

AGENDA ITEM: 8

Page nos. 9 - 12

	Pensions Fund Committee
Date	15 September 2010
Subject	Birkin Cleaning Services Limited - Proposal to offer Admitted Body Status to the Barnet Local Government Pension Scheme
Report of	Deputy Chief Executive
Summary	This report sets out information on the application from Birkins Cleaning Services Limited for Admitted Body status within the Pension Fund and seeks Committee approval to allow this..

Officer Contributors	Tony Lampert - HR Business Partner Pauline Broadhurst, Employee Relations Case Manager Hansha Patel, Acting Pension Services Manager
Status (public or exempt)	Public
Wards affected	Not Applicable
Enclosures	None
For decision by	Pension Fund Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not Applicable

Contact for further information: Tony Lampert - 020 8359 7882/ Pauline Broadhurst - 020 8359 7902 / Hansha Patel – 020 8359 7895

1. RECOMMENDATIONS

1.1 That the Authority enter into an Admissions Agreement with Birkins Cleaning Services Ltd

2. RELEVANT PREVIOUS DECISIONS

2.1 None

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 Maximising admissions into the Pensions Fund and ensuring that the contribution levels cover their risk is one way of sustaining a viable Pensions Fund to the benefit of the London Borough of Barnet and its Pension Fund members. This principle supports the corporate priority of getting the best value from our resources.

4. RISK MANAGEMENT ISSUES

4.1 The employees of Birkins Cleaning Services Ltd. who become members of the Local Government Pensions Scheme (LGPS) will contribute the percentage of their pay as specified in the Regulations.

4.2 The pension regulations require actuarial assessments of the value of the fund and the liabilities of the employer. This is done initially and at each triennial valuation. The actuarial assessment will determine the employer contributions 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 a Bond to ensure payment in case of default.

4.4 The Authority, on behalf of the employer, has carried out an assessment with actuarial advice, as required by 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 Bond will be secured with FIBI Bank (UK)PLC.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 This proposal will not give rise to any issues under the Council's Equalities and Diversity policies.

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 (LGPS), the new employer has either to seek an admissions agreement to the Pension Fund or offer a Government

Actuary Department (GAD) certificated 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.

7. LEGAL ISSUES

- 7.1 Where a transferee admission body and the scheme employer undertake to meet the relevant requirement of Regulation 6 of the Local Government Pension Scheme (Administration) Regulations 2008/239, an administering Authority may admit to the LGPS the eligible employees of the transferee admission body, and where it does so, the terms on which it does are noted in the admissions agreement for the purposes of these Regulations.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution, Part 3 – Responsibility for Functions, Pension Fund Governance Compliance Statement, paragraph 2.2.13 empowers the Pension Fund Committee to “approve applications from organisations wishing to become admitted bodies into the Fund where legislation provides for discretion, including the requirements for bonds.”

9 BACKGROUND INFORMATION

- 9.1 Consultation with staff and Unions commenced on 9 September 2008 on proposals from the Governing Body to transfer the school cleaning contract to an external provider.
- 9.2 The school subsequently selected Birkins Cleaning Services as their preferred provider for their school cleaning contract.
- 9.3 As a Community school, the two existing school cleaners were employed by the London Borough of Barnet. This employment relationship changed when the school appointed Birkins Cleaning Services as their provider of cleaning services.
- 9.4 The staff were transferred from London Borough of Barnet to the Birkins Cleaning Services on 1 September 2009, under the principles set out in the Transfer of Undertakings [Protection of Employment] (TUPE) Regulations 2006. The consequence of this transfer was to ensure that there was continuity of the support staff's local government pension arrangements.
- 9.5 Prior to transfer, all school support staff had automatic entitlement to join the LBB Pensions Fund as employees of Barnet Council. However, following transfer Birkins Cleaning Services applied for and are now formally requesting admission into the Local Government Pensions Scheme in order for the staff to maintain continuity in the Pension Fund
- 9.6 Two members of staff have been TUPED over and only one member of staff is currently participating in the pension scheme.
- 9.7 Barnet TUPE guidance to managers states staff must have ongoing access to the Local Government Pension Scheme or be offered a broadly comparable scheme. It also allows for contractors to choose whether they wish to take up

admitted body status of the Local Government Pension scheme as an alternative to offering a broadly comparable scheme.

- 9.8 A refusal to allow pension scheme membership will have implications for the cleaning staff transferred to Birkins Cleaning Services as those employees will not be able to continue as member of the Local Government Pension Scheme and will have to seek alternative pension provisions. This would have employee relations implications given the commitments offered to the staff as part of the TUPE consultation when Birkins Cleaning Services were selected as the alternative cleaning services provider by the Governors of Queenswell Infant School.

10. LIST OF BACKGROUND PAPERS

- 10.1 Letter from Birkin Cleaning Services Limited expressing intent to achieve admitted body status.
- 10.2 Any person wishing to inspect the background papers listed above should telephone Pauline Broadhurst – 020 8359 7902.

Legal: TE
CFO: CM