2007, contracting authorities have to comply with section 101 of the Local Government Act 2003 in relation to the pension provision for their transferring staff. The requirement is that the pension provision going forward must be the same as, broadly comparable to, or better than they had (or had the right to acquire) prior to transfer.

In order to satisfy the pensions' requirement, the contractor has two options:

- To offer their own pension scheme, which must be certified by the Government Actuary's Department (GAD) as being "broadly comparable" to the Local Government Pension Scheme (LGPS)
- To apply for Admission Body Status (ABS) within the LGPS

This guide gives details of the ABS process plus a general overview of what it means to be an employer within the LGPS. It is intended for use by contractors or sub-contractors who may be considering joining the LGPS as a Transferee Admission Body. It is also applicable for organisations that are providing a public service and have had approval from the Secretary of State for the purposes of admission to the Scheme.

## GAD Approved Scheme

Should the contractor decide to offer its own pension arrangement to the transferred staff then it must satisfy the outsourcing local authority that it holds a GAD certificate of Broad Comparability. There are two alternative approaches to providing Broad Comparability, namely "Passport" and "Individual Certification".

A Passport would indicate that the pension benefits which the contractor intends to offer to transferring staff have been analysed in detail and were considered to be broadly comparable for a wide range of staff who may potentially transfer from the public sector. This passport may then be used to bid on other public contracts and show compliance with one strand of Fair Deal (i.e. satisfy one of the requirements in the guidance note issued by HM Treasury "Fair Deal for Staff Pensions: Procurement of Bulk Transfer Arrangements and Related Issues").

An Individual Certification would be similar to a Passport but testing takes place only for a specific transfer, for the specific staff involved. If the individual assessment indicates that the proposals offered are broadly comparable for the staff concerned, then a broad comparability certificate would be issued, valid only for that particular transfer. It can be a simpler way to achieve broad comparability as analysis is restricted to a small group.

Given the changes to the LGPS effective from April 2008, All GAD Certificates of Broad Comparability for the LGPS **issued before 26 April 2007 cease to have validity** for any transfer of staff covered by LGPS in England and Wales taking effect after that date.

GAD have stated that they expect the majority of contractors will need to make changes to their schemes in order to continue to meet the broadly comparable test.

Although there will be no requirement to mirror the differing accrual (and other) bases applying for service before and after April 2008 in the LGPS, contractors should be aware that GAD will take account of new LGPS basis from 1 April 2008 (i.e. 60ths accrual with cash by commutation and earning related member contribution rates) as part of the assessment.

Further, on 6 October 2008 GAD issued a note entitled "LGPS Broad Comparability – clarification of definition of minimum pension age". GAD expect a copy of the note to be appended to all LGPS Passport Certificates issued prior to 6 October 2008 when they are submitted by contractors in the bidding process.

On 6 April 2009, GAD issued a Press Release entitled, "Changes to revaluation in deferment and validity of certificates of Broad Comparability". The Pensions Act 2008 permits occupational pension schemes to limit the revaluation of deferred benefits to 2.5% per year over the period of deferment for benefits that accrued after 5 April 2009. GAD's release reminded both contractors and public sector contracting authorities that where changes are made to a contractor's broadly comparable pension scheme before the GAD certificate expires, a new certificate may be required for employees who are to transfer from the public sector. GAD stated that where a contractor reduces the cap on revaluation of deferred benefits below the level described in its current GAD certificate, that certificate would be withdrawn by GAD. GAD would then undertake a reassessment of the broad comparability of the benefits package as a whole. GAD believe it is unlikely that contractors will be able to compensate members with other benefits of a sufficient value where the revaluation of deferred benefits are reduced to the minimum level.

It is therefore recommended that any contractor seeking to offer their own pension provision instead of seeking ABS should contact GAD in the first instance to ensure their passport certificate is valid.

## The Local Government Pension Scheme

### Definition

The Local Government Pension Scheme (LGPS) is a Statutory, Contracted Out, Final Salary, Defined Benefit, Occupational, pension scheme. It is governed by the LGPS (Benefits, Membership and Contributions) Regulations 2007, the LGPS (Administration) Regulations 2008 and the LGPS (Transitional Provisions) Regulations 2008 which together make up the legislative framework for administering the scheme. Throughout the industry the aforementioned statutory instruments are referred to collectively as the “LGPS Regulations” and within the LGPS itself as “the Regulations”.

Whilst the scheme is a national pension scheme, it is administered locally and comprises 89 local funds in England and Wales, which broadly speaking operate on a county-wide basis. The LGPS in this area constitutes the South Yorkshire Pension Fund (SYPF), which is administered by South Yorkshire Pensions Authority (SYPA).

### Pension Contributions

The employee contribution rate is determined by the rate of whole-time equivalent pay in accordance with a table comprising seven tiers as contained within the Regulations.

The employer contribution rate is set by the Actuary and is reviewed triennially as part of the Valuation process (although circumstances could lead to a bespoke review outside of the Valuation process).

### Defined Benefit

Because the LGPS is a Defined Benefit scheme, benefits are guaranteed and comprise an annual pension and contingent survivor and dependant benefits. A Pension Commencement Lump Sum is available to all members via commutation of annual pension at retirement. More details about the benefit structure can be found at the LGPS website: [www.lgps.org.uk](http://www.lgps.org.uk)

### Contracted Out

The LGPS is Contracted Out of the State Second Pension (S2P), formerly known as the State Earnings Related Pension Scheme (SERPS). As a result of this National Insurance Contributions (NICs) are deducted at the Contracted Out rate (NI Table D and E). In order to satisfy Contracting Out requirements basic LGPS benefits must be at least equal to those offered by S2P.

## South Yorkshire Pensions Authority

### Definition:

SYPA is a scheme administrator for the LGPS, administering the South Yorkshire Pension Fund on behalf of over one hundred and fifty employing authorities throughout the area. The major employers within the Fund are the four local authorities; Barnsley MBC, Doncaster MBC, Rotherham MBC and Sheffield City Council.

SYPA is a statutory organisation and is funded out of the Fund. The Authority itself consists of 12 elected members, each being a councillor from one of the four local authorities within the county. The Clerk and Treasurer is the chief officer within the organisation. He is responsible to the Authority

### Departments:

Broadly speaking, the organisation is split into two overarching sections: one dealing with Scheme Administration, the other with Fund Investment.

#### Scheme Administration:

The Assistant Treasurer heads the Scheme Administration unit and is the designated officer with executive powers relating to Scheme administration. The unit is departmentalised as follows:

#### *Member Services:*

The Member Services Unit deals with the “day to day” administration of the Scheme, calculating benefits and maintaining the organisations membership database.

The Member Services Unit is divided into five teams with each scheme employer allocated to one of the teams.

Make a note of your Member Services Contacts here:

Team Manager: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email address: \_\_\_\_\_ @sypa.org.uk

Other contacts: \_\_\_\_\_

#### *Technical Team:*

The Technical Team offers technical support throughout the Unit and also to employers within the Fund. The team also has responsibility for overseeing the establishment of new employers within the Fund.

Technical Team Manager: Gerald Potts  
01226 772937  
gpotts@sypa.org.uk

Technical Officer: John Hensby  
01226 772919  
jhensby@sypa.org.uk

*I.T:*

The Information Technology section provide I.T support for the whole organisation and are responsible for the maintenance of the Authority's website: **[www.sypensions.org.uk](http://www.sypensions.org.uk)**

*District Offices:*

SYPA has a satellite office within each of the four South Yorkshire local authorities. The District Offices provide the link between the local authorities and HQ, providing and vetting data from the local authority. They also provide weekly advisory sessions for the use of any Fund member.

Barnsley District Office:

Doncaster District Office:

Rotherham District Office:

Sheffield District Office:

*Payroll & Admin:*

Ensures, amongst other things, that the Funds' pensioner members are paid each month. The section also provides general administration duties in support of the organisation.

*Communications:*

The section has responsibility for communication news and information to all of the Funds stakeholders including Scheme members and employers.

**Charter Mark:**

SYPA has obtained the prestigious Charter Mark for its commitment to customer service. Charter Mark submissions involve a detailed application against sixty three set criteria and an on-site visit from an independent assessor. It ensures the Pensions Authority can:

- Set standards and perform well
- Actively engage with customers, partners and staff
- Be fair and accessible to everyone and promote choice
- Continuously develop and improve
- Use resources effectively and imaginatively
- Contribute to improving opportunities and quality of life in the communities it serves.

The Pensions Authority first secured the Charter Mark award in 2004. It is retained for three years with annual surveillance visits to ensure the award criteria are still being met. At the end of the three years a fresh application has to be made and a full review takes place. The Authority successfully retained the award in 2007.

**Website:**

[www.sypensions.org.uk](http://www.sypensions.org.uk)

The SYPA website has been designed primarily for scheme members.

**EPIC:**

Every Scheme employer has bespoke login details which allow access to the Employer Pensions Information Centre (EPIC). Log-in credentials, and full demonstration, are provided upon entry to the Scheme.

Once established, the employer may choose which, and how many, of its administration staff has access to the site, i.e. Human Resources and/or Payroll.

Contained within the secure area is a copy of all correspondence sent out both globally and specific to the employer. Statistical reports (for example Scheme membership numbers, retirement situation breakdown, etc) are also available for inspection.

There is also access to SYPA's LGPS Portal which is a reference tool in relation to the Scheme Regulations, and is used as the main reference tool for the Authority's staff.

SYPA actively seeks Information Technology solutions. Data transfer and electronic interfacing are high priority developments and new Scheme employers will be actively encouraged to utilise these facilities.

## Admission Body Status

### Summary

The LGPS Regulations allow for contractors to join the scheme by virtue of entering into an Admissions Agreement with the outsourcing employer and the Administering Authority (South Yorkshire Pensions Authority). Under the terms of the Regulations, the contractor is referred to as a Transferee Admission Body (TAB) and the outsourcing employer is referred to as the Scheme Employer. These terms are replicated throughout SYPA's standard Admission Agreements.

It is not uncommon for the contractor to take the decision to sub-contract some of the work. In such circumstances it is important to be aware that **SYPA will require a separate Admission Agreement in respect of each and every sub-contract.**

Appended to this pack is a flowchart showing the full ABS process (Appendix 1).

The rest of this section is concerned with the ABS process:

### Outsourcing Scheme Employer Responsibilities

The Scheme Employer has the responsibility of ensuring that the whole process is undertaken in a timeframe that allows for the continued Scheme membership of the transferred staff, without them suffering a break in pensionable membership. **There can be no backdating of Admission Agreements.** If an Admission Agreement is not in place prior to the TUPE transfer then the transferring staff will lose membership of the LGPS (including the associated death and retirement benefit protection) in relation to the period until an Agreement is effective.

The Scheme Employer may decide to obtain an estimated employer contribution rate and bond amount for inclusion in the tender. This allows bidders to factor in such potential costs in their bid. This would be subject to change should the subsequent successful bidder decide to sub-contract some of the work. Because SYPA will require bespoke Admission Agreements in respect of each sub contractor the employer contribution rate and bond amount will be invalid.

Apart from the initial decision to outsource, the Scheme Employer has several other decisions to make throughout the process, which may impact on the contractor's liabilities and responsibilities:

### Past Service Funding Liability

The Scheme Employer must decide whether it wishes to retain any past service funding deficit in respect of the transferring staff or whether it wishes to transfer the liability to the Transferee Admission Body, and if so, on what basis (i.e. partial or full). The template Admission Agreement reflects the common practice of Scheme Employers retaining past service funding deficits.

### Method of Funding Protection

It is likely that the Scheme Employer will have commissioned a risk assessment from the Fund's Actuary as part of the outsourcing process. Contained within that report will be a liability, expressed as a monetary value, placed upon the Fund in the event that the Transferee Admission Body is wound up or liquidated leaving statutory redundancy early retirement benefits payable in respect of any transferred staff over the age of 55 (age 50 where transitional protections apply until 2010).

Given that any liability as mentioned above would ultimately revert to the outsourcing Scheme Employer, it is they who must decide whether they will require the Transferee Admission Body to obtain a bond in order to protect the Fund (and ultimately themselves). If the decision is taken to require a bond they then must also determine the level of such indemnity. Common practice is that they will decide upon the level stipulated in the Actuary's report.

In coming to their decision, the Scheme Employer will assess the impact upon the event of the Transferee Admission Body being wound up or liquidated. If, in all likelihood they would simply re-employ the transferred staff then they may deem the risk so assessed as to not require a bond to be in place. Indeed the demographics of the workforce may also be a factor in their decision.

In any event, the Regulations stipulate that the Scheme Employer must keep under review the level of risk and as such they may vary the amount of bond required at periods recommended by the Actuary or indeed seek to have one in place where they had previously decided against. See the section under Bond Agreements for details of who may act as bondsman.

### **Collection of Employee Data**

It is the Scheme Employer's responsibility to provide, to SYPA, up-to-date and data cleansed data in respect of the transferring staff. The information required is:

- Name
- National Insurance Number
- Date of birth
- Sex
- Classification of whole-time or part-time
- Weekly contractual hours of employment
- Whole-time equivalent hours (if part-time)
- Contractual weeks of employment
- Actual Pensionable Pay
- Date employment commenced

SYPA have a standard template for use in this exercise.



## The Agreements

SYPA has a library of template Agreements for use in establishing Admission Bodies within the South Yorkshire Pension Fund.

### Admission Agreement

The Admission Agreement is a tripartite agreement between the Transferee Admission Body, the Scheme Employer and SYPA. Many of the clauses within the Agreement will be statutory provisions prescribed by the Regulations, others will be bespoke additions requested by either Scheme Employer or Transferee Admission Body and agreed by all parties.

The Agreement allows for the smooth transition of continued Scheme membership for the original batch of transferred staff, provided the Agreement is effective as at the TUPE transfer date. **There can be no backdating of Admission Agreements.** It is therefore important that enough time is allocated prior to the TUPE transfer to allow for the completion of the Admission Agreement (and potentially for the Bond Agreement).

The Agreement also gives the Transferee Admission Body control over which future employees it chooses to nominate for Scheme membership, usually with the caveat of approval from the Scheme Employer.

#### Open Agreements:

An open Admission Agreement is one that allows future employees of the Transferee Admission Body to join the Scheme (subject to nomination by the Transferee Admission Body) **provided they are employed wholly or mainly on the contract tasks.** It is important to stress that only employees working on the contract tasks have eligibility to join the Scheme.

#### Closed Agreements:

A closed Admission Agreement precludes future employees from joining the Scheme, and caters only for the continued membership of the original batch of TUPE transferees.

When taking such decisions, the Admission Body needs to have regard to the *Code of Practice on Workforce Matters in Best Value Authority Service Contracts* in relation to operating a two-tier workforce going forward. The Code decrees that the service provider will offer “reasonable pension arrangements” to new recruits to an outsourced workforce.

The Admission Agreements will make reference to the level of Fund protection required by the Scheme Employer. If no bond is required, the Agreement will confirm that the Scheme Employer has undertaken an assessment of the risk and has determined that no bond is required at the outset. Conversely, if a bond is required then the Admission Agreement will make reference to the fact that a Bond Agreement is in place and that the Admission Agreement is ineffective without such. In both scenarios the Admission Agreement will allow for further review of the funding situation by the Scheme Employer.

## Bond Agreement

The Bond Agreement is between a third party bondsman acting as surety and the Transferee Admission Body and is drawn in favour of SYPA (i.e. for the comfort of the Fund).

The Regulations stipulate who may act as bondsman, namely:

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance;
- (b) an EAA firm of the kind mentioned in paragraph (5)(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or
- (c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.

### Bond Amount:

It is for the Scheme Employer to determine both the requirement for a bond and, if required, the level of indemnity, following actuarial advice.

As part of the outsourcing process, the Scheme Employer will commission the Funds Actuary to provide a risk assessment included in which will be a recommended level of bond.

## Termination

As part of the triennial Valuation process the Actuary will have assessed the (notional share of) assets and liabilities bespoke to the Transferee Admission Body and the employer contribution rate applied throughout its membership of the Fund will have been set accordingly in order that (notional) assets match liabilities.

Over and above this, it is expected that the Scheme Employer (or indeed the Transferee Admission Body) will contact SYPA to inform that a contract is coming towards cessation. This will allow the Actuary to assess the employer contribution rate, as a separate exercise to the triennial Valuation, to take into account the drawing in of the contract and allow for a “smoothing” of the rate. The Actuary would expect such notification around fourteen months prior to the contract termination.

It therefore follows that in a theoretical world there will be neither a surplus nor a deficit upon the Transferee Admission Body’s termination from the Fund.

However, circumstances can dictate that this is not always the case in the real world. Take for example the earlier than anticipated termination of the contract in circumstances which did not allow for the smoothing of the employer contribution rate or indeed, even with the “smoothing” in operation, financial experiences do not meet actuarial assumptions, then it is possible that a deficit, or surplus, exists upon termination.

Any deficit will be recovered by SYPA from the Transferee Admission Body via capital injection.

Any arrangement between the outsourcing Scheme Employer and the Transferee Admission Body (contractor) to cater for this situation must be dealt with via the contract **and not via** the Admission Agreement. For the avoidance of doubt, SYPA will seek to recoup any termination deficit directly from the Transferee Admission Body.

SYPA will seek to return any funding surplus, wherever possible, under direction of the Actuary.

## Employer Responsibilities

### Submission of Data

It is critical the employer undertakes to ensure that it keeps SYPA up-to-date with employee data required to ensure that the Authority's database is accurate. Failure to do so could lead to inaccuracies during the Annual Pension Forecast exercise, and ultimately incorrect payment of retirement benefits. In addition, inaccurate data could lead to an inaccurate employer contribution rate being levied at the triennial valuation process.

SYPA has an extensive library of forms for use in the submission of data. However the preferred method of notification is via direct electronic interfacing. This can be accessed via the Authority's website.

SYPA operates as a paperless office. Any documents received are scanned upon arrival and are accessed via computerised Document Image software.

In addition to the 'day to day' submission of data, the employer has the statutory responsibility of paying over the collected employee and employer pension contributions (together with Advice of Payments return) each month. All employers have a statutory duty to pay over contributions by the 19<sup>th</sup> of the following month, otherwise the Fund will charge interest for late payment.

As part of the year-end contribution reconciliation process, an annual data cleansing exercise will be undertaken.

Every employer is expected to sign up to the Service Level Agreement to ensure that the above is carried out as required.

### Employer Decisions and Policies

Membership of the Scheme will lead to employers having to make key decisions which will affect their employees' pension entitlement. Likewise, the Regulations require each employer to formulate, keep under review, and publish policies as to the exercise of discretions awarded under the Scheme. A Transferee Admission Body usually adopts the policies of the outsourcing employer at the outset of the contract. Under the terms of the Admission Agreement, the Transferee Admission Body must consult and obtain the written consent of the Scheme Employer before reviewing or amending any policies. Examples of the decisions, policies, and employer discretions, are detailed below:

- To whom to offer membership of the LGPS (Designated/Resolution Bodies)
- Which employees to nominate for membership (Admission Bodies)
- Whether to operate an "open" or "closed" arrangement (Admission Bodies)
- Whether to extend the 12 month option period for aggregation of deferred benefits
- Determine rate of employees contribution (in accordance with regulation 3 of the Benefit Regulations)
- Specify in an employees contract what other payments or benefits, other than those specified in regulation 4(1)(a) of the Benefit Regulations and not otherwise precluded by regulation 4(2) or (3) are to be pensionable
- Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days
- Whether to augment membership of an active member (max 10 years)
  - **written policy required under the Regulations**
- Whether to grant additional pension to a member (max £5000 p.a.)
  - **written policy required under the Regulations**

- Whether, how much, and in what circumstances to contribute to a shared cost AVC scheme
- Allow late application to convert scheme AVC's into membership credit i.e. allow application more than 30 days after cessation of active membership
- No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made
- Employer may deduct contributions from an employee's pay or reserve forces pay
- Whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS
- Whether to consent to Flexible Retirement requests
  - **written policy required under the Regulations**
- Whether to waive, in whole or in part, actuarial reduction on benefits on or after age 55 (50 with transitional protections) paid on flexible retirement
- Decide which tier (as directed by Independent Medical Practitioner) ill health retiree falls into
- Whether to grant application for early payment of benefits from age 55 (50 with transitional protections until 2010) and before age 60
  - **written policy required under the Regulations**
- Whether to waive, on compassionate grounds, the actuarial reduction to benefits paid early

## Actuary's Role & Funding Issues

The LGPS is a funded pension arrangement. In theory the Fund should represent equally, in asset terms, the amount required in order to satisfy the whole of its liabilities.

It is a statutory requirement that the scheme administrator appoint an actuary to advise on financial questions involving probabilities relating to mortality and other contingencies.

### Risk Assessment

It is a regulatory requirement that the Scheme Employer undertakes an assessment of risk arising on premature termination of the provision of service or assets by reason of the insolvency, winding up or liquidation of the Transferee Admission Body, in cases where the Scheme Employer has taken the original decision to outsource the service. The Actuary will be commissioned **via SYPA** with the associated fee recharged to the Scheme Employer upon completion of the work.

Where the Transferee Admission Body has entered the ABS process not as a result of an outsourcing exercise (for example where they are providing a public service and have been approved by the Secretary of State for the purposes of admission to the Scheme) then it is they who must commission the risk assessment. However, given that the Regulations go on to say that the risk assessment must be carried out to the satisfaction of the administering authority, it would seem logical for SYPA to commission the Fund's Actuary, and recharge the Transferee Admission Body accordingly.

### Bond Calculation and Review (ABS process)

The Actuary will offer the choice of having a full risk assessment report. The Scheme Employer must take the decision as to whether they wish to commission such work. A Bond value is the amount estimated by the Actuary to cover the liability placed upon the Fund in the event that the Transferee Admission Body fails to provide the function or service it is contracted to provide as a result of it winding up, becoming insolvent or being liquidated.

The liability stems from the fact that, under the provisions of the Regulations, any scheme member over the age of 55 (50 with transitional protections until 2010) who has their post made redundant has a statutory entitlement to immediate, unreduced, benefits.

The outsourcing Scheme Employer (under guidance from the Actuary) will determine the frequency of review in respect of any Bond. As part of the review the Actuary will reassess the liabilities and determine whether an adjustment is required to the indemnity. If required, the Transferee Admission Body **will** need to revise the Bond.

### New Employer Contribution Rate

Based upon the demographics of the new employer's workforce the Actuary will calculate a bespoke employer contribution rate for membership "going forward". This will either be on a fully funded basis or be inherent of a past service funding deficit, dependant upon the decision taken by the outsourcing scheme employer. Unless the Actuary stipulates to the contrary, the assumptions used during the previous Valuation exercise will be adopted.

In normal circumstances the contribution rate will be applicable until the next Valuation, at which time it will be reviewed as part of the triennial Valuation process. However, circumstances may lead to a bespoke review. For example, if the employer were to exceed the built in allowance for ill health and early retirements (see page 18).

### Retirement and Strain Costs

The basic funding principle within the LGPS is to assume that all members will retire at age 65. However, the Scheme rules allow for voluntary retirement at any age over 60 with any additional liability recovered by actuarial reductions to member benefits (subject to certain transitional protections in relation to scheme members with membership prior to 1 April 2008).

Beyond this, the Scheme also allows for early retirement at any age due to permanent incapacity (possibly with enhanced benefits dependant upon the medical condition) and also for the employer to consent to the early release of benefits before age 60. The costs associated with these types of retirements are set against an actuarial allowance and are covered in greater detail below.

Redundancy and 'business efficiency' retirements entitle the Scheme member to the immediate payment of unreduced benefits. Because of this, it is likely that strain costs will be placed upon the Fund. Given that these retirements are as a result of employer decisions, any strain upon the Fund must be met by the employer (via capital injection).

Flexible Retirements may also lead to strain costs which, like the above, will be recharged to the Employer.

The Regulations also allow for an employer to augment additional membership in respect of a pensionable employee. The cost of taking such action must be met by capital injection into the Fund.

### Allowance for 'ill health and early retirements'

In addition to the employer contribution rate, the Actuary will determine an "allowance" (in cash terms representing Fund strain costs) in respect of 'ill health retirements' and 'early retirements with employer consent'. The allowance will be calculated using the pensionable workforce demographics and will be based upon the method and assumptions from the last Valuation.

The allowance will represent the period until the next Valuation. If it is exceeded the Actuary will be informed and will recommend a course of action, which is likely to be either capital injection into the Fund or an increase in employer contribution rate.

It should be noted that, whilst 'early retirements with employer consent' are within the employers' control, 'ill health' retirements are not. The employer's decision to award 'ill health retirement' benefits will be based solely on medical grounds following an assessment by independent medical practitioner. This is therefore an uncontrollable risk for the employer, but given that the allowance is based upon demographic assumptions, it would take a higher than normal occurrence of ill health retirements in order to incur any additional cost to the employer.

It is possible for the Actuary to set a zero allowance for employers with a small workforce. In such circumstances a single ill health retirement could potentially lead to a significant pension liability which, in turn, could mean a major capital injection into the Fund or increase to employer contribution rate.

## Valuation

The Fund is valued every three years, on the following cycle:

Valuation as at 31 March 2007, revised employer contribution rates applied from 1 April 2008.

Valuation as at 31 March 2010, revised employer contribution rates applied from 1 April 2011

And so on.

In conclusion to the Valuation exercise, the Actuary produces a report together with the mandatory Rates and Adjustments Certificate. South Yorkshire Pension Fund Actuarial Valuation Reports are available via the Authority's website. SYPA set the contribution rates following the Valuation report.

## Funding Strategy Statement

The Regulations provide the statutory framework from which SYPA (as a Scheme Administrator) is required to prepare a Funding Strategy Statement (FSS). The key requirements for preparing the FSS can be summarised as follows:

- After consultation with all relevant interested parties involved with the Fund the Authority will prepare and publish their funding strategy;
- In preparing the FSS, the Authority must have regard to :-
  - the guidance issued by CIPFA for this purpose; and
  - their own Statement of Investment Principles (SIP) for the Fund published under Regulation 9A of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (as amended);
- The FSS must be revised and published whenever there is a material change in either the policy on the matters set out in the FSS or the Statement of Investment Principles.

The purpose of the FSS is to establish a clear and transparent Fund-specific strategy which will identify how employers' pension liabilities are best met going forward, to take a prudent longer-term view of funding those liabilities and to support the regulatory requirement to maintain as nearly constant employer contribution rates as possible.

The FSS is available for inspection via the Authority's website.

## Cost Sharing Exercise

A cost sharing mechanism is to be established by 31 March 2009 detailing the manner in which the costs of the LGPS will be met after 31 March 2010. Put simply, cost sharing means sharing the cost risks between employers and scheme members thereby promoting a partnership of joint action to control those risks.

## FRS17

SYPA undertake bulk FRS17 disclosure exercises, available to all the Funds employers, leading to reduced actuarial fees due to economies of scale.

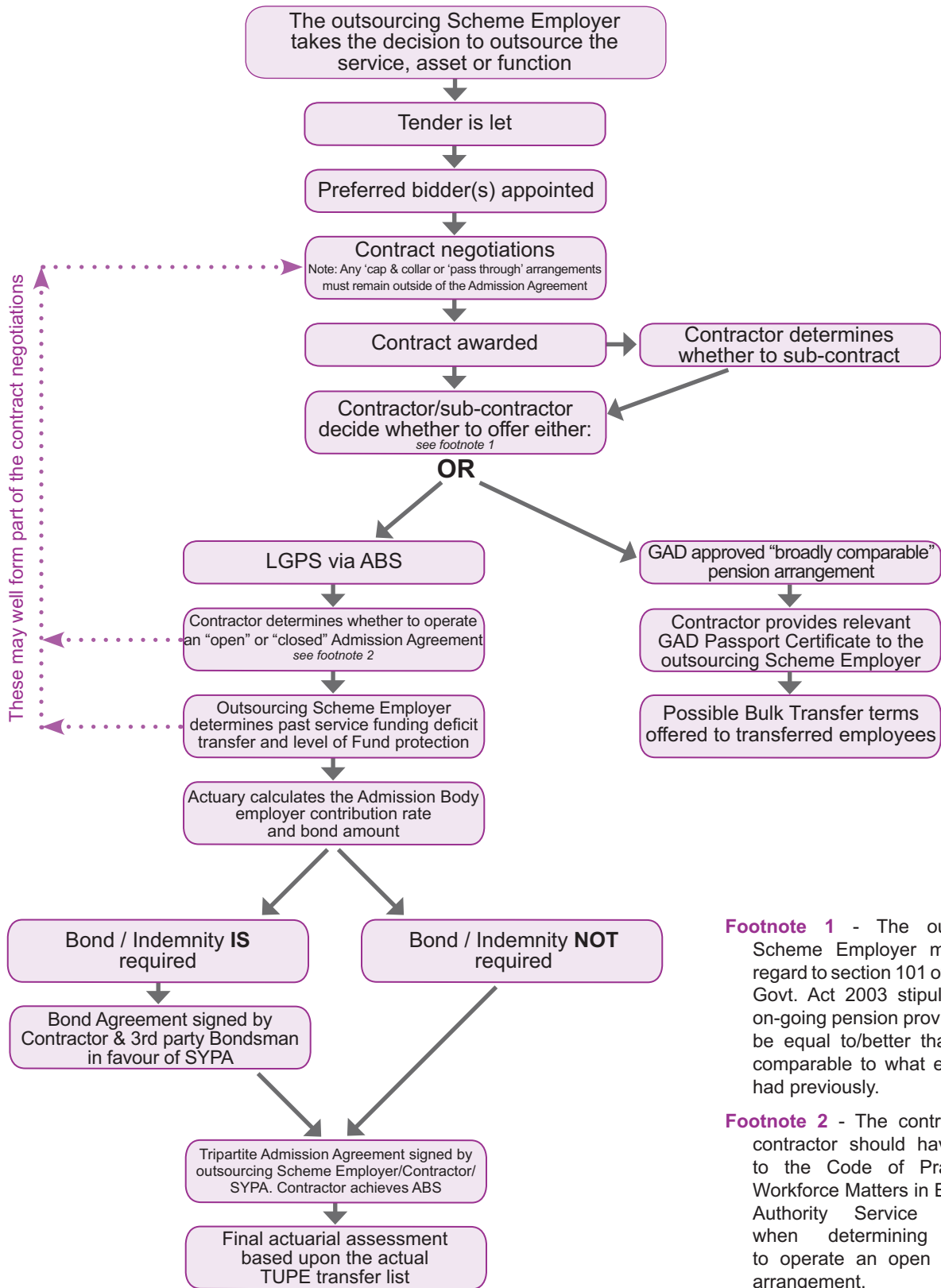
## Glossary

<b>ABS</b>	means Admitted Body Status a mechanism for allowing private contractors to join the Fund
<b>Actuary</b>	means the actuary appointed to the Fund
<b>Admission Agreement</b>	means the tripartite agreement that exists between the Scheme Employer, the Transferee Admission Body and SYPA allowing the Transferee Admission Body to participate in the Fund
<b>Bond</b>	means the level of indemnity required by the Scheme Employer from the Transferee Admission Body to protect the Fund against liabilities incurred from its winding up or liquidation
<b>Bond Agreement</b>	means the agreement that exists between the Bondsman and the Transferee Admission Body in the favour of SYPA, where the Bondsman acts as surety
<b>Bondsman</b>	means the financial institution bound by the Bond Agreement acting as surety against the liabilities incurred by the Transferee Admission Body
<b>Fund</b>	means the South Yorkshire Pension Fund as administered by SYPA
<b>GAD</b>	means the Government Actuary's Department
<b>GAD Passport</b>	means a certificate verifying that a contractors own pension arrangement is "broadly comparable" to the LGPS
<b>LGPS</b>	means the Local Government Pension Scheme
<b>Regulations</b>	means collectively the LGPS (Benefit, Membership and Contributions) Regulations 2007, the LGPS (Administration) Regulations 2008 and the LGPS (Transitional Provisions) Regulations 2008.



<b>Scheme</b>	means the Local Government Pension Scheme as construed by membership of the South Yorkshire Pension Fund
<b>Scheme Employer</b>	means the contracting employer who has taken the decision to outsource a service or function
<b>Secretary of State</b>	means the Secretary of State for Communities and Local Government, who's portfolio includes responsibility for the LGPS
<b>SYPA</b>	means South Yorkshire Pensions Authority in the context of the administering authority for the Fund
<b>Transferee Admission Body</b>	means the contractor or sub-contractor who has entered the Scheme via Admission Agreement
<b>TUPE</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
<b>TUPE Transfer</b>	means the transfer of services from the Scheme Employer to the Transferee Admission Body
<b>TUPE Transfer Date</b>	means the legal effective date of the TUPE Transfer
<b>Valuation</b>	means the statutory triennial valuation of the Fund undertaken by the Actuary at the behest of SYPA

## Appendix 1- Flowchart showing the Transferee ABS process



**Footnote 1** - The outsourcing Scheme Employer must have regard to section 101 of the Local Govt. Act 2003 stipulating that on-going pension provision must be equal to/better than/broadly comparable to what employees had previously.

**Footnote 2** - The contractor/sub-contractor should have regard to the Code of Practice on Workforce Matters in Best Value Authority Service Contracts when determining whether to operate an open or closed arrangement.



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TABLE 1 - SCHOOLS FORUMS: POWERS AND RESPONSIBILITIES 2011-12

	Function	Local Authority	Forum	DfE Role
1	Formula Change (including redistributions)	Proposes and decides	Must be consulted	None
2	Contracts	Propose prior to invitation to tender, the terms of any proposed contract	Gives a view	None
3	Financial Issues relating to: arrangements for pupils with special educational needs; arrangements for use of pupil referral units and the education of children otherwise than at school; arrangements for early years provision; arrangements for insurance; administration arrangements for the allocation of central govt grants; arrangements for free school meals.	Consult annually	Gives a view and informs the governing bodies of all consultations carried out in lines 1, 2 & 3	None
4	Minimum funding guarantee	Proposes any variations and can decide to set the MFG at a higher level than -1.5%	Agrees any variation relating to the early years single funding formula; must be consulted on other proposals	Approves any other variations and adjudicates if Forum does not agree LA proposal on early years
5	Breaches of central expenditure limit	Proposes	Decides	Adjudicates where Forum does not agree LA proposal
6	Increases in central spend on prudential borrowing, termination of employment costs, combined services, schools' specific contingency and special educational needs transport	Proposes	Decides	Adjudicates where Forum does not agree LA proposal
7	Scheme of financial management changes	Proposes and consults GB and Head of every School	Approves	Adjudicates where Forum does not agree LA proposal
8	Membership : length of office of members	Decides	None (but good practice would suggest that they gave a view)	None
9	Membership: appointment of Schools and Academies Members	Appoints those elected by members of the relevant sub groups. Facilitates election where required and appoints member if there is a tie or the election does not take place by a date set by the LA	None	None
10	Membership: Non Schools Members	Seeks nominations from the relevant bodies then appoints	None (but good practice would suggest that they gave a view)	None
11	Voting Procedures	None	Determine voting procedures	None
12	Chair of Forum	Facilitates	Elects <i>(may not be an elected member of the council or officer)</i>	None