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Meeting	Pension Fund Committee
Date	18 March 2014
<b>Subject</b>	<b>Admission of OCS Group UK LTD to the Borough of Barnet Pension Fund</b>
Report of	Director of Adults and Communities
Summary	This report sets out further information on the application from The OCS Group UK Limited for Admitted Body status within the Pension Fund.

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Officer Contributors	Mathew Kendall , Adults and Communities
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	None
Contact for Further Information:	Rena Abraham, Human Resources Business Partner, ext 4773

## **1. RECOMMENDATIONS**

- 1.1 That the Committee approve admission to the Local Government Pension Scheme under Admission Body Status for OCS Group UK LTD, subject to sign off of the Business Transfer Agreement between the Council and that company, the Admission Agreement and a bond being put in a place.**

## **2. RELEVANT PREVIOUS DECISION**

- 2.1 Relevant Previous Decisions:
- 2.2 Cabinet, 29 November 2010 (Decision item 6) – approved the One Barnet Framework and the funding strategy for its implementation.
- 2.3 Cabinet, 14 September 2011 (Decision item 5) – approved the Safer Communities Strategy.
- 2.4 Cabinet, 20 February 2012 (Decision item 6) – approved the Business Planning Report 2012/13 – 2014/15 which included within the report the five projects to be developed through strategic outline cases.
- 2.5 Cabinet Resources Committee, 20 June 2012 (Decision item 6) – approved the Strategic Outline Case for the strategic review of Community Safety.
- 2.6 Cabinet Resources Committee, 18 April 2013 (Decision item 10) – approved the Outline Business Case for the Future CCTV Service and authorised the procurement of a fully outsourced service.
- 2.7 Cabinet Resources Committee, 16 December 2013 (Decision item 9) approved the Full Business Case for the future of the CCTV service and authorised the procurement of a fully outsourced service through OCS Group UK Ltd, for a period of five years (with a potential extension of an additional two years).

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

- 3.1 Crime reduction and community safety are top priorities for Barnet residents. One of the Corporate Plan 2013-16 priorities is “to promote family and community well-being and encourage engaged, cohesive and safe communities”.

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

- 4.1 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.

## **5. RISK MANAGEMENT ISSUES**

- 5.1 The on-going 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 militate against any risk to the financial viability of the pension fund.
- 5.2 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.
- 5.3 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.
- 5.4 The Authority on behalf of the employer has carried 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 employer contribution rate will be 13.5% and an actuarial assessment indicated that the bond or guarantee level required is £102,000. This will remain so unless there are any staffing changes before the transfer. In addition, the actuarial assessment is based on an assumption that the transfer will be fully funded. The bond level is assessed at regular intervals (at each valuation) and can increase or decrease. It is proposed that the admission agreement will be on a “closed” basis (i.e. limited to the employees transferring from the Council).

## **6. EQUALITIES AND DIVERSITY ISSUES**

- 6.1 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.
- 6.2 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.

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

- 7.1 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.
- 7.2 Staff will transfer on a “fully funded basis”. This means that the pensions’ deficit will not transfer to OCS from Barnet in respect of these staff. The total deficit retained by Barnet has been calculated at £98k. £25k per annum needs to be retained from Adults and Communities budget to fund the repayment of the deficit over the lifetime of the contract.
- 7.3 There are no procurement, performance, value for money, staffing, IT, property or sustainability implications.

## **8. LEGAL ISSUES**

- 8.1 **Section 102 Local Government Act 2003 requires a contractor receiving Council employees under a TUPE transfer to provide a pension benefits same as or are broadly comparable to or better than that provided by the authority.**
- 8.2 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. OCS Group UK LTD would be ‘a transferee admission body’.
- 8.3 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.

8.4 The Admission agreement will make a 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.

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

9.1 The Council's constitution, Part 3 – Responsibility for Functions, Pension Fund Governance Compliance Statement, and 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.”

**10. BACKGROUND INFORMATION**

10.1 The Committee is asked to approve admission to the Local Government Pension Scheme under Admission Body Status for OCS Group UK LTD, subject to sign off of the Business Transfer Agreement between the Council and that Company, the Admission Agreement and a bond being put in a place.

10.2 Staff will transfer on a “fully funded basis”. This means that the pensions deficit will not transfer to OCS from Barnet in respect of these staff.

10.3 The Council's CCTV service makes an important contribution towards delivering Barnet's Safer Community Strategy, by helping the Council and police to prevent and tackle priority issues such as anti-social behaviour, violence and theft and by making a significant impact on resident's perception of safety.

10.4 However, it is recognised that the CCTV system in Barnet is out of date, expensive relative to more modern systems, and could be more effective. In light of significant saving pressures across the Council, the Outline Business Case proposes a cost effective solution for future management of the monitoring service and technical platform, with the primary aim of improving delivery against the service's community safety objectives.

10.5 In order to help mitigate the impact of the ageing technical platform and expected future savings required, a detailed review and options appraisal for the CCTV service has been completed to inform the Outline Business Case.

10.6 The Council has opted therefore, to award the contract to OCS Group UK LTD under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Under TUPE, existing contractual terms and conditions are protected on transfer and, under the TUPE Transfer Commitments LLB implemented in the summer of 2011, all employees terms and conditions are protected for at least a year including pension provision..

## **11. LIST OF BACKGROUND PAPERS**

11.1 Barnett Waddingham's Deficit Report for London Borough of Barnet, 27 February 2014

None