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Meeting	Pension Fund Committee
Date	9 September 2013
<b>Subject</b>	<b>Admission of the DRS Joint Venture company into the London Borough of Barnet Pension Fund</b>
Report of	Director for Place
Summary	This report informs the Committee of the 24 June 2013 Cabinet approval of the DRS Business Case for the creation of a joint venture company by Capita Symonds and the council and seeks approval for the joint venture company to become a member of the Local Government Pension Scheme through Admission Body status.

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Officer Contributors	Charlotte Graham, DRS Project Manager Alison Clark, DRS 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 Symonds’s Application (on behalf of the joint venture company for Admitted Body Status)
Contact for Further Information:	Alison Clark, DRS HR Project Business Partner on 020 8359 7806

## **1. RECOMMENDATIONS**

- 1.1 That the Committee note the 24 June 2013 Cabinet approval to create a strategic partnership with the joint venture company to transfer the Development and Regulatory Services (“DRS”) and TUPE transfer the relevant staff to the joint venture;**
- 1.2 That the Committee note that those transferring Officers who fulfil non-delegable statutory functions will be on a joint employment contract with the council and with the joint venture company; and**
- 1.3 The Committee approve the joint venture company as an admitted body to the Local Government Pension Scheme under Admitted Body Status, and to 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 and
  - (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 28 March 2011 (Decision item 5)

Resolved that:

(1) That the Committee approve the Development and Regulatory Services business case, in order for the Council to begin the competitive dialogue process, following the previously approved placing of the OJEU notice.

2.8 Cabinet Resources Committee on 14 December 2011 (Decision item 5)

Development and Regulatory Services (Business Case Update and Shortlist for Dialogue 2): Resolved that:

1. The Cabinet Resources Committee approved the recommended Development and Regulatory Services (DRS) shortlist of two bidders for stage 2 of the competitive dialogue process.

2. The recommended shortlist is: Capita Symonds Ltd and the EC Harris / FM Conway consortium. They achieved the highest two scores from the evaluation of the outline solutions provided at the end of the first stage of competitive dialogue.

3. The Cabinet Resources Committee noted the updated Development and Regulatory Services business case.

2.9 Cabinet on 24 June 2013 (Decision item 5)

Development and Regulatory Services (DRS); Selection of the Preferred and reserved Bidder as the Council's Strategic Partner to form a Joint Venture to deliver the DRS Service: Resolved that:

1. That Cabinet note the outcome of the evaluation stage of the Development and Regulatory Services project and accept Capita Symonds' final tender (including subsequent clarifications) as the preferred bid, with reference to the Full Business Case (Appendix A), Equalities Impact Assessment (Appendix B), List of Principal Legislation (Appendix C) and Evaluation Scores (Appendix D exempt);
2. That Cabinet approve the recommended reserve bidder (including subsequent clarifications), as EC Harris;
3. That Cabinet note the comments raised by the Budget and Performance Overview and Scrutiny Committee;
4. That Cabinet instruct the officers to take all necessary action to complete the formalities for the finalisation and execution of the contract;
5. That Cabinet approve the formation of a Joint Venture Company with Capita Symonds Ltd and instruct officers to take all necessary actions; and

6. That Cabinet approve the addition of £6.4m of investment to the capital programme.

- 2.10 Business Management Overview and Scrutiny Committee on 3 July 2013. The Committee considered the following decision of the Cabinet meeting held on 24 June 2013 and asked questions of the Leader of the Council and Cabinet Member for Environment in respect of the following:

<b>Decision Item:</b>	<b>Subject:</b>
5	Report of the Cabinet Members for Resources and Performance, Environment, Housing, Safety and Resident Engagement, Customer Access and Partnerships and Planning and Regulatory Services Development and Regulatory Services (DRS): Selection of the Preferred and Reserved Bidder as the council's Strategic Partner to form a Joint Venture to deliver the DRS Services

Resolved that:

1. Following consideration of the call-in from Councillor Alison Moore, the decision relating to the Development and Regulatory Services (DRS): Selection of the Preferred and Reserved Bidder as the council's Strategic Partner to form a Joint Venture to deliver the DRS Services is not referred back to the Cabinet Resources Committee for reconsideration.
2. The Committee be provided with details of the Lessons Learnt Logs for each stage of the DRS project.
3. The Committee be provided with details of which types of services provided by the Joint Venture would be subject to VAT, Capital Gains Tax or Corporation Tax.

### **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 To maintain the integrity of the Pension Fund by monitoring of admitted body organisations and ensuring all third-parties comply fully with admission agreements and bond requirements. This ensures that pension fund liabilities are covered by the responding admitted bodies; this in return protects Barnet's liabilities and supports the Council's corporate priorities as expressed through the Corporate Plan.

### **4. RISK MANAGEMENT ISSUES**

- 4.1 The ongoing viability of the Pension Fund is dependent on maximising contributions to the Fund. The employees of the joint venture company, 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, the joint venture company 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 the joint venture company, as and when required, should there be any pension strain or contribution issues as a consequence of any decisions made by the joint venture company.

## **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 DRS are dealt with in the 24 June 2013 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 The joint venture will become an admitted body to the Pension Fund. New employees who join the joint venture and who are employed under a joint employment contract will be eligible for admission into the LGPS. New employees of the joint venture will not be eligible for admission into the LGPS.

- 6.4 The joint venture will pay the future contribution rate to meet any pension fund liabilities. The council has retained the element of the budget that pays for the repayment of the past service pension fund deficit.
- 6.5 The total pension contributions for jointly employed staff will be allocated to the appropriate sections of the pension fund.

## **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 The joint venture satisfy the requirements of Section 6(2)(a)(i) of the Administration Regulations and, subject to Capita Symonds (on behalf of the joint venture) 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 The joint venture 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 Constitution –Responsibility for Functions - delegated to the Pension Fund Committee, as set out in the Pension Fund Governance Compliance Statement.

## **9. BACKGROUND INFORMATION**

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

- Building Control
- Environmental Health
- Hendon Cemetery & Crematorium

- Highways Network Management
- Highways Traffic & Development / Highways Strategy
- Highways Transport & Regeneration
- Land Charges
- Planning Development Management
- Regeneration
- Strategic Planning
- Trading Standards & Licensing

9.2 A 'competitive dialogue' procurement process has since been completed to identify the best partner for these services. Final Tenders have been received from two bidders – Capita Symonds (CSL) and EC Harris. The outcome of the evaluation is a recommendation that the council proceed with CSL as Preferred Bidder, to form a joint venture with the council to deliver DRS services.

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

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

9.4 CSL's Final Tender contains a range of contractual guarantees to deliver or exceed the targeted benefits from the Outline Business Case Update approved by Cabinet Resources Committee in December 2011.

- The new provider to honour the council's TUPE Transfer Commitments
- Training, leadership development programmes, Continuous Professional Development and skills enhancement, Succession planning and talent management
- Opportunities to work on innovative and new projects
- £500 per person per annum, average 5 days per person per annum to be invested in training and development over the life of the contract
- Commitment to adding commercial skills and acumen to the services to enable individual development and growth of the business

## **10. LIST OF BACKGROUND PAPERS**

- Minutes of Special Cabinet – 24 June 2013
- Minutes of Business Management Overview and Scrutiny Committee – 3 July 2013