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## **PROPOSED ADMISSION TO THE LOCAL GOVERNMENT PENSION SCHEME**

**Report by Chief Executive**

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### **PENSION FUND COMMITTEE**

**29 January 2015**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 To obtain approval for the admission of the care company SB Cares comprising Scottish Borders Cares LLP and Scottish Borders Supports LLP, hereafter referred to as SB Cares, into the Local Government Pension Scheme.**
- 1.2 The current provision of Adult Services by the Council is scheduled to transfer to the new care company SB Cares which is 100% owned by Scottish Borders Council on 1 April 2015.
- 1.3 The Council agreed as part of the business case approved on 30 October 2014 that staff who are currently members of the Council's Pension Scheme will remain members following the establishment of the new company and SB Cares is consequently required to apply for admission of as two 'admitted bodies'. Future members of staff employed by the care company will also be covered by the admission agreement which will be on an 'open' basis. The pension benefits of current and future staff will be unaffected unless changes are made to the overarching pension scheme.
- 1.4 It was agreed at Council on 29 January 2015 that the Council will underwrite the risk of SB Cares' membership of the Pension Fund should the company cease to trade.
- 1.5 It should be noted that SB Cares under the terms of partnership agreement is precluded from varying the terms of the admission agreement without the approval of the Council and the Pension Fund.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Pension Fund Committee:-**
  - (a) Agree to enter into an appropriate agreement with Scottish Borders Cares LLP and Scottish Borders Supports LLP to admit these bodies to membership of the pension fund on terms and conditions to the satisfaction of the Chief Executive and the Chief Financial Officer.**

### **3**

#### **BACKGROUND**

- 3.1 In terms of the Local Government Pension Scheme (Scotland) Regulations 2008 the Council, as administering authority of the Scottish Borders Pension Fund, may on such terms and conditions as they think proper, admit employees of bodies that satisfy the statutory criteria to participate in benefits of the Pension Fund.
- 3.2 Any new admitted body must also satisfy the Inland Revenue's requirement that it is associated with at least one of the employers already in the Pension Fund. This is normally achieved by establishing a permanent community of interest or interdependence with another employer or where 50% of the employer's funding comes from local authorities.
- 3.3 The Interim Finance Director of SB Cares has made application for this purpose in respect of existing scheme members who will be transferring from Scottish Borders Council to the Care Company on 1 April 2015.
- 3.4 The Admissions Agreement will assume new members of staff employed by the care company will also be eligible to join the Pension Scheme in future.

### **4**

#### **THE NEW BODY**

- 4.1 SB Cares is being formed to provide the Council's Adult Services within the Scottish Borders. The company is wholly owned by the Council.
- 4.2 There are bodies referred to in Regulation 4(2)(a)(i) of the Local Government Pension Scheme (Scotland) Regulations 2008 and therefore bodies with which an Admission Agreement can be made. Both bodies comprising SB Cares also meet the association requirement of the Inland Revenue.
- 4.3 There are approximately 650 staff currently employed by Scottish Borders Council and members of the Local Government Pension Scheme who will transfer to the new body on the 1 April 2015 and who will be covered by the admission agreement.
- 4.4 The Pension Fund's Actuary, Barnett Waddingham, has determined an appropriate employer's contribution rate, taking account of the age profile and service of the staff involved and whether or not there would require to be a guarantor in the event of the care company SB Cares ceasing to trade. The contribution rate agreed from April 1 2015 will apply until the next triennial valuation of the fund in 2017 at which time it will be subject to the same review as other employer rates as part of the actuarial valuation process.
- 4.5 The admission of the bodies would require the Council to underwrite the premature termination risk should the company be liquidated.
- 4.6 No changes can be made to the status of the Fund, pension benefit for employees or employer contributions without the written agreement of the Council and the Pension Fund.

## **5 IMPLICATIONS**

### **5.1 Financial**

The Actuary has estimated that the potential liability in relation to premature risk is £6.167m at current valuation assumptions. The Council has agreed to underwrite this risk in the event of premature termination.

### **5.2 Risk and Mitigations**

If SB Cares were to cease trading and prematurely terminate its admission agreement the responsibility for continuing service provision/delivery and the liabilities of the Care Company will revert back to the Council responsibility and therefore the Council would still be exposed to the same level of risk minimising the risk to the Pension Fund.

### **5.3 Equalities**

It is anticipated that there are no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals in this report. The majority of staff transferring to SB Cares is female and continued membership to Local Government Pension Fund ensures that they are not disproportionately disadvantaged.

### **5.4 Acting Sustainably**

There are no direct economic, social or environmental issues with this report which would affect the Council's sustainability policy.

### **5.5 Carbon Management**

There are no direct carbon emissions impacts as a result of this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

### **5.7 Changes to Scheme of Administration or Scheme of Delegation**

No changes to the Scheme of Administration or Scheme of Delegation are required as a result of this report.

## **7 CONSULTATION**

- 7.1 The Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council are being consulted in the preparation of this report and any comments received will be reported at the meeting.

### **Approved by**

Tracey Logan  
**Chief Executive**

**Signature .....**

### **Author(s)**

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**Background Papers:** Scottish Borders Council- 30 October 2014, 29 January 2015

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. The Treasury & Capital Team can also give information on other language translations as well as providing additional copies.

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