

PART 1 - PUBLIC

Decision Maker: General Purposes and Licensing Committee

Date: 30th June 2010

Decision Type: Non-Urgent Non-Executive Non-Key

Title: RAVENSBOURNE COLLEGE PENSION ARRANGEMENTS

Contact Officer: Mark Gibson, Assistant Director of Resources
Tel: 020 8313 4295 E-mail: mark.gibson@bromley.gov.uk

Chief Officer: Paul Dale, Director of Resources

Ward: N/A

1. Reason for report

- 1.1 This report updates Members on the future proposed pension arrangements for staff at Ravensbourne College.
-

2. **RECOMMENDATION**

- 2.1 **Members are asked to note the latest advice set out in the report and to recommend that the College continues to participate in the Bromley Fund in respect of former, existing and future staff. In order to facilitate this the Director of Resources be asked to seek a Direction Order pursuant to the Local Government Pension Scheme Regulations from the Secretary of State in support of such a resolution.**

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Pension fund
 4. Total current budget for this head: £408.4 as at 31st December 2009
 5. Source of funding: N/A
-

Staff

1. Number of staff (current and additional): 143 including pensioners (39) and deferred pensioners (32) actives (72)
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory requirement. LGPS (Administration) Regulations 2008 (Administration Regulations).
 2. Call-in: Call-in is not applicable. Proposals do not involve an executive decision.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 143
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 At the last meeting in February 2010 Members were of the opinion that further consideration was needed to be given to the implications of the actuary's advice and recommendation and in particular a comparison with the possible benefit that could result from the transfer of the College from the Bromley Pension Fund to Greenwich. Members asked for clarification on the issues contained in paragraph 3.1.5 of the actuary's client briefing note.
- 3.2 The paragraph stated that *even if the College has the necessary funds to make the £1.6m payment to the Bromley Fund it is still in the interests of the Bromley Fund and the other Bromley employers, for the College to remain in the Bromley Fund.*
- 3.3 This report therefore encloses the last report and provides an update on the Actuarial advice. As a reminder the College is a scheduled body under the Local Government Pension Scheme Regulations 1997. These Regulations state that the appropriate LGPS Pension Fund that the College should participate in is the one within which it lies geographically and so historically the College has been a scheduled body within the Bromley Fund.
- 3.4 In September 2010 the College is relocating to a new site which is within the London Borough of Greenwich rather than Bromley. However, there are a number of LGPS funds who have participating employers who are headquartered outside the strict geographical boundaries of the LGPS Fund in which they participate. There are also a number of LGPS employers, including further education establishments, who participate in more than one LGPS Fund. Advice from the DCLG has confirmed that a proposal to keep College staff in the Bromley Pension Fund would require a Direction Order from the Secretary of State under the administration regulations Schedule 4 paragraph 2, after the Secretary of State is satisfied that the treatment of ongoing pension liabilities have been considered and agreed upon by all interested parties.
- 3.5 The Council's actuary maintains that it is in the interests of the other employers in the Fund for the College to remain in the Bromley Fund so that the college remains fully responsible for funding its pension liabilities. This option is considered the lowest risk option for the Bromley tax payers as it ensures that the college remains in the Fund with active members contributing to any deficit funding that is needed in the future.

4. FINANCIAL IMPLICATIONS

- 4.1 If a Direction Order is not obtained then the default position is that the Greenwich Fund will become the appropriate LGPS Fund for the College. Regulation 86(3) of the LGPS Administration Regulations 2008 states that where there is a change of Fund in respect of 10 or more members by virtue of a single event, the amount of any transfer payment between Funds shall be determined by agreement between the actuary appointed by the administering authority by which the payment must be made and the actuary appointed by the administering authority to which it must be made. Regulation 86(4) states that if the actuaries cannot agree the bulk transfer payment within 12 months of the transfer date then it shall be referred to a third actuary whose decision will be final.
- 4.2 To protect the interests of the remaining employers in the Bromley Fund, the actuary for the Bromley Fund will wish to ensure that sufficient assets are retained in the Bromley Fund to fully fund the liabilities for pensioner and deferred pensioners that are left behind on a basis that minimises the likelihood of the remaining Bromley employers ever having to make additional contributions to meet these liabilities. The actuary for the Greenwich Fund will seek to ensure that sufficient assets are paid from the Bromley Fund to meet the expected cost of the liabilities for active members that will transfer to the Greenwich Fund.

- 4.3 Calculations prepared by the Bromley actuary indicate that the current share of the assets in the Bromley Fund are not sufficient to even fully fund the liabilities that will remain behind, never mind fund any transfer of liabilities to the Greenwich Fund without significant sums being paid into the Bromley Fund from the College. The most up to date calculations indicate that a sum of £1.6m would be required to fully fund the residual liabilities and a further sum of £3m would be required to fund the transfer payment to the Greenwich Fund.
- 4.4 On the basis that the College does not have the required funds to fully fund both the residual liabilities and the transfer value to the Greenwich Fund then it would be extremely unlikely that the actuaries to the Bromley Fund and the Greenwich Fund would be able to agree a transfer amount and the matter would be referred to a third actuary. Although we cannot pre-empt the third actuary's decision the most probable outcome would be that the existing deficit is shared between the Bromley Fund and the Greenwich Fund. Thus the Greenwich Fund would receive insufficient assets to fund the liabilities transferring and the Bromley Fund would retain a deficit in respect of the residual liabilities that are left behind.
- 4.5 Under this scenario the College would have to pay significant contributions to both the Greenwich Fund and the Bromley Fund to fund the deficits in both Funds. However the "South Tyneside case" casts doubts on the ability of Funds to obtain payments from employers such as the College who no longer have any active members. **There is the risk therefore that any attempt to seek payments from the College once it no longer has active members would be challenged leaving the deficit to be funded by the remaining Bromley employers.**
- 4.6 There is of course the scenario that the College does have the available funds to fully fund the residual liabilities and fully fund the transfer payment to the Greenwich Fund. However even with the College fully funding its residual liabilities in the Bromley Fund there is no guarantee that the assets will be sufficient to meet the liabilities which are uncertain and so even under this scenario there is the risk to the other employers in the Bromley Fund of having to make additional payments to the Fund at some point in the future.
- 4.7 Thus the advice is that it is in the interests of the Bromley employers to obtain the Direction Order to allow the College to remain in the Bromley Fund as this would mean that the College continues to meet the cost of its pension liabilities without recourse to the other employers in the Bromley Fund.
- 4.8 CLG are aware of this difficult issue of who funds residual liabilities when employers change Funds. The Probation service across England and Wales is being restructured with Probation Boards merging to create larger Probation Trusts which will participate in designated LGPS Funds. Special amending regulations to the LGPS Regulations have been made which states that where there is to be a transfer of Probation Board pension liabilities from one LGPS Fund to another as a result of the merger then there will be a transfer of all pension liabilities including pensioner and deferred members' liabilities to the designated LGPS Fund, thus leaving no residual liabilities behind. Informal enquiries with CLG about whether this arrangement could be extended to the College's situation have not been successful.
- 4.9 An ongoing dialogue has been held with CLG on the matters above and critically a Member concern that there is a risk that in the future the college may not have sufficient funding to continue to meet all its liabilities including those to the Bromley fund. The CLG have provided a response which is included in part two.
- 4.10 Also the college have been asked to provide details of their financial position which has been provided along with the possibility of some financial assurance or underwriting of the liabilities in question in the event of terminal financial difficulties.

4.11 On balance the advice remains that the Direction Order is the least risk route for the Bromley Fund especially if this can be backed with some more formal financial assurance.

5. LEGAL IMPLICATIONS

5.1 Legal implications included above.

6. PERSONNEL IMPLICATIONS

6.1 The college staff will be protected as their contract allows them access to a LGPS whoever administers the fund. Both the college and LB Greenwich have been consulted on the different options and both are keen that the one recommended above is the preferred solution.

Non-Applicable Sections:	Policy
Background Documents: (Access via Contact Officer)	GP and L reports May and June 2009