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Department for Business, Innovation and Skills
Vocational Education Directorate
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SW1H 0ET

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Dear Benjamin

Further Education and Sixth Form Colleges - Consultation on Developing an Insolvency Regime for the Sector

Thank you for the Department's consultation document inviting comments on the above topic.

I respond on behalf of the Local Government Association (LGA) and the Local Government Pensions Committee (LGPC).

The LGA is a politically-led, cross-party membership organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. In total, 435 local authorities are presently members of the LGA. The Local Government Pensions Committee (LGPC) is a committee of councillors constituted by the Local Government Association (LGA), the Welsh Local Government Association (WLGA) and the Convention of Scottish Local Authorities (COSLA). The LGPC considers policy and technical matters affecting the Local Government Pension Scheme (LGPS) in the UK, a scheme which has over 5 million members.

Background to the LGPS

The LGPS is a locally managed pension scheme administered by 91 pension funds in England and Wales. Further education colleges and sixth form colleges that are, respectively, further education corporations and sixth form college corporations under the Further and Higher Education Act 1992, must provide access to the LGPS for their employees and do so as 'scheduled bodies' in each of the 91 pension funds throughout England and Wales.

As well as being locally managed, the LGPS is a funded, defined benefit scheme that operates on a 'last man standing' basis. LGPS members pay contributions into the scheme on a banded contribution rate basis, with higher paid employees paying more as a proportion of their pay than lower paid employers. LGPS employer

contributions vary depending on need and are generally paid at a rate determined by the cost of providing benefits to their employees. In the event that investment returns are not as good as planned or members live longer in retirement than predicted, it is the fund employers that bear the risk and which will be responsible for picking up the additional costs.

Furthermore, if an employer becomes insolvent and the fund is unable to recover the deficit that the employer owed to the fund at the point of their insolvency, the liability for picking up that employer's pension liabilities falls on to the other employers in the fund. As the LGPS is a public sector pension scheme whose largest employers are local authorities, that will often mean that ultimately the burden falls on the local taxpayer.

Responsibility to act in interests of taxpayer

Turning to the specific proposals outlined in the consultation document, and given the comments above, the LGA are concerned to ensure that all steps are taken to prevent any risk arising that the pension liability of a college falls on to other employers in an LGPS fund, and ultimately the taxpayer. Given that one of the stated aims of introducing formal insolvency proceedings for further education and sixth form colleges is to protect taxpayers, we would propose that the appointed education administrator has a stated responsibility to carry out their function in a way that achieves the best interests for the taxpayer. That would include doing everything possible to avoid the pensions liability falling onto other public sector employers.

Area review process

Whilst we recognise that this consultation isn't specifically about the area review process, the restructure of further education and sixth form colleges in England has the aim of putting colleges on a firmer financial footing and we are supportive of efforts to do so. However, frequently we find that pensions considerations do not play a prominent role in the area review process and often LGPS pension funds are not involved until merger proposals have been agreed. This is a concern to the LGA given the significance of colleges' pension liabilities and we would welcome the opportunity to discuss with yourselves and with the Association of Colleges how pensions issues can be more prominently addressed in the area review process.

Wider considerations

Finally, we recognise that the issues raised above are symptomatic of a wider issue at the heart of colleges' participation in the LGPS, namely that as such bodies are now deemed to be in the private sector, should they be required to participate in a public sector, taxpayer funded pension scheme such as the LGPS when the risk of an inability to meet the liabilities is ultimately borne by the taxpayer? We hope to discuss this matter further with colleagues at the Department and at DCLG in the coming months in order to find a sustainable way forward.

In order to assist in the above discussions, we have undertaken a survey of LGPS pension funds to provide a greater understanding of the pensions liabilities that

colleges have in the LGPS. We hope the findings from the survey will be available in early September and will share these with the Department when available.

I hope the above is helpful; if you have any questions, please do not hesitate to contact me.

Yours sincerely



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