

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

26th July 2016

**REPORT AUTHOR: County Councillor Wynne Jones
Portfolio Holder for Finance**

SUBJECT: Pensions Policy – TUPE Transfers

REPORT FOR: Decision

1. Summary

To provide Members with policy proposals in relation to Pension Fund issues to be used when service commissioning decisions result in the TUPE Transfer of Council staff.

2. Proposal

It has become increasingly clear that there is a need for policy in relation to Pension Fund issues in relation to staff transfers as the Council continues to explore alternative service delivery models. Because of the nature of pension funding and the associated risks, it is also clear that different service delivery models (and the number of staff being transferred) require different policy approaches.

3. One Powys Plan

To help improve the efficiency of commissioning processes that involve staff transfers.

4. Options Considered/Available

Under the terms of The Welsh Authorities Staff Transfers (Pensions) Direction (issued by Wales Government in 2012), the Council is required to ensure that pension rights of staff transferred to other service providers are fully protected. This protection may take one of two forms: either the service provider gives transferred staff access to a pension arrangement which has been certified as being 'broadly comparable' to the Local Government Pension Scheme (LGPS); or, by the service provider entering into an admission agreement with the Pension Fund to enable transferred staff to remain in the LGPS. Therefore, where the latter is the option available policy is required in order to determine the terms that will apply in relation to the service providers admission to the Pension Fund.

The key elements in relation to the admission of service providers to the Pension Fund are outlined below:

Key Pension Fund Issues

- The terms of the service contract to be agreed between the Council and the service provider.
- The service provider's proposed pension arrangements for post transfer appointees employed on the delivery of the service contract.
- Treatment of the Council's Pension Fund deficit and the funding of pension liabilities accrued to date of transfer of relevant staff.
- Arrangements for dealing with the pensions funding risk associated with the potential insolvency of the service provider.
- Arrangements for dealing the pensions funding risk associated with a post transfer deficit arising.
- Details in relation to the delivery of the service at the cessation of the service contract.

Service Delivery Models (Types of Providers) Considered

- Joint Venture Companies (JVC).
- Arms-Length Wholly Owned Companies.
- Third Party Contractors.
- Charitable Trusts.
- Social and Community Enterprises.
- Preceptors (for example Town and Community Councils).

Relevant Model Characteristics

- Ownership of the service provider.
- Does the Council have any management role in relation to the service provider.
- What is the service provider's status (for example a commercial organisation).
- What is the service provider's relative financial strength (ability to meet the pensions covenant under the LGPS).

5. Preferred Choice and Reasons

Accordingly, the attached policy document has been drafted taking into account the individual characteristics of each delivery model identified.

6. Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

That the Council amend its procurement protocols to include the relevant policy in respect of service delivery models that are likely to be involved in commissioning decisions that include outsourcing tender processes. It is proposed that each procurement process includes a qualification question that specifically sets out the Council's policy on pensions issues in relation to staff transfers.

7. Children and Young People's Impact Statement - Safeguarding and Wellbeing

No impact.

8. Local Member(s)

To be applied equally across the County.

9. Other Front Line Services

Not applicable.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

Legal, Finance and HR all consulted and support the policy proposals.

11. Local Service Board/Partnerships/Stakeholders etc

Not applicable.

12. Corporate Communications

Not applicable.

13. Statutory Officers

Both s,151 Officer and Monitoring Officer were consulted and support the policy proposals.

14. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
To approve the policies set out in the policy document	To improve the efficiency of commissioning processes that involve staff transfers.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
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Person(s) To Implement Decision:	Pension Fund Manager
Date By When Decision To Be Implemented:	Immediately

Contact Officer Name:	Tel:	Fax:	Email:
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Background Papers used to prepare Report: