



Departmental minute from the Department for Education

It is normal practice, when a government department proposes to undertake a contingent liability in excess of £300,000 for which there is no specific statutory authority, for the minister concerned to present a departmental minute to Parliament, giving particulars of the liability created and explaining the circumstances; and to refrain from incurring the liability until fourteen parliamentary sitting days after the issue of the minute, except in cases of special urgency.

Academy trusts and local government pension scheme (LGPS) liabilities

In 2013, the department introduced a guarantee to provide cover for LGPS liabilities which would become due in the event of academy trust closure. The department's LGPS guarantee confirmed that should an academy trust be closed, then any outstanding liabilities would not revert to the pension fund but would be covered by the trust. Any remaining outstanding liabilities would then be met by the department in full.

The guarantee was introduced to enable administering authorities to treat academies equitably with maintained schools and ensure that there is no significant divergence in employer contribution rates, upon conversion to academy status and when setting employer contribution rates at the tri-annual valuations.

LGPS liabilities guarantee annual ceiling limit

The department will continue to provide the guarantee for LGPS liabilities in the event of an academy trust closure.

The department, in agreement with HM Treasury (HMT), has removed the individual annual ceiling limit and replaced this with an increased annual contingent liability, up to a maximum of £20 million per annum.

The closure of an academy trust with the consequential ceasing of employee and employer contributions would result in the LGPS liability crystallising and a payment subsequently made to the fund. However, the likelihood of a closure where an academy does not transfer to another trust is low. Where there remains a need for education provision within an area, the department would seek to appoint a new provider to take over management of an existing academy trust and so take on the associated LGPS liabilities. A closure due to falling rolls, resulting in the crystallisation of the liability, would be unlikely to happen

immediately and would be managed over a period of years. Furthermore, the power to close an academy trust in these circumstances rests solely with the Secretary of State.

If the liability is called, provision for any payment will be sought through the normal supply procedure and will be met from within the department's spending review settlement.

The decision to close an academy trust is taken as a last resort and is reached after concluding a detailed process. DfE collaborates with academy trusts to review and consider all available options with the outcomes for pupils at the centre of any decision before it is made. DfE will engage with strong multi-academy trusts who have capacity to welcome academies to their family of schools, avoiding any disruption to the continuity of education.

Closing an academy within a MAT would not require use of the guarantee to cover the liabilities because the MAT, as a continuing employer, is required to absorb the liabilities. If the liability is called, provision for any payment will be sought through the normal supply procedure and will be met from within the department's spending review settlement.

Future changes

Although there is no end date set for the guarantee, the department's policy is to undertake reassessment of the guarantee at regular intervals to determine whether the guarantee remains affordable and to review the set annual ceiling limit.

HMT has approved the proposal in principle. If, during the period of 14 parliamentary sitting days beginning on the date on which this minute was laid before parliament, a member signifies an objection by giving notice of a parliamentary question or by otherwise raising the matter in Parliament, final approval to proceed with incurring the liability will be withheld pending an examination of the objection..

[Provision of a Department for Education guarantee](#) that the department will meet any outstanding LGPS liabilities on academy trust closure.

This minute was laid in Parliament by The Rt Hon James Cleverly MP, Secretary of State for Education, 21 July 2022