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Meeting	Pension Fund Committee 13 June 2012
<b>Subject</b>	<b>Admission of The Fremantle Trust to London Borough of Barnet Pension Fund</b>
Report of	Deputy Chief Executive
Summary	This report sets out information on the application from The Fremantle Trust for Admission Body status within the Pension fund and seeks Committee approval to allow this.

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Officer Contributors	Hansha Patel, Pension Services Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Pension Fund Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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## **1. RECOMMENDATIONS**

- 1.1 That the Committee approve admission to the London Borough of Barnet Pension Fund under Admission Body Status for The Fremantle Trust**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 The Fremantle Trust already has an admissions agreement with London Borough of Barnet since 2<sup>nd</sup> April 2001 in respect of a previous care contract.

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

- 3.1 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. The principle supports the corporate priority of 'better services for less money'.

## **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 reviews and actuarial assessments 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 is commonly addressed by the employer being required to take out an Indemnity Bond to ensure payment to the pension fund in case of default.
- 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 prior to the completion of the admissions agreement.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 Pursuant to the Equalities Act 2010, the council is under an obligation to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the context of age, disability, gender reassignment, pregnancy, and maternity, religion or belief and sexual orientation.
- 5.2 Ensuring the long term financial health of the pension fund will benefit everyone who contributes to it.

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

- 6.1 Paragraph 4, above, deals with the financial implications of this report.
- 6.2 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 may admit a contractor into the Local Government Pension Scheme. 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 form of admission available to The Fremantle Trust would be as 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 an indemnity or bond 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 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**

- 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 The Fremantle Trust already has an admissions agreement in place in respect of the staff that transferred under TUPE from the council on the 2<sup>nd</sup> April 2001. This admissions agreement will come to an end automatically on the termination of the Best Value Agreement, being an agreement for the provision of care services made between the Council (1) and The Ealing Family Housing Association Limited (now Catalyst Limited) referred to in it, which care services are performed by The Fremantle Trust in accordance with a sub contract of the Best Value Agreement made between Catalyst Limited (1) and The Fremantle Trust (2) on the 2<sup>nd</sup> April 2001 (the 'Sub Contract').
- 9.2 Staff are expected to transfer in September/October with the precise determined by the date that the last of contractual conditions precedent contained in the agreement regulating the termination of the Best Value Agreement and the novation of the Sub-Contract are complied with.

- 9.3 The Best Value Contract is to be terminated and the Sub Contract novated, whereinafter the care services which are the subject of both will be delivered by the Fremantle Trust direct to the Council. Accordingly, the existing admissions agreement will cease to have effect on the said termination and novation and a new admissions agreement is required for the employees of The Fremantle Trust that were originally transferred under TUPE by the Council to The Fremantle Trust (the 'Remaining Employees')
- 9.4 The pension deficit under the existing admission agreement will be discharged by Catalyst on termination of the Best Value Contract and pension contributions in respect of the Remaining Staff will continue to be paid. A pension bond will be put in place before staff transfer and following an actuarial assessment.
- 9.5 It is on this basis that a recommendation is made to the Pension Fund Committee to consider the Fremantle Trust's application in relation to the Remaining Employees