
INTEGRATED CULTURE AND SPORT TRUST PENSION FUND CONSIDERATION

Report by Chief Executive

SCOTTISH BORDERS COUNCIL

31 March 2016

1 PURPOSE AND SUMMARY

- 1.1 To advise Council of the position being recommended in relation to future pension liabilities of staff affected by the transfer of Cultural Services to Borders Sport and Leisure Trust (BSLT).**
- 1.2 It is proposed that the Council will transfer Culture Services staff to BSLT and maintain their membership in the Local Government Pension Scheme through admitted body status. The admissions agreement will ensure that future members of staff employed by BSLT will have access to the scheme, after completion of five years' service as per the eligibility criteria applied to current new employees of BSLT.
- 1.3 Barnett Waddingham, the Pension Fund's actuary has provided a projected level for a bond of £2.937m, to reflect the pension fund liabilities of those staff transferring to BSLT and existing BSLT scheme members as at 10 August 2015. This represents the current level of risk facing the Pension Fund in the event of a premature termination of the trust's membership of the scheme and the Council will carry this risk. It is proposed that the trust scheme has an employers' contribution rate of 18% of pensionable pay and that the Council will underwrite the risk of premature termination of BSLT's admission agreement.
- 1.4 The underlying position has not fundamentally changed from the current position whereby the Council effectively underwrites the risk associated with unfunded pension fund liabilities for all staff and those employed at present by BSLT. It is not proposed that the trust be required to establish a bond.

2 RECOMMENDATIONS

- 2.1 **It is recommended that the Council:-**
 - (a) Agree that staff who will be employed by BSLT from 1 April 2016, who are currently members of the Council's Pension Scheme, will remain members of the pension scheme following the integration of staff with the trust**

- (b) Note that BSLT has applied to the Pension Fund for amendment to their admission agreement to cover those employed in Cultural Services**
- (c) Agree that future members of staff employed by the trust will also be covered by the admission agreement following the serving of the five year eligibility period in line with existing BSLT employees**
- (d) Agree that the transfer of staff to BSLT will not require any additional guarantor or bond arrangements for the trust and that the Council will underwrite any Admission Agreement premature termination risk.**

3 BACKGROUND

- 3.1 Membership of the Local Government Pension Scheme (LGPS) is offered by local government employers and other organisations that have chosen to participate in it, known as "admission bodies".
- 3.2 These "admission bodies" make an "Admission Agreement" with the Administering Authority to allow their employees to access the LGPS. Local government employees have a statutory right to join the LGPS but the terms of the "Admission Agreement" determine which employees in other organisations can join.
- 3.3 "Admission Agreements" can be "open" (i.e. new employees are able to join) or "closed" (i.e. not available to new employees).
- 3.4 The method used for determining the employer contribution rate for a closed agreement differs from that for the fund as a whole. The main difference is that the method used for a closed agreement allows for the inevitable ageing of the group where the method used for the whole fund assumes new entrants will replace leavers so the average age remains the same. The closed method therefore results in higher cost as the average period to retirement reduces each year, reducing the investment return that can be earned on the contributions paid.
- 3.5 Most "Admission Agreements" within SBC Fund are "open" but not all new employees of those organisations are put forward for membership. BSLT will remain "open" although require employees to have been employed for a period of five years before they offer membership to the LGPS.
- 3.6 There are two broad categories of Admission Body:
 - (a) Community Admission bodies – largely public, voluntary or charitable sectors. This would apply to BSLT.
 - (b) Transferee Admission bodies – largely profit making private sector, dealing with functions which have been outsourced for local government e.g. under best value.
- 3.7 In the case of an admission agreement with a Transferee Admission body there is a requirement under the scheme regulations for the letting authority to carry out a risk assessment, which takes account of actuarial advice, concerning the level of financial risk that could arise on the premature termination of the provision of the service or the insolvency, winding up or liquidation of the transferee admission body leaving unfunded pension liabilities for other employers to pick up. When the risk is transferred to the contractor, the outsourcing employing body will need to determine if it requires the protection of a bond or guarantee. The requirement for a bond and its costs should be provided for in the contract documentation.

- 3.8 The same strict requirements for a bond do not attach under the regulations to a Community Admission body in relation to a bond. However, there is still a need to build in some sort of safeguard to ensure that if the employer ceases to exist, any deficit or additional costs would be met. This would ensure that any deficit and additional costs do not transfer back to the pension fund and the remaining employers in the scheme. This can be done by asking the body to provide a guarantor or an indemnity bond.
- 3.9 Scottish Borders Council has a dual role in relation to the LGPS one as a local government employer and one as the Administering Authority. Each role comes with different responsibilities.
- 3.10 The Council meeting on 7 October 2015 agreed to a series of recommendations in relation to the transfer of Cultural Services staff into the integrated trust with BSLT.
- 3.11 Part of this is the transfer of pension obligations relating to future pensions benefits of transferring staff that are within the LGPS administered by Scottish Borders Council.
- 3.12 BSLT already has an Admission Agreement for the Fund, this needs to be updated to reflect the addition of Cultural Services staff and the change to their eligibility criteria adopted a few years ago. The risk around premature termination costs relating to the staff transfer lies with the Council, as they are the body taking the decision to outsource the staff/services. The risk does not and should not lie with the Scottish Borders Council Pension Fund (the Pension Fund).

4 THE INTEGRATED TRUST

- 4.1 The Council agree that staff who are currently members of the Council's Pension Scheme will remain members following the integration with BSLT and have consequently applied to amend the admission agreement currently in place. Future members of staff employed by the trust will be eligible to join the scheme following the completion of five years' service, this will also be covered in the admission agreement.
- 4.2 As part of the work to transfer staff to BSLT under the decision approved in October 2015, it is appropriate that the Council should consider the options available to it in relation to the issue of Pension Fund premature termination risk liabilities.
- 4.3 Barnett Waddingham, the Pension Fund's actuary, has provided a projected level of a bond, as at 10 August 2015, that is required for the current staff employed by BSLT and the Council in the Pension Fund. The projected level is £2.937m and this represents the currently accepted level of risk effectively underwritten by the Council.
- 4.4 The Council has several options available to it in relation to this risk:
- (a) The Council could require BSLT to purchase a bond to cover the £2.937m risk. However, this would create an additional cost of the transfer which would need to be funded and also would be

inconsistent with the actions taken in the original transfer; or

- (b) BSLT could be required to find a Guarantor for the financial risk of premature termination. However, in the event of the trust seeking to operate this would fall back to the Council the guarantor would be Scottish Borders Council; or
 - (c) The Council underwrite risk associated with premature termination and should in the unlikely event this occur the Council would have to fund the additional liabilities created in the Pension Fund at that point.
- 4.5 It is recommended however that in light of the strategic importance of the integrated trust that no bond or guarantor arrangement be sought and therefore (4.4c) should be the adopted position.
- 4.6 The Council would therefore accept that in the event of premature termination should the trust cease to trade it would carry the risk of providing for any additional funding requirements relating to the transferred staff currently in the Pension Fund. This is the same situation as presently within the staff group affected by the transfer.
- 4.7 The Council actuary has confirmed that under the arrangement proposed an employer rate of 18% of pensionable pay will apply to BSLT employees, this is an increase of 2.5% for those currently employed by BSLT and the same rate for those currently employed by the Council. This increase to the current BSLT staff cost is estimated at £29,000 and will be provided to BSLT as part of the recurring costs of the project.
- 4.8 On the assumption, and to meet the tight timescales, that approval by the Council to underwrite the risk in the event of premature termination a report has been presented to the Joint Pension Fund Committee and Pension Board seeking approval to enter into the appropriate agreement with BSLT for the integrated trust.

5 IMPLICATIONS

5.1 Financial

- (a) The estimated current value provided by Barnett Waddingham as being required is £2.937m for the risk of premature termination liability and therefore this is the current valuation of the underwriting risk that the Council is exposed to.
- (b) This financial risk would only be realised in the event of premature termination of the admission agreement between BSLT and the Pension Fund. In the event of the trust ceasing to operate the service provision would fall back to the Council. It is not anticipating this risk being realised.
- (c) BSLT will be charged an employer rate of 18% of pensionable pay as per the report from Barnett Waddingham. Per 5.7 above this results in a cost to the Council of around £29,000 which will reduce the savings previously identified accordingly.

5.2 **Risk and Mitigations**

- (a) If BSLT does prematurely terminate its admission agreement it is highly likely that the service provision/delivery and its liabilities will revert back to the Council responsibility and therefore the Council would still be exposed to the same level of risk
- (b) BSLT will run an open scheme with the eligibility criteria of having to complete five years' service, which will be part of the triennial valuation undertaken and the Pension Fund should make an informed decision on contribution rates in light of financial and other business strategic and operational considerations.
- (c) If the Council took the approach to insist on a Bond arrangement, BSLT would incur additional costs which have not been factored into the negotiations and therefore this could delay the implementation of the Council's decision to transfer staff and service delivery.

5.3 **Equalities**

It is anticipated that there are no adverse impacts due to race, disability, age, sexual orientation or religion/belief arising from the proposals in this report.

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 emission impacts as a result of this report.

5.6 **Rural Proofing**

It is anticipated that 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.

6 **CONSULTATION**

- 6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

Approved by

**Tracey Logan
Chief Executive**

Signature

Author(s)

Name	Designation and Contact Number
Ian Angus	HR Shared Services Manager, 01835 826696

Background Papers: None

Previous Minute Reference: Scottish Borders Council 7 October 2015

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

Contact us at : Pensions Team, Old School Building, Newtown St Boswells, Melrose, TD6 0SA Tel : 01835 825052 Email: pensions@scotborders.gov.uk