

MEETING	Pensions Committee
DATE	23 September 2008
TITLE	Admitted Bodies
PURPOSE FOR THE REPORT	To inform the Committee of admitted body cessations and commencements and to update the current admitted body policy to accommodate new types of Admitted Bodies
AUTHOR	Dafydd L. Edwards – Head of Finance
RECOMMENDATION	For information and to approve a revised Admitted Body Policy

1. Background

- 1.1 The Local Government Pensions Scheme Regulations allow, in broad terms, two types of employers to be members of the Local Government Pension Scheme (LGPS). These are Scheduled bodies (a list of employers included in a schedule to the regulations) e.g. County and District Councils etc, and Admitted Bodies who may, subject to certain criteria, apply to join the LGPS.
- 1.2 In its meeting 9 December 2003 this committee agreed a criteria for an admitted body applying for scheme membership (copy appendix 1). This criteria was intended to cover application from bodies that had sufficient links to scheme employers so as to justify the 'community of interest' requirement of the regulations and which could generally be referred to as a Community Admission Body (CAB).
- 1.3 The policy was also introduced to cover applications from external CABs who had staff not necessarily transferring to them under from a scheme employer under TUPE.

Updating policy

- 1.4 In view of the Government's Fair Deal policy statement that sets out the protections to the pensions of staff if they move with their workforce from the public to the private sector that requires contractors to provide transferring staff with access to a broadly comparable pension scheme or continuing access to the LGPS the current policy needs to be reviewed.
- 1.5 A broadly comparable scheme is one which in the opinion of a qualified actuary provides that no identifiable employees suffer material detriment overall in terms of their future accrual of benefit when compared to having remained in a public service scheme
- 1.6 The LGPS Regulations have been amended to include a provision for Pension Funds to enter into admission agreements with Transferee Admission Body (TAB). As the criteria for creating a TAB is at the discretion of an employer who is already a scheme employer there needs to be a form of protection afforded to the individual staff members employed by the service that is being transferred to new employer.
- 1.7 When a fund employer enters into an arrangement with a private company involving TUPE transfer of staff, and the private company involved chooses, with the ceding authority's agreement, and subject to the Secretary of State's approval, to enter into an admission agreement rather than provide a broadly comparable scheme it largely takes the decision to allow or refuse admission from the administering authority's hands.

- 1.8 In view of the above Gwynedd Council as administrator of the LGPS should review its existing policy so as to provide TAB and CAB created as a result of TUPE transfers to choose to enter into Admission Agreements, providing the requirements of the Local Government Pension Scheme Regulations are met.

2 CESSATION OF ADMITTED BODIES

- 2.1 Cwmni Gwstraff Mon Arfon has ceased membership of the Gwynedd Pension Fund as of 11 January 2008 when its corporate responsibilities and staff were transferred and shared proportionally between Gwynedd Council and Ynys Mon County Council.
- 2.2 Theatr Gwynedd will cease operations on 31 October 2008 so consequently will cease to be an admitted body in the Gwynedd Pension Fund. Active staff members as of this date will become either pensioner or deferred members of the fund.

3 CAB ADMISSION BODY STATUS REQUEST

- 3.1 Conwy County Borough Council has decided to transfer their housing stock to a newly created company called Cartrefi Conwy to commence 1 October 2008.
- 3.2 Cartrefi Conwy has, through Conwy County Borough Council, applied to Gwynedd Council to be admitted to the Gwynedd Pension Fund as a CAB so as to protect the pension rights of approximately 130 staff who will transfer under TUPE and provide open access to the scheme to new appointees.
- 3.3 Although not a requirement under the regulations Cartrefi Conwy has been able to obtain a Bond against early foreclosure of the Company and the need to cover redundancy costs should this arise.
- 3.4 Cartrefi Conwy will inherit the past service deficit currently applicable to the staff transferring from Conwy County Borough Council and will pay the requisite employer contribution rate to cover this cost.

4 TAB ADMISSION BODY STATUS REQUEST

- 4.1 Ynys Mon County Council have gone through a tender process in relation to their school catering service previously undertaken by Gwynedd Council's Commercial Services department.
- 4.2 The contract was awarded to Eden Food Services, a subsidiary of Initial Catering, who has, with the approval of Ynys Mon County council, applied for Admitted Body status in the Gwynedd Pension Fund rather than provide a comparable pension scheme to the approximately 120 staff being TUPE transferred.
- 4.3 The transfer took place on 1 September 2008, but because Gwynedd Pension Fund received late being notification of the tendering process it was not possible to gather the actuarial information in time for the 1 September. This data is currently being compiled for sending to the Actuary. In the meantime an interim employer contribution rate based on the Fund's future service actuarial rate has been applied for Initial Catering employees.
- 4.4 Ynys Mon County Council has agreed to the transfer of staffs' accrued pension rights to Initial Catering on a 100% Funding basis. Deficits in respect of past service is to transfer to Ynys Mon County Council.

RECOMMENDATION

- To note the cessation of two Admitted Body employers in the Fund
- To adopt the revised admitted body policy taking into account CABs and TABs transferring from a current scheme employer.
- To accept Cartrefi Conwy and Initial Catering as Admitted Bodies into the Gwynedd Pension Fund.

**APPROVED ADMISSION CRITERIA TO BE APPLIED TO APPLICATIONS
FOR ADMISSION TO THE GWYNEDD PENSION FUND**

(Where organisation or body not admitted under Regulation 5(3) (h))

- 1. ELIGIBILITY**
The applicant must meet the eligibility criteria as specified in the appropriate Regulations and will be required to provide proof of status (corporate body, partnership unincorporated association etc.)
- 2. AUDITED ACCOUNTS**
The applicant must normally provide audited accounts for the last three accounting years of the applicant which should also demonstrate, where necessary, proof of local authority or central government funding. The applicant must also confirm the availability of resources both currently and in the future. The applicant must provide information, satisfactory to the Head of Finance Service on the financial standing and viability of the applicant body.
- 3. BUSINESS PLAN**
The applicant must provide a strategy document or business plan, which is satisfactory to the Head of Finance Services, setting out details of future development and operational and financial plans of the body to demonstrate that proper consideration has been given to the body's future and that future funding of employer's pension contributions would be as secure as foreseeable possible.
- 4. US WITHHOLDING TAX**
It is important that the Council ensure that the admission of any body does not affect the exemption enjoyed by the Fund from US taxation on the earnings of certain United States investments. This is a very complex area and the Council will, in appropriate cases, require advice from specialists before any admission is agreed.
- 5. GUARANTOR**
Before any body is admitted to the Fund, the body must provide details of guarantor(s) or other security acceptable to the Council to provide security in the event of any default by the body or if the body were to cease to exist in the future leaving the Council with on-going liabilities. The guarantor will be party to the legal administration agreement and indemnify the fund for any failure of the Admitted Body.

Where the applying body is unable to provide a guarantor they must provide a signed statement confirming that they will pay an additional 2% of payroll in employer's contribution rate.
- 6. ADMINISTRATIVE REQUIREMENTS**
The applicant must satisfy the Council that they have and will maintain at all times proper administrative arrangements to ensure that the payment and documentation requirements of the Council, in relation to the Fund, can be met fully and promptly. In the event of contributions not being made by the body within a specified time and in the required amounts, the Council will charge interest, in accordance with the Regulations, for late payment.
- 7. ADMINISTRATION CHARGE**
A standard charge of £500 to cover overheads arising from an application for admission to the Fund shall be payable by the applicant, once their admittance is approved.

8. LINKS WITH THE FUND AREA

An applicant for admission to the Fund should have appropriate, discernible links with one or more of the Unitary Authorities within the fund and have its headquarters and carry out activities within the boundaries of the area covered by the fund.

9. NUMBER OF EMPLOYEES

No applicant body will be considered for admission to the Fund unless it has at least 20 employees who will contribute to, and benefit from, the Fund.

10. APPEALS

All appeals will be considered by the Pensions Committee, who may decide to admit a body at its discretion

**APPROVED ADMISSION CRITERIA TO BE APPLIED TO APPLICATIONS
FOR ADMISSION TO THE GWYNEDD PENSION FUND**

**(Under the provisions of Regulations 5-7 of The Local Government Pension Scheme
(Administration) Regulations 2008)**

1. ELIGIBILITY

The CAB applicant not involving Transfer of Undertaking must meet the eligibility criteria as specified in the appropriate Regulations and will be required to provide proof of status (corporate body, partnership unincorporated association etc.)

2. AUDITED ACCOUNTS

The CAB applicant not involving Transfer of Undertaking applicant must normally provide audited accounts for the last three accounting years of the applicant which should also demonstrate, where necessary, proof of local authority or central government funding. The applicant must also confirm the availability of resources both currently and in the future. The applicant must provide information, satisfactory to the Head of Finance Service on the financial standing and viability of the applicant body.

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4. US WITHHOLDING TAX

It is important that the Council ensure that the admission of any body does not affect the exemption enjoyed by the Fund from US taxation on the earnings of certain United States investments. This is a very complex area and the Council will, in appropriate cases, require advice from specialists before any admission is agreed.

5. GUARANTOR

Before any CAB applicant not involving Transfer of Undertaking is admitted to the Fund, the body must provide details of guarantor(s) or other security acceptable to the Council to provide security in the event of any default by the body or if the body were to cease to exist in the future leaving the Council with on-going liabilities. The guarantor will be party to the legal administration agreement and indemnify the fund for any failure of the Admitted Body.

Where the applying CAB not involved in a Transfer of Undertaking is unable to provide a guarantor they must provide a signed statement confirming that they will pay an additional 2% of payroll in employer's contribution rate.

6. ADMINISTRATIVE REQUIREMENTS

The CAB applicant not involving Transfer of Undertaking must satisfy the Council that they have and will maintain at all times proper administrative arrangements to ensure that the payment and documentation requirements of the Council, in relation to the Fund, can be met fully and promptly. In the event of contributions not being made by the body within a specified time and in the required amounts, the Council will charge interest, in accordance with the Regulations, for late payment.

7. ADMINISTRATION CHARGE

A standard charge for a of £500 to cover overheads arising from an application for admission to the Fund by a CAB applicant not involving Transfer of Undertaking shall be payable by the applicant, once their admittance is approved.

8. LINKS WITH THE FUND AREA

An CAB applicant not involving Transfer of Undertaking applying for admission to the Fund should have appropriate, discernible links with one or more of the Unitary Authorities within the fund and have its headquarters and carry out activities within the boundaries of the area covered by the fund.

9. NUMBER OF EMPLOYEES

No CAB applicant not involving Transfer of Undertaking body will be considered for admission to the Fund unless it has at least 20 employees who will contribute to, and benefit from, the Fund.

10. CAB APPLICANT CREATED BY TUPE TRANSFER FROM EXISTING FUND EMPLOYER.

An application from a CAB created as a result of a TUPE transfer from an existing Fund Employer and approved by that employer will be granted Admission Body Status without reference to the Pension Committee, provided all statutory provisions and administering requirements are complied with.

10. TAB APPLICANT CREATED BY TUPE TRANSFER FROM EXISTING FUND EMPLOYER.

An application from a TAB created as a result of a TUPE transfer from an existing Fund Employer and approved by that employer will be granted Admission Body Status without reference to the Pension Committee, provided all statutory provisions and administering requirements are complied with.

11. APPEALS

All appeals will be considered by the Pensions Committee, who may decide to admit a body at its discretion