
Meeting	Pension Fund Committee
Date	11 July 2013
Subject	Admission of Capita into the London Borough of Barnet Pension Fund
Report of Summary	Deputy Chief Operating Officer This report informs the Committee of the 6 December 2012 Cabinet approval of the Business Case for the creation of a strategic partnership with Capita Business Services Limited (“Capita”) and seeks approval for Capita to become a member of the Local Government Pension Scheme through Admission Body status.

Officer Contributors	Nick Faint, NSCSO & DRS Project Lead Alison Clark, NSCSO HR Project Lead
Status (public or exempt)	Public
Wards Affected	Not Applicable
Key Decision	Not Applicable
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix A – Capita’s Application for Admitted Body Status
Contact for Further Information:	Alison Clark, NSCSO HR Project Business Partner on 020 8359 7806

1. RECOMMENDATIONS

- 1.1 That the Committee note the 6 December 2012 Cabinet approval to create a strategic partnership with Capita to transfer the New Support and Customer Service (“NSCSO”) and TUPE transfer the relevant staff; and**
- 1.2 The Committee approve in principle Capita as an admitted body to the Local Government Pension Scheme under Admitted Body Status. This will be subject to the approval of the transfer of staff under the NSCSO contract at General Functions Committee pending the outcome of the judicial review appeal. The committee delegate the responsibility to the Section 151 officer for ensuring that an admissions agreement and bond are in place.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 6 May 2008 (Decision item 5) – approved the establishment of the Future Shape of the Organisation.
- 2.2 Cabinet, 3 December 2008 (Decision item 5) – approved the programme structure for the next phase of the Future Shape programme and that a detailed assessment of the overall model for public service commissioning, design and delivery should be undertaken.
- 2.3 Cabinet, 6 July 2009 (Decision item 5) – approved that three principles would be adopted as the strategic basis for making future decisions (a new relationship with citizens, a one public sector approach and a relentless drive for efficiency) and that a phased approach to delivering the Future Shape Programme and immediate consolidation of activity in the areas of property, support and transact.
- 2.4 Cabinet, 21 October 2009 (Decision item 8) – approved plans to implement the Future Shape programme.
- 2.5 Overview and Scrutiny Panel, 21 September 2010 (Decision item 9) – endorsed a template for Equalities Impact Assessment for use in One Barnet projects to assess the impact of service transformation on current staff.
- 2.6 Cabinet, 29 November 2010 (Decision item 6) – Resolved that:
 - (1) The One Barnet Programme Framework is approved
 - (2) The funding strategy for One Barnet implementation costs, as set out in paragraph 6 of the Cabinet Member’s report, is approved.
- 2.7 Cabinet Resources Committee on 2 March 2011 (Decision item 9)
Customer Services Organisation and New Support Organisation:
Options Appraisal – Resolved that:
 - (1) The Director of Commercial Services be authorised to produce a business case for the following:

- a. the procurement of a private sector partner(s) to deliver the following services – Customer Services, Estates, Finance, Human Resources, Information Systems, Procurement and Revenues and Benefits.
 - b. the interim transformation (prior to transfer to a private sector partner) of the following services – Customer Services and Information Systems
 - c. change and service improvement of the following services – Estates and Procurement
- 2.8 Cabinet Resources Committee on 29 June 2011 (Decision Item 7) – Resolved that:
- (1) The committee approves the New Support and Customer Services Organisation Business Case in order that the Council can begin the competitive dialogue process, following the previously approved placing of the OJEU notice.
 - (2) The committee give due regard to the statutory equality duties under the Equality Act 2010 and the outcomes of the employee equality impact assessment referred to in this report.
- 2.9 Cabinet Resources Committee on 28 February 2012 (Decision Item 6) - Resolved that:
- (1) Cabinet Resources Committee approves the recommended New Support and Customer Services Organisation (NSCSO) shortlist of two bidders for stage 2 of the competitive dialogue process.
 - (2) The recommended shortlist is: BT and Capita. They achieved the highest two scores from the evaluation of the outline solutions provided at the end of the first stage of competitive dialogue.
- 2.10 A Special Meeting, Budget and Performance Overview and Scrutiny Committee on Thursday 29th November 2012 endorsed that:
- (1) Cabinet place special concern on staff transferring to the new provider ensuring these staff receive appropriate support during this process
 - (2) Cabinet ensure that representatives of Capita are required to give account to and support the work of Overview and Scrutiny as appropriate
 - (3) Cabinet put in place appropriate resources to mitigate against potential employment liabilities in relation to TUPE should at the end of the contract with the provider Cabinet decide to bring services back in-house
 - (4) The Committee recommend to Council the establishment of a dedicated scrutiny committee to monitor and assess the

performance of the NSCSO following the transfer of services and that the Cabinet be requested to endorse this recommendation

Please refer to section 10 on Background Papers.

2.11 Cabinet on 6 December 2012 – Resolved that:

- (1) That Cabinet note the outcome of the evaluation stage of the New Support and Customer Services Organisation (NSCSO) Project and accept Capita's Final Tender as the preferred bid, with reference to the Full Business Case (Appendix A), Equalities Impact Assessments (Appendix B), List of Principal Legislation (Appendix C), and Evaluation Scores (Appendix D - exempt).
- (2) That Cabinet approve the appointment of the recommended reserve bidder.
- (3) That Cabinet delegate contract completion and signature (and ancillary documentation) finalisation and execution to the Section 151 Officer and in the event of his absence, the Deputising Section 151 Officer.
- (4) That the Officers include a consolidated clear table on proposed savings from the NSCSO service in the contract.
- (5) Cabinet thanked the former Chief Executive of the Council, Officers and consultants for all their hard work in putting together a full business case that Cabinet have relied on to enable them make an informed decision.

Please refer to section 10 on Background Papers.

2.12 Special meeting of the Business Management Overview and Scrutiny Committee on 13th December, 2012, considered the following decision of the Cabinet meeting held on 6 December 2012 and asked questions of the Deputy Leader of the Council / Cabinet Member for Resources and Performance and the Cabinet Member for Customer Access and Partnerships in respect of the following:

Decision Item:	Subject:
5	Report of the Deputy Leader of the Council / Cabinet Member for Resources and Performance and Cabinet Member for Customer Access and Partnerships New Support & Customer Service Organisation: Recommendation for Preferred and Reserved Bidder and Full Business Case

The Committee endorsed:

- (1) That following consideration of the call-ins from Councillor Lord Palmer OBE and Councillor Alison Moore, the above decision was not referred back to the Cabinet for reconsideration.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Maintain the integrity of the Pension Fund by ensuring robust monitoring of admission body organisations and ensuring all third parties comply fully with admission agreements and bond requirements. The principle supports the corporate priority of better services with less money.
- 3.2 The full and final proposed enhanced TUPE Transfer Commitments presented to the trade unions at the end of August 2011 has been implemented stating:

“Pensions

The London Borough of Barnet will ensure that employees transferred from the Council to a new employer will be able to continue in membership of the Local Government Pension Scheme [LGPS] by requiring that the new employer obtains Admitted Body Status [ABS] within LGPS. ABS permits employees to participate in LGPS should they choose to do so although they will no longer be employed by the Council.

The London Borough of Barnet will consider on a case-by-case basis, in conjunction with the new employer, whether new employees [that is employees of the new provider who were not transferred from the London Borough of Barnet] employed on work transferred from the Council will have the opportunity to join LGPS. This is a complex matter and there is no underpinning plan as to the proportion of new employees who may or may not become eligible to join LGPS where ABS has been agreed.”

4. RISK MANAGEMENT ISSUES

- 4.1 The ongoing viability of the Pension Fund is dependent on maximising contributions to the Fund. The employees of Capita, who become members of the Local Government Pension Scheme (LGPS), will pay pension contributions as specified under the Regulations.
- 4.2 The pension regulations require actuarial assessments of the value of the pension fund and the liabilities of the employer. This is done initially and at each triennial valuation. The actuarial assessment will determine the employer contribution rate required to be made to the fund, dependant on the profile of the workforce and the potential risk to the fund of admitting the body.
- 4.3 The risk is commonly addressed by the employer being required to take out an indemnity, bond or guarantee to ensure payment to the pension fund in case of default.
- 4.4 The Authority on behalf of the employer has carried an assessment with actuarial advice, as required under the Regulations, of the level of risk exposure arising on premature termination of the contract by reason of the solvency, winding up or liquidation of the Admission Body. The Admission Body will be required to secure the required level of bond prior to the completion of the admissions agreement.
- 4.5 The LGPS provides for early payment of pension benefits on compulsory early retirement, redundancy or ill-health. As an employer in the pension fund, Capita will take responsibility for any potential strain on the fund resulting from

any such early retirements. Payments will be made to the Pension Fund by Capita, as and when required, should there be any pension strain or contribution issues as a consequence of any decisions made by Capita.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Ensuring the long-term financial health of the pension fund will benefit everyone who contributes to it.
- 5.2 The employee equality impacts associated with NSCSO are dealt with in the 6 December 2012 Cabinet report.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The authority acts as the administering authority for the pension fund and oversees other employers in the fund.
- 6.2 Where a contractor takes over an existing council service involving the transfer of employees under TUPE and those employees have rights under the Local Government Pension Scheme, the new employer has either to seek an Admissions Agreement to the Pension Fund or offer a Government Actuary Department (GAD) certified scheme to demonstrate broadly comparable benefits to the LGPS. Where employers seek admitted body status, the Committee needs to be assured that the bodies are able to meet their obligations under the Regulations and that the Fund is not put at risk, where bodies may go into default, this is usually secured by the contractor putting a bond in place.
- 6.3 Capita will become an admitted body to the Pension Fund under a closed agreement. The contractor will continue to pay the contribution rate that the Council is currently paying for internal staff to provide for future pension liabilities. The contribution rate will also provide for the repayment of the pension fund deficit.

7. LEGAL ISSUES

- 7.1 The Local Government Pension Scheme (Administration) Regulations 2008 (as amended) ("Administration Regulations") provide that a body may be admitted to the LGPS administered by the Council as a Transferee Admission Body where that body is providing or will provide services or assets in connection with a function of the council by means of a contract (in accordance with section 6(2)(a)(i) of the Administration Regulations).
- 7.2 Capita satisfy the requirements of Section 6(2)(a)(i) of the Administration Regulations and, subject to Capita making an application for membership and Pension Fund Committee approval, are capable of admission to the LGPS administered by the council as a Transferee Admission Body.
- 7.3 The Administration Regulations require that, in the case of admitting a Transferee Admission Body to the LGPS, the Transferee Admission Body must carry out an assessment of the level of risk arising on premature termination of the provision of the service or assets by reason of insolvency, winding up or liquidation of the Transferee Admission Body. The assessment

must take into account actuarial advice and, where the level of risk is such as to require it, the admission body shall enter into an indemnity, bond or guarantee to meet the level of risk identified.

- 7.4 Capita will be required to execute the Council's standard Admissions Agreement which complies with the requirements of the LGPS Regulations and makes provision for the Transferee Admission Body to obtain and maintain a bond in an approved form and to vary the level of risk exposure under the bond as may be required from time-to-time.

8. **CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Council's Constitution-Responsibility for Functions – Section 2 – Responsibility for Council Functions delegated to the Pension Fund Committee, as set out in the Pension Fund Governance Compliance Statement.

9. **BACKGROUND INFORMATION**

- 9.1 In June 2011, the Cabinet Resources Committee approved the Outline Business Case for the NSCSO project. This business case recommended that the Council undertake a procurement process to identify a strategic partner for the delivery of the following services:

- Corporate Procurement;
- Customer Services;
- Estates (Building Services, Property Services, Facilities Management) ;
- Finance;
- Human Resources;
- Information Systems;
- Revenues and Benefits and;
- Corporate Programmes.

- 9.2 A public procurement process based on a 'competitive dialogue' to identify the best strategic partner for these services has since been completed. Final Tenders were received from two bidders – BT and Capita – and the outcome of the evaluation recommended that the Council proceed with Capita as the Preferred Bidder and BT as the Reserve Bidder.

- 9.3 The Full Business Case demonstrates how the Final Tender from Capita enables the Council to:

- meet the unprecedented financial pressures it is facing;
- invest in these customer and support services; and
- preserve and improve on existing service levels.

- 9.4 Capita's Final Tender contains a range of contractual guarantees to deliver or exceed the targeted benefits from the Outline Business Case approved in June 2011. The key benefits are described in the full business case approved by Cabinet on 6 December 2012 and include:

- **Transferring Staff** - The Preferred Bidder is committing to funding existing professional accreditations that need to be renewed and maintained. In

addition to this, all managers will receive manager training from Capita's Learning and Development Academy. All transferring staff will benefit from a preservation of Terms and Conditions, including ongoing access to their current pension scheme.

10. LIST OF BACKGROUND PAPERS

- Minutes of Special Cabinet - 6 December 2012
- Minutes of Special Budget and Performance Overview and Scrutiny Committee - 29th November 2012

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	IDG (HB Public Law)