



Pension Fund Committee

22 March 2023

Title	Cessation of RE (Regional Enterprise) Limited as an employer
Report of	Executive Director of Strategy and Resources (S151 officer)
Wards	N/A
Status	Public
Urgent	No
Key	No
Enclosures	None
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Summary

Following the in-sourcing of services provided by RE (Regional Enterprise) Limited ("RE") from 1 April 2023, the employment of c400 people will be TUPE'd back to the Council and RE's admission within the Fund will be terminated.

This paper sets out the support we have been providing individuals impacted and the commercial issues related to the termination of RE as an employer.

Officers Recommendations

The Pension Fund Committee are recommended to:

- 1) Note the arrangements made in respect of the transfer in of RE employees, and.
- 2) Agree not to return any exit credit to RE (Regional Enterprise) Limited on termination.

Background

- 1.1 Employees of RE (Regional Enterprise) Limited transfer back under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) from Capita to the Council on 1 April 2023.
- 1.2 These “Capita Re” employees are eligible for membership of the Barnet Pension Fund and will be auto enrolled into the Fund from the transfer date.
- 1.3 Capita Re employees fall into the three cohorts in relation to their pension:
 - Employees who were already in the Barnet Pension Fund when the services were outsourced to Capita in 2013.
 - Employees who have joined Capita since 2013 and have joined the pension arrangement offered by Capita.
 - Employees who have joined Capita since 2013 but decided not to join the Capita pension arrangement.
- 1.4 The LBB Pensions Team have been supporting employees in all three cohorts and will continue to do so up to and after the transfer date, in relation to their pension provision.
- 1.5 In terms of work undertaken by the LBB Pensions Team, this falls into four workstreams, which are set out below:

Member Engagement

- 1.6 The LBB Pensions Team have carried out the following actions to assist Capita Re employees in relation to their pension arrangement:
 - 1.6.1 Produced a short video providing Capita Re employees with a general overview of the LGPS/Barnet Pension Fund and the benefits of being a member of the Fund. This was posted on the intranet page set up for Capita Re employees transferring back to the Council.
 - 1.6.2 Invited all Capita Re employees to webinars to discuss the LGPS in more detail. This included:
 - details of the employee pension contribution rates that they will be required to pay in the Barnet Pension Fund
 - their options on transferring their Capita pension into the Barnet Fund
 - how their Barnet pension is calculated
 - benefits payable on death in service

These webinars were attended by 180 Capita Re employees and one webinar has also been uploaded onto the Capita Re intranet page.

1.6.3 Offered Capita Re employees one-to-one meetings to discuss their individual pension options. At the time of writing, 25 Capita Re employees have taken advantage of this offer.

1.6.4 Updated the Capita Re intranet page with pensions related Q&As, which are updated regularly, if additional questions are asked by employees.

1.7 The Pensions Team have also kept the trade unions up to date with the above, so they can promote these events to their members.

Legal requirements

1.8 Under Regulation 64 of the 2013 LGPS Regulations the Fund Actuary must undertake a Cessation Valuation and assess the deficit (or surplus) at the point of termination. In addition, Clause 7.8 of RE's Admission Agreement provides that the Administering Authority will instruct the Actuary to make recommendations on the contributions necessary to meet outstanding liabilities at the point of termination.

1.9 The Actuary has made an initial assessment of the cessation position and, at the time of writing this paper, and, presuming market conditions do not change, there is likely to be surplus in the Fund relating to RE's share of obligations.

1.10 The Fund's policy on refunding surpluses on exit provides that no refund should be made where the Council effectively bears the risk relating to Pension participation. The wider commercial agreement between RE and the Council broadly indemnifies RE to variation in pension costs. Specifically, the commercial contract effectively indemnified RE from any deficit payment payable on termination.

1.11 Therefore, on termination, RE's share of Barnet Pension Fund assets and liabilities will effectively transfer back to the Council and no further contribution will be required from Capita Re and Officers recommend that no refund of surplus would be considered. In formulating their recommendation, Officers have sought the advice of both the Actuary and taken legal advice from Bevan Brittan.

1.12 The Fund's exit credit policy can be viewed [here](#).

Data Requirements

1.13 The Pensions Team are working to ensure that the data provided by Capita for the employees who are TUPE'ing back to the Council is sufficient to ensure a smooth transition from 1 April in relation to their pension contribution deductions and with the pension fund administrators, West Yorkshire Pension Fund (WYPF).

1.14 This involves the following actions:

Employees already in the LGPS

1.15 The Pensions Team will work with WYPF on a data cleanse exercise for these members. Should there be any issues with the data, the Pensions Team will work with both WYPF and Capita Re payroll to ensure that the data is clean.

- 1.16 This exercise is to be completed by 31 March, so that data is accurate for when the transition occurs and for the cessation calculations.
- 1.17 On 1 April, WYPF will then update their administration system to show the new employer as "London Borough of Barnet".

Employees either in the Capita Scheme or not in a pensions arrangement

- 1.18 The Pensions Team have obtained data from HR of all employees who will be TUPE'ing back to the Council.
- 1.19 We are working with WYPF to check that the data provided is sufficient for them to set up member records on their pensions administration system.
- 1.20 We will also liaise with the Councils payroll provider to ensure a smooth transition for these members.
- 1.21 Again, this will be completed by 31 March.

Pension Costs for the Council

- 1.22 LGPS benefits are more costly than the pension provision provided via Capita's own pension scheme. This means that there will be an additional cost from bringing people back within Barnet in relation to pensions relative to the cost base within Capita
- 1.23 There may also be additional costs in relation to any ill-health and/or redundancy claims made after the transfer
- 1.24 On cessation, Capita Re's share of assets and liabilities will be brought into Barnet Council's "pool". Capita Re's share of liabilities is small relative to the Council's (around 4%) but they have a slightly higher contribution rate.
- 1.25 This means that, technically, the Council's rate should increase slightly following the transfer. However, and with the agreement of the actuary, we are planning to maintain the Council's contribution rate assessed at 31 March 2022 valuation as a combined rate.

2. REASONS FOR RECOMMENDATIONS

- 2.1 N/A – Report is for noting

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None necessary for this report.

4. POST DECISION IMPLEMENTATION

- 4.1 Training requirements will be reviewed annually.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Good knowledge and understanding of the Pension Fund will improve overall governance and operational effectiveness of the Pension Fund.

5.2 Resources (Finance and Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Provision of training courses from professional advisors carries advisory costs.

5.3 Social Value

5.3.1 The Public Services (Social Value) Act 2012 came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

5.3.2 Before they start the procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

5.3.3 The Act is a tool to help commissioners get more value for money out of procurement. It also encourages commissioners to talk to their local provider market or community to design better services, often finding new and innovative solutions to difficult problems.

5.3.4 There are no specific social value issues arising out of this report, however membership of the Pension Fund ensures the long-term financial health of contributing employees on retirement.

5.4 Legal and Constitutional References

5.4.1 Legal requirements are set out above.

5.4.2 The Council's Constitution – Article 7 – sets out that the purpose of the Committee is to have responsibility for all aspects of the governance, investment and administration of the LB Barnet Pension fund.

5.5 Risk Management

5.5.1 Risk management is central to the LGPS; which are in themselves risk management tools, managing the risk that future employer income streams will be able to meet future pensions liabilities by creating a reserve from which future liabilities will be met.

5.5.2 The Committee relies on its service providers and good performance from these will help to avoid problems.

5.6 Equalities and Diversity

5.6.1 Pursuant to the Equality Act 2010, the Council is under an obligation 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

persons who share a relevant 'protected characteristic' and those who do not share it; and fostering good relations between persons who share a relevant 'protected characteristic' and persons who do not share it. The 'protected characteristics' are: age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief, sex and sexual orientation. The Council also has regard to the additional protected characteristic of marriage and civil partnership even though this does not apply to the public-sector equality duty.

5.7 Corporate Parenting

5.7.1 Not applicable in the context of this report.

5.8 Consultation and Engagement

5.8.1 Not applicable.

5.9 Insight

5.9.1 Not applicable

6. ENVIRONMENT CONSIDERATIONS

6.1 None

7. BACKGROUND PAPERS

7.1 None