Appendix G – Employer flexibilities policy statement

The below sets out the general guidelines that the London Borough of Hackney Pension Fund (“the Fund”) will follow when exercising its discretion whether to:

1. Amend the contribution rate payable by an employer between formal funding valuations in line with regulation 64A of the Local Government Pension Scheme Regulations 2013 (“the Regulations”);
2. Enter into a deferred debt agreement (“DDA”) with an exiting employer in line with regulation 64(7) of the Regulations;
3. Please note that these are guidelines only and the Fund will also consider any other factors that are relevant on a case-by-case basis. These considerations may result in a determination that would be different if these guidelines were rigorously adhered to. In all cases, the Fund will make clear its reasoning for any decision.

1. Contribution review

It is anticipated that contribution rates certified at the formal actuarial valuation will remain payable by employers for the period of the rates and adjustments certificate. However, under the Regulations the Fund may amend contribution rates between valuations resulting from “significant change” to the liabilities or covenant of an employer. This may result in a material increase or decrease in contributions, depending on the circumstances.

The Fund would consider the following circumstances as a potential trigger for review:

- In the opinion of the Administering Authority there are circumstances which make it likely that an employer (including an admission body) will become an exiting employer sooner than anticipated at the last valuation;
- An employer is approaching exit from the scheme within the next two years and before completion of the next valuation;
- There are changes to the benefit structure set out in the LGPS Regulations including the outcomes of the McCloud case and cost sharing mechanisms (if permitted in Regulations at that time) which have not been allowed for at the last valuation;
- It appears likely to the Administering Authority that the amount of the liabilities arising or likely to arise for an employer or employers has changed significantly since the last valuation;
- It appears likely to the Administering Authority that there has been a significant change in the ability of an employer or employers to meet their obligations (i.e. a material change in employer covenant);
- It appears to the Administering Authority that the membership of the employer has changed materially from events such as bulk transfers, significant reductions to payroll or large-scale restructuring; or
- Where an employer has failed to pay contributions or has not arranged appropriate security as required by the Administering Authority.

The Administering Authority will also consider a request from any employer to review contributions where the employer has undertaken to meet the costs of that review and sets out the reasoning for the review (which would be expected to fall into one of the above categories, such as a belief that their covenant has changed materially or they are going through a significant restructuring impacting their membership).

Except in circumstances such as an employer nearing cessation, the Administering Authority will not consider market volatility or changes to asset values alone as a basis for reviewing contributions outside a formal valuation. However, if a review is being conducted, this may take account of market and asset changes which have occurred since the last formal valuation.

The Rates & Adjustments Certificate will be updated as necessary, following such a review.

The Administering Authority will also consider guidance in such matters from the Scheme Advisory Board as issued from time to time.

2. Deferred debt agreement ("DDA")

In the event that an Admission Body ceases participation in the Fund and a deficit is identified, payment of this amount as a single lump sum will be sought from the Admission Body by default.

However, in line with the Regulations and in the best interests of all parties, the Administering Authority may agree to enter into a written agreement with the Admission Body to defer their obligations to make an exit payment and continue to make secondary contributions (a DDA as described in Regulation 64 (7A)). Such an agreement would only be permitted at the Fund's discretion, where payment of the debt in a single immediate lump sum could be shown to be materially detrimental to the Admission Body's normal operations.

The Admission Body must continue to meet all active employer requirements and pay the secondary rate of contributions as determined by the Fund Actuary until the termination of the DDA.

The Administering Authority will consider DDAs in the following circumstances:

- The Admission Body requests the Fund consider a DDA;
- The Admission Body is expected to have a deficit if a cessation valuation was carried out;
- The Admission Body is expected to be a going concern; and
- The covenant of the Admission Body is considered sufficient by the Administering Authority.

The Administering Authority will normally require:

- Security be put in place covering the Admission Body's deficit on their cessation basis, as varying over time;
- Regular monitoring of the contribution requirements and security requirements;
- All costs of the arrangement are met by the Admission Body, such as the cost of actuarial and legal advice to the Fund, ongoing monitoring of the arrangement, and correspondence on any ongoing contribution and security requirements.

A DDA will normally terminate on the first date on which one of the following events occurs:

- The Admission Body enrols new active Fund members;
- The period specified, or as varied, under the DDA elapses;
- The take-over amalgamation, insolvency, winding up or liquidation of the Admission Body, unless the Administering Authority is satisfied that this does not weaken the Employer's ability to pay contributions under the DDA;
- The Administering Authority serves a notice on the Admission Body that the Administering Authority is reasonably satisfied that the Admission Body's ability to meet the contributions payable under the DDA has materially or is likely to weaken materially in the next 12 months;
- The Fund actuary assesses that the Admission Body has paid sufficient secondary contributions to cover all (or almost all) of the exit payment due if the employer becomes an exiting employer on the calculation date (i.e. Admission Body is now largely fully funded on their cessation basis);
- The Fund actuary assesses that the Admission Body's value of liabilities has fallen below an agreed *de minimis* level, if the employer becomes an exiting employer on the calculation date; or

- The Admission Body requests early termination of the DDA and settles the exit payment in full as calculated by the Fund actuary on the calculation date (i.e. the Admission Body pays their outstanding cessation debt on their cessation basis).

On the termination of a DDA, the Admission Body will become an exiting employer and a cessation valuation will be completed in line with this FSS.