

# Report to General Purposes and Arbitration Committee

Thursday 16 December 2021

<b>Subject:</b>	Admission Agreements to participate in the Local Government Pension Scheme and Follow Up Report
<b>Director:</b>	Director of Finance, Simone Hines
<b>Contact Officer:</b>	Interim Accountant, John Smith John_smith2@sandwell.gov.uk

## 1 Recommendations

- 1.1 That the General Purposes Committee recommends to Full Council that the Chief Executive/Director of Finance be given the delegated authority to sign the Admission Agreements relating to the transfer of catering staff from Old Park Primary School to Mellors Catering Services, and Whitecrest Primary School to Aspens Services Limited, and for the Director of Legal Services to make arrangements for the necessary documents to be signed or executed under deed of seal (as required).
- 1.2 That the General Purposes Committee recommends to Full Council that where the future pension liability/guarantee is below £250,000 that the Chief Executive/Director of Finance be given the delegated authority to sign all future Pension Admission Agreements below this limit, and for the Director of Legal Services to make arrangements for the necessary documents to be signed or executed under deed of seal (as required) to give effect to relevant organisations becoming admitted bodies.




- 1.3 That the General Purposes Committee recommends to Full Council that where the pension liability/guarantee is greater than £250,000 that a separate report is presented to seek approval for the Chief Executive/Director of Finance to be given the delegated authority to sign the Pension Admission Agreement and for the Director of Legal Services to make arrangements for the necessary documents to be signed or executed under deed of seal (as required) to give effect to relevant organisations becoming admitted bodies.

## 2 Reasons for Recommendations

- 2.1 To ensure that staff formerly employed by the Council can continue to participate in the Local Government Pension Scheme as part of their employment with a new employer.

## 3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>Having good health is essential for children of all ages, ensuring that they feel happy and living fulfilled lives.</p> <p>The provision of healthy and nutritional school meals to our primary school pupils contributes to this key objective.</p> <p>The contribution primary school catering staff provide is a fundamental support service to young children.</p>
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## 4 Context and Key Issues

- 4.1 A Pension Fund Admission Agreement should be signed and executed by all parties to such an agreement prior to Council staff being transferred under TUPE arrangements to a new employer. This will enable those staff to be able to continue with participation in the West Midlands Pension Fund Scheme with the new employer.



- 4.2 Full consultation should take place between Council officers, and officers from both West Midlands Pension Fund and the new Employer prior to the signing of an Admission Agreement. This should ideally be at the same time that contract negotiations are taking place.
- 4.3 In relation to core council services provided by external contractors then the contractual arrangements, including all pension transfer matters would have been subject to formal approval by Cabinet prior to the signing of all contract documents and Pension Admission Agreements. Examples include the SERCO Waste Management Contract, BSF & PFI Contracts, SIPS Education Partnership, Sandwell Leisure Trust, together with several contracts for the provision of Children's Services and Adult Social Care with various external agencies.
- 4.4 In addition to the contracts referred to above, there are five schools whose governing bodies decided to transfer their catering staff (Prior to transfer they were employed by SIPS Education Ltd) to a different service provider. (See Appendix 2). Schools have the delegated powers to make such decisions without the need to seek formal Council approval. However, under pension fund regulations and in relation to any potential future pension liabilities/guarantees the Council (Not the School) is still regarded as the Scheme Employer. This means that the Council must be a party to the admission agreement which has to be signed and executed under deed of seal by Council Officers acting on behalf of the Council.



The five Schools are:

1. The Phoenix Collegiate - to - Aspens Services Ltd in 2015. The Admission Agreement was signed by the S151 Officer at the time. There is no documentary evidence to confirm that delegated authority was sought on this particular occasion prior to signing.
2. Holy Trinity CofE Primary - to - Alliance in Partnership Ltd in 2020. The Admission Agreement was signed by a Legal Manager at the time. There is no documentary evidence to confirm that delegated authority was sought on this particular occasion prior to signing.
3. Hargate Primary School - to - Aspens Services Ltd. Delegated authority to sign and seal approved by Council on 26 July 2021 following a report to General Purposes committee 8 June 2021.
4. Old Park Primary School - to - Mellors Catering Services Ltd (See recommendation 1.1 of this report). Delegation currently being sought.
5. Whitecrest Primary School - to - Aspens Services Ltd (See recommendation 1.1 of this report). Delegation currently being sought.

## 5 Alternative Options

- 5.1 If approval of an Admission Agreement is not granted, then those former Council employees would no longer be eligible to participate in the West Midlands Pension Scheme. Those employees would suffer significant financial loss arising from the curtailment of their accrued future pension benefits.



## 6 Implications

<b>Resources:</b>	None
<b>Legal and Governance:</b>	Execution of the Admission Agreement under deed of seal.
<b>Risk:</b>	<p>Upon transfer of Council staff to a new Employer there is a requirement for the Council to underwrite any past service pension deficits accruing at the point of transfer. However, the risk of any liability will be minimised by way of either a pension “pass through arrangement”, guarantee/pension bond or a similar provision. The actual value of any such financial liability is determined by the pension fund actuary prior to the transfer of staff to a new employer. The liability takes account of such things as individual employees pay grade, age and length of service.</p> <p>The specific Admission Agreements between Mellors Catering Services Limited/Aspens Services Limited (“Admission Body”), The Borough Council of Sandwell (“Scheme Employer”) and Wolverhampton City Council (as “Administering Authority”) (See Appendix A), take the form of “Pass through arrangements” which has been agreed by all parties to the document.</p> <p>This means that both Mellors Catering Services Limited and Aspens Services Limited will incur the same employers pension contribution rates in respect of both past service deficits, and future service rates as the Council.</p> <p>Therefore, there is no requirement for the Council to underwrite any past service pension deficits by way of a pension guarantee or similar liability.</p>
<b>Equality:</b>	To ensure that those former employees who transferred to a new Employer under TUPE arrangements continue to have the same pension rights after the transfer.
<b>Health and Wellbeing:</b>	None
<b>Social Value</b>	None



## 7. Appendices

Appendix 1 & 2– West Midlands Pension Fund Admission Agreements.

## 8. Background Papers

None

