

Meeting	Pension Fund Committee
Date	9 September 2013
Subject	Re-admission of The Fremantle Trust to London Borough of Barnet Pension Fund
Report of	Adults and Communities Director Assistant Director of Strategic Finance
Summary	This report sets out further information on the application from The Fremantle Trust for Admitted Body status within the Pension Fund and provides details of the cessation of the current agreement.
Officer Contributors	Dawn Wakeling, Adults and Communities Hansha Patel, Pension Services Manager
Status (public or exempt)	Public
Wards Affected	Not Applicable
Key Decision	Not Applicable
Reason for urgency / exemption from call-in	Given the short duration of the current Admission Agreement and the fact that the current, and new, Admission Agreement requires an annual Actuarial valuation to be undertaken to adjust the contribution rate payable by The Fremantle Trust to keep the Fund in balance it is proposed that this termination is treated as an Employer Merger cessation. The next meeting of the Committee is not until 2 December 2013
Function of	Council
Enclosures	None
Contact for Further Information:	Dawn Wakeling - Adults and Communities Director, 020 8359 4290

1. RECOMMENDATIONS

- 1.1 The Committee approves the re-admission of The Fremantle Trust to the Pension Fund under a new Admission Agreement.**
- 1.2 The Committee approves the use of an Employer Merger cessation in terminating the current Admission Agreement.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 The Fremantle Trust already has an admissions agreement with London Borough of Barnet in respect of a previous care contract which commenced on 2 April 2001.
- 2.2 Pension Fund Committee, 13 June 2012. Approved the admission of The Fremantle Trust to the Pension Fund under a new Admission Agreement.
- 2.3 Pension Fund Committee, 4 December 2012. Approved the admission of The Fremantle Trust to the Pension Fund under a new Admission Agreement, the use of the on-going cessation method to calculate the deficit payable under the previous Agreement and the provision by The Fremantle Trust of a Bank Guarantee at a level set by the Fund Actuary.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 To maintain the integrity of the Pension Fund by ensuring robust 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 in terms of 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. All admitted bodies are subject to actuarial assessments and are reviewed to ensure compliance with admissions agreements and maintenance of appropriate employer contribution levels in order to mitigate against any risk to the financial viability of the pension fund.
- 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 dependent on the profile of the workforce and the potential risk to the fund of admitting the body.
- 4.3 The risk has commonly been addressed by the employer being required to take out an Indemnity Bond to ensure payment to the pension fund in case of default. However, the Local Government Pension Scheme Regulations 2012

which came into effect on 1 October 2012 relaxed this requirement and promoted the fact that a guarantee could give the same level of cover as a bond at a lower cost – which would reduce the cost of the service to the contracting organisation.

- 4.4 The Authority on behalf of the employer will carry out 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 or guarantee prior to the completion of the admissions agreement.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to section 149 of the Equality Act, 2010, the Council has a public sector duty to have due regard to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between those with a protected characteristic and those without; promoting good relations between those with a protected characteristic and those without. The, relevant, 'protected characteristics' are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to elimination of discrimination.

- 5.2 Ensuring the long term financial health of the pension fund will benefit everyone who contributes to it. Access to and participation in the Pension Fund is open to those with and those without protected characteristics, alike, provided that the criteria set out within the, relevant, Regulations are met.

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

- 6.1 There is a possibility of financial losses on the Pension Fund where arrangements around admitted bodies and bond agreements or guarantees are not sufficiently robust. Monitoring arrangements are in place to ensure that Admissions Agreements and, where relevant, bonds or guarantees are in place and are renewed, as appropriate, during the lifetime of the relevant Admission Agreement.

- 6.2 The current Fremantle Trust Admission Agreement automatically terminates when its existing contract with the Council is terminated and replaced by a new contract, as approved by the Cabinet Resources Committee on 24 June 2013, hence the need for a new Admission Agreement.

- 6.3 There are no procurement, performance, value for money, staffing, IT, property or sustainability implications.

7. LEGAL ISSUES

- 7.1 The Local Government Pension Scheme (Administration) Regulations 2008 (as amended) provide that a Local Authority, as an 'Administering Authority' for the Fund, may admit an organisation into the Local Government Pension Scheme, subject to that organisation, or the contractual arrangement between that organisation and the council, meeting the criteria set out in the Regulations. Under the Regulations, the form of admission available to a contractor would either be 'a community admission body', or 'a transferee admission body' as defined in the Regulations. The Fremantle Trust would be 'a transferee admission body'.
- 7.2 With respect to an admission agreement with a transferee admission body, the Regulations further provide for 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 be with the benefit of actuarial advice and, where the level of risk is such as to require it, the transferee admission body shall enter into a bond or provide a guarantee to meet the level of risk identified.
- 7.3 The Council's standard admissions agreement makes provision for the admission body to maintain a bond or guarantee in an approved form and to vary the level of risk exposure under the bond or guarantee as may be required from time to time.

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

- 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."

9. BACKGROUND INFORMATION

- 9.1 This report provides an update on the position of The Fremantle Trust since the report to this Committee on 4 December 2012.
- 9.2 Under normal circumstances the termination of an Admission Agreement triggers a cessation payment based on a valuation by the Fund Actuary. However, the current Admission Agreement only became active on 28 March 2013 when the Catalyst Care Contract was terminated, The Fremantle Trust contract with Catalyst for care provision was novated to the Council and Catalyst settled the deficit on the Pension Fund.
- 9.3 Given the short duration of the current Admission Agreement and the fact that the current, and new, Admission Agreement requires an annual Actuarial valuation to be undertaken to adjust the contribution rate payable by The

Fremantle Trust to keep the Fund in balance it is proposed that this termination is treated as an Employer Merger cessation. This cessation mechanism means that The Fremantle Trust will remain responsible for all liabilities arising in respect of their employees since 28 March 2013 but avoids the need for a formal valuation, a cessation payment and the Bank Guarantee to be renewed.

- 9.4 Under the new Admission Agreement, a valuation will be undertaken in March 2014 (and annually thereafter) and the contribution rate amended accordingly to maintain the fund in balance.

10. LIST OF BACKGROUND PAPERS

- 10.1 None