

Pension Fund Committee Report

Date:	16th November 2015
Classification:	Public
Title:	Admissions Agreement with JPL Catering Limited
Report of:	Director of Human Resources
Financial Summary:	There are no financial implications related to the transfer of staff
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1. Executive Summary

- 1.1 On the 1st of August 2015 one of the Pension Fund's Scheduled bodies Ark Academy Trust, as proprietor of King Solomon Academy, outsourced the catering function to JPL Catering Limited for 5 years. Eight staff were transferred under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) to JPL Catering Limited.

2. Recommendation

- 2.1 That the committee ratifies the closed Admission Agreement for JPL Catering Limited.

3. Background

- 3.1 ARK as a group were formed in 2002 and have educational interests around the world. It is a large academy trust with 31 separate academies registered up to 2014 in the United Kingdom. King Solomon was formed in September 2007.
- 3.2 ARK trading as King Solomon has awarded the catering contract to JPL Catering Limited from 1st of August 2015. The legal entity for the Admission Agreement however is ARK Academy Trust as the proprietor of an academy as covered under paragraph 20, Part 1 of Schedule 2 of the LGPS Regulations 2013.

- 3.3 ARK Academy Trust is a Scheduled body within the WCC Pension Fund, Employees of Scheduled bodies are automatically entitled to membership of the LGPS in the geographical area, in which they are based, if they are not entitled to membership of another public sector fund such as the Teacher's Pension Scheme.
- 3.4 Eight staff were transferred under TUPE from ARK's employment to JPL Catering Limited. At the time of transfer 4 were members of the LGPS and 4 were not active members.
- 3.5 Staff outsourced by public sector bodies to private companies carrying out the function will retain the entitlement to their former pension provision or a broadly comparable alternative.
- 3.6 Under the New Fair Deal 2013 Guidance Academies should include provisions in their outsourcing contracts to the effect that that transferring staff retain entitlement to remain an active member of (or remain eligible to join if they have not yet joined) the public sector pension scheme for which they had eligibility before they transferred under TUPE.
- 3.7 JPL Catering Limited (company number 06842623) was incorporated on the 10th of March 2009. They have a number of school clients in addition to King Solomon Academy. They include The Reach Academy Feltham and Hampton Court House. In addition they have undertaken work for companies including Barclays and Walt Disney. The City Treasurers Department has ascertained that JPL Catering Limited has a strong credit rating.
- 3.8 Officers have sought legal advice on the circumstances in which a refusal to allow a new Admitted body would have legal substance. Paragraph 13, Part 3 of schedule 2 of the LGPS Regulations 2013 detailed above states that where an Admission body undertakes to meet the requirements of the Regulations, the appropriate Administering Authority must admit the Admission body to the Fund.
- 3.9 The Pension Fund's legal advisors Eversheds have prepared a draft Admission Agreement (Appendix 1) between the Fund, ARK Academy Trust and JPL Catering Limited. It is proposed that the Admission Agreement is closed in line with standard practice, so that only those staff transferred under TUPE from King Solomon to JPL Catering Limited will retain access to the fund whilst they are employed directly on this contract. If an employee leaves employment with JPL Catering Limited or moves onto another contract with JPL Catering Limited they will lose their entitlement at that time to further accrual.

4. Financial Implications

- 4.1 Once the Admissions Agreement is in place, the service provider, JPL Catering Limited, will make pension contributions in respect of the staff transferred to them.

- 4.2 The Employer Contribution rate will be calculated by the Fund Actuary based upon the assumption that the liabilities related to the transferring staff are transferred to JPL Catering Limited on a fully funded basis.
- 4.3 Ark Academy Trust accepts the pension risk associated with this agreement.
- 4.4 The fund has an entitlement under the regulation 64 paragraph 8 to recover any liability not recoverable from JPL Catering Limited as ARK academy Trust would be a related employer by virtue of entering into the Admission Agreement. The responsibility is again covered within the Admission Agreement in paragraph clause 9.2.

5. Legal Implications

- 5.1 If the committee were to refuse admitted body status then the administering authority would be in breach of regulation 6.1 above.

If you have any questions about this report, or wish to inspect one of the background papers, please contact:
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