Report To:	**GMPF LOCAL PENSION BOARD**
Date:	24 July 2017
Reporting Officer:	Sandra Stewart - Director of Pensions Euan Miller – Assistant Director - Pensions (Funding and Business Development)
Subject :	**EDUCATION SECTOR EMPLOYERS**
Report Summary:	Over recent years, changes in the education sector has increased administrative complexity for Local Government Pension Scheme (LGPS) Administering Authorities and increased resource requirements. The purpose of this report is to provide the Board with an update on national developments relating to education sector employers and recent initiatives designed to improve how academy schools and their contractors interact with LGPS Administering Authorities. Also provided is an overview of Greater Manchester Pension Fund's (GMPF) current administration and funding arrangements in relation to education sector employers.
Recommendation(s):	It is recommended that the Board note the information provided in the report.
Financial Implications: **(Authorised by the Section 151 Officer)**	There are no direct financial implications arising from this report. However, the PwC academies report highlights funding issues which may have an impact on contribution rates such as the operation of the Department for Education funding guarantee. Some of the approaches put forward in the PwC report may help develop long term operational cost savings.
Legal Implications: **(Authorised by the Solicitor to the Fund)**	There are no direct legal implications to consider. Any amendments to regulations that are made will be implemented accordingly.
Risk Management:	Increased academy admissions increase the administrative, legal, and funding risks which GMPF is exposed to. In particular poor quality data being provided to GMPF by academies could lead to statutory duties not being met, failure demand and reputational damage. The changes to the insolvency regime for the Further Education sector may also increase funding risks.
ACCESS TO INFORMATION:	**NON-CONFIDENTIAL** **This report does not contain information that warrants its consideration in the absence of the Press or members of the public.**
Background Papers:	For further information please contact Euan Miller, Assistant Director – Funding and Business Development, Greater Manchester Pension Fund, Guardsman Tony Downes House, 5 Manchester Road, Droylsden, email: euan.miller@tameside.gov.uk

1. INTRODUCTION

1.1 Education sector employers in the LGPS can broadly be categorised into 4 groups as follows:
- Academy schools;
- Sixth-form colleges;
- Further education colleges
- Universities

1.2 For the purposes of administering the LGPS, local authority schools are viewed as part of the local authority rather than employers in their own right. However, local authority schools can (and do) outsource functions and the contractors carrying out these outsourced functions often apply for admitted body status in the Scheme.

1.3 Over recent years, changes in the education sector has increased administrative complexity for Local Government Pension Scheme (LGPS) Administering Authorities and increased resource requirements.

1.4 The purpose of this report is to provide the Board with an update on national developments relating to education sector employers and recent initiatives to improve how academy schools and their contractors interact with LGPS Administering Authorities. Also provided is an overview of Greater Manchester Pension Fund's (GMPF) current administration and funding arrangements in relation to education sector employers.

2. ACADEMY SCHOOLS

2.1 The academy programme began with the Academies Act 2010 and the LGPS regulations were amended to allow academies to participate in the Scheme.

2.2 The Secretary of State for Education can enter into academy arrangements with organisations that wish to covert from maintained school or sixth form college to academy status; are new schools (including Free Schools and University Technical Colleges) or are required to convert to academy status (due to receiving an inadequate Ofsted inspection).

2.3 Academies are Scheme Employers as defined in the LGPS regulations (i.e. not admitted bodies) and are effectively required to offer membership of the LGPS to all employees not eligible for another public sector scheme.

2.4 Academies can either be:
- Standalone academies; or
- Multi Academy Trusts (MATs). Many MATs operate across different regions of England and Wales. Generally all staff are employed by the Trust which sits above the individual schools.

2.5 Under the regulations, the relevant LGPS Fund for the academy to join is normally determined by the geographical area in which the staff work, and the majority of academies are created by a conversion from a local authority clearly linked to a specific Fund.

2.6 In Greater Manchester, less than 30% of the approximately 1,000 schools have converted to academies. This is a lower conversion rate than many other parts of the country.

2.7 The last seven years has seen a proliferation of academisation in line with Government policy (which encourages conversion to academy status) and the increase in the number of academy admissions into the GMPF. A knock on effect of this is the trend for an academy to subsequently outsource groups of non-teaching support staff (such as catering and cleaning), which has resulted in increasing the number of commercial LGPS employers who become admitted bodies within the Fund. Many of these admission bodies have a very small number of members and only join for a short period of time. More admissions increase the administration and can increase the levels of professional fees incurred.

2.8 Schools (both local authority schools and academies) often also outsource their payroll function, or move away from using the local authority payroll. This can have a negative impact on the quality of data administering authorities receive.

2.9 Recently, there has also been an increase in the number of Free Schools being created. The LGPS Regulations apply to Free Schools in an identical manner to academies. The term 'academy' in this report is taken to mean either an Academy School or a Free School.

3. AN OVERVIEW OF GMPF'S CURRENT ADMINISTRATION ARRANGEMENTS IN RELATION TO ACADEMY SCHOOLS

3.1 There are currently 215 academies participating in GMPF as Scheme Employers and there are 54 new academy applications logged with GMPF.

3.2 **Outline of the application process for academies**

- Academies are classed as Scheme Employers and therefore no admission agreement is required.
- Prospective academies can apply to GMPF to join the Scheme by completing an application form.
- The prospective academy details on its application form whether it wishes to join an actuarial pool and how the academy's opening funding position will be calculated. Both of these are generally subject to the agreement of the ceding local authority. Please see paragraphs 3.3 and 3.5 for further information about these arrangements.
- If employees are to transfer to the academy at outset (e.g. from the ceding local authority) then a staff list must be provided.
- If staff list appears complete (or is not required) then the actuary is asked to calculate a contribution rate.
- The new academy is then admitted and receives a document outlining the arrangements agreed.

Pooling arrangements

3.3 GMPF allow some employers to pool their contributions as a way of smoothing out the impact of experience on contribution rates. Contribution rates are determined by the aggregate funding position of the pool. The pooling options potentially available to academies are:

- Local authority pooling - Some local authorities will allow an academy to be pooled with them for pension purposes and the academy will pay the same employer contribution rate as the pool. Strain costs for any ill health retirements are generally treated as a pool charge
- MAT pooling - An academy that is to be part of a multi-academy trust, may wish to pool with the other academies within the trust. Unlike the above local authority pooling option, all costs incurred as a result of early retirements (including ill health costs) are to be paid for up front by the academy.
- Standalone – If an academy does not wish to be pooled or the local authority or relevant trust will not agree to pooling then the academy will be a 'standalone' employer. The actuary calculates an individual contribution rate and all costs incurred as a result of early retirements (including ill health costs) are to be paid for up front by the academy.

3.4 GMPF also has an academies pool. However, this was closed to new academies several years ago following a change to the method used to calculate the opening funding position of academies.

Calculation of opening funding position

3.5 If staff are transferring from an existing GMPF employer (such as a local authority) to a new academy school then the actuary is required to calculate the amount of assets transferred to the new academy's sub-fund within GMPF. This determines the opening funding position of the academy school

3.6 The options potentially available include:

i) Fully funded – an amount of assets equal to the current value of the liabilities transfers (i.e. 100% funded).
ii) Replicating the funding level of the ceding employer.
iii) Transferring whatever assets remain after fully funding the school's deferred and pensioner members (whose benefits will continue to remain liabilities of the ceding employer). In recent years, this method has tended to result in academy schools commencing with a relatively weak funding position (which can result in a high contribution rate) and is the method typically used by GM Local Authorities.

4. FUNDING CONSIDERATIONS FOR ACADEMY SCHOOLS

4.1 Following the introduction of academy schools, many LGPS funds tended to set higher contribution rates for academies than for other tax-payer backed employers. This was likely due to a perception that there was a material risk of an academy school closing and being unable to pay off any funding deficit at the point of exit.

4.2 To try and mitigate this DfE provided a guarantee for an academy schools' deficit on its closure, which took the form of a Parliamentary Minute. This guarantee is time limited, but it is believed that this is due to a technicality and it would be extended as required.

4.3 However, it is not clear how the guarantee would operate in practice. As a result, many LGPS funds continue to use a more prudent approach to funding academy school liabilities.

4.4 It is understood that the DfE guarantee also applies to Free Schools. In GMPF's experience, Free Schools are more likely to close unexpectedly than academies, although the accrued liabilities are generally lower.

4.5 There are a wide range of funding levels and contribution rates amongst GMPF's academy schools and free schools. This is largely as a result of the application of the method set out in 3.6i (iii) to determine the opening funding position, the results of which can be quite sensitive to market conditions. The lowest academy contribution rates are around 15% of Pensionable Salary with a small number of academy schools paying contribution rates of around 30%.

5. ACADEMIES INFORMATION NOTE

5.1 In April 2017, the Local Government Association (LGA) in conjunction with the Department for Education (DfE) and the Department for Communities and Local Government (DCLG) published a document providing information for academies on participating in the LGPS. Administering authorities were encouraged to pass this note on to their academy employers (or schools considering conversion).

5.2 One of the intentions of the document is to help ensure a more consistent treatment of academy schools across LGPS funds.

5.3 However, GMPF officers have concerns about the document's accuracy in certain aspects. For this reason GMPF has only given minimum publicity to this document, highlighting in a recent monthly employer bulletin, but not making it available on the employer section of the website.

5.4 Indications are that GMPF is not the only LGPS fund expressing concerns about the document and as a result the LGA are collating comments. Officers have provided feedback to the LGA and made recommendations on how the document could be improved.

5.5 The comments received by the LGA will be discussed with DCLG and DfE with a view to considering whether an updated version of the document needs to be issued.

5.6 The information note is attached at **Appendix 1.**

6. PWC ACADEMIES REPORT

6.1 In May 2017, the LGPS Scheme Advisory Board published the PwC report, "Options for Academies in the LGPS". The report was commissioned by the Scheme Advisory Board in 2016 to look into the issues associated with the participation of academies in the LGPS.

6.2 The report does not make any recommendations, but draws together issues from PwC's discussions with various stakeholders.

6.3 From the issues discussed three key themes emerged:

- Policy, governance and outsourcing – in relation to DfE's overall policy for the academies programme, associated guidance to School Business Leaders, governance arrangements and the prevalence of outsourcing of academy functions;
- Administration and operations – the issues resulting from the participation of many academies and MATs in LGPS Funds, categorised broadly along the themes of the quality of data and payroll providers, interactions between parties and resourcing issues; and
- Contributions and finance – considering consistency in initially establishing and then regularly re-calculating contributions payable by academies and actuarial financing issues along the themes of pooling for funding, employer covenant, the role and value of the DfE guarantee to the LGPS and the legal definition of an LGPS employer.

6.4 The report sets out the three approaches agreed with the Scheme Advisory Board Secretariat to handling pension provision. These are:

- Improving LGPS processes and IT, and delivering effective guidance on supporting academies (this would effectively build on the document covered in section 5 above).
- Using new regulations within the LGPS to drive changes (this could mandate specific approaches to administering academies or consolidate all academies in a single LGPS fund).
- Implementation outside the LGPS (for example, moving academy support staff to the Teachers' Pension Scheme).

6.5 Current understanding is that an "in-scheme" solution is preferred to resolve the identified issues and there are no plans to transfer all academies to a single LGPS fund, as had been rumoured. Although agreeing to focus on solutions within the Scheme at this stage, Ministers were also clear that should these not prove effective, more radical measures, potentially outside of the LGPS would not be completely ruled out.

6.6 Publication of the report will enable the Scheme Advisory Board to engage with key stakeholders including LGPS funds, actuarial firms and academy trusts as appropriate on the issues raised by those interviewed by PwC. The Scheme Advisory Board will continue to gather relevant evidence and then develop specific proposals for change before submitting its recommendations to Ministers for their consideration.

6.7 The report can be viewed on the Scheme Advisory Board website (http://www.lgpsboard/).

6.8 **Appendix 2** provides a commentary on the report from the Funds actuary, Hymans Robertson.

7. SIXTH-FORM COLLEGES

7.1 Up until the 2016 valuation, most of GMPF's sixth-form colleges were pooled together for the purposes of calculating contribution rates and for funding ill-health early retirement strain costs.

7.2 Due to some sixth-form colleges looking to convert to academy status and form MATs with schools the pool was broken up with effect from 1 April 2016 and each college has had an individual contribution rate calculated. Consideration is currently being given to whether the pooling of ill-health strain costs can continue.

7.3 The sixth-form college pool was relatively well funded (close to 100% at the 31 March 2016 valuation), therefore most sixth-form colleges contribution rates are towards the lower end of the range for GMPF employers. Contribution rates range from 15.4% of Pensionable Salary (Rochdale Sixth-form) to 21.2% + £40,000 per annum (Cheadle and Marple sixth-form, which was not part of the sixth-form college pool). Total liabilities at the valuation date were approximately £60m (around 0.3% of GMPF).

7.4 Whilst it has not been clearly communicated, current indications are that the DfE guarantee for academy schools also applies to sixth-form colleges.

8. FURTHER EDUCATION COLLEGES

8.1 Over the past couple of years, Government has undertaken area reviews of post-16 education. The reviews have often recommended mergers, although no mergers of Further Education (FE) Colleges have yet taken place in Greater Manchester. We are aware of one FE College which is due to merge with a university that also participates in GMPF.

8.2 During 2016 the Department for Business, Innovation and Skills undertook a consultation on developing an insolvency regime for the FE and Sixth-form college sector. It become clear that, despite FE Colleges being required by the LGPS Regulations to admit their employees to the Scheme, Government consider FE Colleges to be commercial entities rather than public bodies on the government's books (albeit operated on a non-for-profit basis), and therefore cannot be covered by explicit government guarantees of the type that cover academies' LGPS liabilities.

8.3 Current understanding is that the insolvency process for FE Colleges has not been tested in practice as struggling colleges have typically been subsumed by other local colleges, following Government intervention, with assets and liabilities transferring in full. However, a prudent approach from GMPF's perspective may be to assume the insolvency process would work in broadly the same way as for a limited company. There is therefore a risk that GMPF does not fully recover any deficit, should a college terminate its participation unexpectedly.

8.4 Most commercial entities participating in GMPF are required to obtain a guarantee from a tax-raising body as a condition of entry, however, given FE College's status as a Scheme Employer (rather than an admitted body) under the regulations, the view of GMPF's legal team is that it is not appropriate to make similar demands on FE colleges. However, GMPF would be willing to consider accepting some form of security as part of any discussion regarding contribution rates with colleges.

8.5 At the 31 March 2016 actuarial valuation there were10 FE colleges participating in GMPF. The total value of the liabilities of the 10 colleges was £438m (around of 2.5% of GMPF's total liabilities) and the average funding level was 94%. The funding levels ranged from 87% to 100%. Funding levels are likely to have improved since the valuation date.

8.6 The contribution rates of the FE colleges ranged from 16.8% of Pensionable Salary (Oldham College) to 23.8% (Trafford College). Bolton College pay a rate of 18.0% of Pensionable Salary plus additional contributions of approximately £250,000 per annum.

8.7 Most of the colleges have a relatively mature membership profile, broadly similar to the local authorities, with benefits paid out generally exceeding contributions paid in.

9. UNIVERSITIES

9.1 In a similar vein to FE Colleges, it is clear that Government views universities as commercial entities (with charitable status), but the insolvency process has not been tested.

9.2 The following universities participate in GMPF:

- Salford University
- Manchester Metropolitan University ('MMU')
- The University of Manchester
- The University of Bolton
- Liverpool Hope University

9.3 MMU and The University of Bolton are Scheme Employers under the LGPS Regulations and are therefore required to admit non-teaching staff to the Scheme, whereas the other universities listed above are admission bodies.

9.4 Most, if not all of the above will have significant liabilities in the Universities Superannuation Scheme in respect of their teaching staff. The University of Manchester also operates its own defined benefit scheme and Salford University and Liverpool Hope University may also have other defined benefit pension arrangements. Most, if not all of the above will also have borrowings secured against some of their assets.

9.5 Broadly speaking the funding approach at the 2016 valuation was to treat the universities which are Scheme Employers in a similar manner to FE Colleges. The funding approach for the universities that are admission bodies targets full funding by the universities' expected date of exit (i.e. when their last active member leaves or retires). The University of Manchester has not admitted any new entrants for some time and therefore full funding is being targeted over a relatively short period.

9.6 At the 2016 valuation the total liabilities of the 5 universities was £621m (around 3.5% of GMPF's total liabilities). Funding levels ranged from 92% to 95%. Contribution rates range from 19.1% of Pensionable Salary (Liverpool Hope) to 22.9% plus around £750,000 p.a. (The University of Manchester).

10. RECOMMENDATIONS

10.1 It is recommended that the Board note the information provided in the report.