

Nominations & Remuneration Committee

Date of Meeting	Friday 13 October 2017
Paper Title	Strathclyde Pension Fund – Admission Agreement
Agenda Item	9
Paper Number	NRC2-E
Responsible Officer	Jim Godfrey, Interim Finance and Resources Director
Status	Disclosable
Action	For Approval

1. Report Purpose

- 1.1. This paper seeks approval of the agreement for GCRB to become an admitted body of the Strathclyde Pension Fund.

2. Recommendations

- 2.1. The Committee is invited to **recommend** to the Board that:

- The Executive Director is given the delegated authority to sign the Admission Agreement on behalf of GCRB, subject to a renewed letter of guarantee being provided by the Scottish Government

3. Background

- 3.1. An application to join the Strathclyde Pension Scheme was submitted but a decision was taken in May 2016 not to proceed with this application. Following further consideration by the Committee and Board, it has been agreed to proceed now with the application, particularly to resolve the issue outlined below in respect of the Executive Assistant.
- 3.2. In March 2017, the Committee reviewed the employment options for GCRB staff including an independent report by Cameron McKenna. The independent report considered a range of matters, including the options for the provision of a workplace pension. Following this report, the previous Chair of the Board discussed the issue with the Scottish Funding Council (SFC). This resulted in an email being received from the SFC on 7 April 2017. This email highlighted the ‘general expectation’ with regard to defined benefit pensions within the “Glasgow college system, the whole Scottish college section; and the wider Scottish public sector”
- 3.3. The Committee considered a further report on 2 May 2017 and agreed to support the principle of GCRB becoming a member of the Strathclyde Pension Fund (i.e. a defined benefit pension scheme). The Committee also requested that a further report is provided to identify the risks of doing so.

4. Report

- 4.1.** Since May 2017, extensive work has taken place to reach the point whereby GCRB can become a member of the Strathclyde Pension Fund.
- 4.2.** The initial action has been to carry out a comprehensive assessment of risks, as requested by the Committee. These risks are set out in the section below in the Risk Analysis section below. As can be seen, the majority of the risks relate to the negative implications of not taking this course of action.

5. Risk Analysis

- 5.1.** As an employing body, GCRB is required to provide a workplace pension from 1 November 2017 (the staging date for GCRB) in accordance with the Pensions Act 2008. Such a scheme must be available to all employees earning over £10,000 per annum. Being an admitted employer of the Strathclyde Pension Fund will enable GCRB to comply with the Pensions Act 2008 and avoid the consequences of non-compliance i.e. financial penalties and prohibition notices.
- 5.2.** From 1 November 2015, the Executive Assistant has been an employee of GCRB via the payroll service being administered by Glasgow Clyde College. For the last two years, pension contributions have been made Executive Assistant (and GCRB as the employer) on the assumption that the employee is a member of the Strathclyde Pension Fund. However, these contributions cannot be applied to the employee's pension record as her employer (GCRB) is not currently an admitted employer of the Strathclyde Pension Fund. Becoming an admitted employer will enable the employee's pension record to be credited with the past two years' contributions and resolve this anomalous situation.
- 5.3.** Being a member of the Strathclyde Pension Fund will enable GCRB to include this within the terms and conditions of any future employees. This will be important if GCRB is seeking to attract employees by providing a pension scheme that is equivalent to other public sector bodies in Scotland. GCRB may face problems of recruitment if the terms are less favourable than other public bodies.
- 5.4.** A letter of guarantee was previously provided to GCRB from the Scottish Government. If GCRB did not exist in the future, or its activities were transferred to another body, any potential deficit on GCRB's share of the Strathclyde Pension Fund could crystallise at this point. The letter of guarantee provides an assurance to Strathclyde Pension Fund that the Scottish Government would underwrite any potential deficit arising in this way. The letter of guarantee mitigates a possible future risk for GCRB.
- 5.5.** Due to the delay in progressing the pension application, GCRB are seeking a renewed letter of guarantee from the Scottish Government. The Committee is therefore invited to recommend to the Board that the Executive Director is given the delegated authority to sign the Admission Agreement on behalf of GCRB, subject to a renewed letter of guarantee being provided by the Scottish Government
- 5.6.** The admission agreement (copy attached as an Annex) has been scrutinised by GCRB's independent legal advisers. This resulted in some minor amendments to the original agreement provided by Strathclyde Pension Fund. In taking independent legal advice, GCRB has mitigated the risks relating to the contract.

6. Legal Implications

- 6.1.** The recommendations set out in the report will ensure that GCRB is compliant with the Pensions Act 2008.

7. Resource Implications

- 7.1.** The current employer contribution rate for the Strathclyde Pension Fund is 19.3% of gross pay. This is the same rate for all 183 admitted employers within the scheme. The contribution rate is calculated to match the value of assets and liabilities of the fund. The contribution rate can change over time and therefore that the total cost to GCRB could increase or decrease in the future.
- 7.2.** The GCRB budget for 2017-18, includes the cost of pension contributions at the rate of 19.3% of gross pay.

8. Strategic Plan Implications

- 8.1.** The ability to provide an pension scheme ensures that GCRB complies with its statutory duties. The provision of a pension scheme supports the implementation of the agreed staffing structure thus enabling GCRB to fulfil the obligations of fully operational status.

**STRATHCLYDE PENSION FUND
ADMISSION AGREEMENT**

between

GLASGOW CITY COUNCIL

and

**REGIONAL BOARD FOR GLASGOW
COLLEGES**

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Admission to the Local Government
Pension Scheme

Glasgow City Council
Corporate Services
Corporate and Property Law
City Chambers
GLASGOW G2 1DU

ADMISSION AGREEMENT

between

GLASGOW CITY COUNCIL, a local authority incorporated under the Local Government etc. (Scotland) Act 1994 and having its principal office at City Chambers, George Square, Glasgow G2 1DU (hereinafter referred to as "the Authority")

of the First Part

and

REGIONAL BOARD FOR GLASGOW COLLEGES, is the Regional Board specified as a Regional Strategic Body in Part 1 of schedule 2A to the Further and Higher Education (Scotland) Scotland 2005 (as amended by section 8(2) of the Post-16 Education (Scotland) Act 2013, and having its principal office at 60 North Hanover Street, Glasgow G1 2BP (hereinafter referred to as "the Employing Body")

of the Second Part

WHEREAS

- (a) the Authority is an administering authority within the meaning of the Local Government Pension Scheme (Scotland) Regulations 2014, as amended, replaced or re-enacted from time to time (hereinafter referred to as "the Regulations") and administers and maintains the Strathclyde Pension Fund (the "Pension Fund") under the Local Government Pension Scheme ("the Scheme");
- (b) the Employing Body is a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest (whether because the operations of the body are dependent on the operations of the Scheme employer or otherwise) within the meaning of Schedule 2 Part 2 paragraph 1(a) of the Regulations;
- (c) the Employing Body has applied to the Authority to admit employees of the Employing Body to participate in the benefits of the Scheme and paid out of the Pension Fund and the Authority have approved such admission on 7th March 2016;
- (d) The Employing Body has agreed to abide by the terms of the Regulations including, but not

limited to, the requirements relating to employer's contributions contained therein; and

- (e) in pursuance of the powers contained in Regulation 3(4) of the Regulations, the terms and conditions of such admission have been agreed between the Employing Body and the Authority hereto as hereinafter specified.

NOTWITHSTANDING THE TERMS OF ANY PRIOR AGREEMENT NOW IT IS HEREBY AGREED AND DECLARED by and between the Employing Body and the Authority hereto as follows:

1 GENERAL

- 1.1 All expressions used in this Agreement, unless the context otherwise requires, have the same respective meanings as in the Regulations (as amended, replaced or re-enacted from time to time).

2 ADMISSION

- 2.1 The Employing Body shall be responsible for all pension liabilities within the Pension Fund of all persons to whom Clause 2.2 applies ("Pensionable Employees"), including those for deferred members, pensioner members and survivor members. The pension liabilities within the Pension Fund relating to the Pensionable Employees are to be treated as fully funded as at the Admission Date (as assessed using the then current actuarial assumptions applied by the actuary appointed by the Authority in accordance with the Regulations on such date.)
- 2.2 The Authority shall, from 1st November 2015 ("the Admission Date"), notwithstanding the date or dates of this Agreement, admit to participate in the benefits of the Scheme, each employee of the Employing Body whom by notice in writing given to the Authority the Employing Body may from time to time nominate and whose nomination is accepted by the Authority, provided that a person whose eligibility to participate in the benefits of the Scheme is prohibited by Regulation 4 of the Regulations, shall not be admitted to participate in the benefits of the Scheme. Furthermore, any previous period of employment by the Employing Body of any employee so admitted shall be reckonable service to such an extent as may in each case be agreed between the Employing Body and the Authority hereto.
- 2.3 Pensionable Employees shall be admitted as aforesaid as from the date on which his/her nomination is accepted or such other date not being earlier than the date of his/her nomination as may be agreed between the Employing Body and the Authority hereto.

3 RISK ASSESSMENT

- 3.1 The Employing Body shall carry out, to the satisfaction of the Authority, an assessment,

- taking account of actuarial advice, of the level of risk arising on premature termination of the provision of the services or assets by reason of insolvency, winding up or liquidation of the Employing Body.
- 3.2 In satisfaction of the requirements of paragraphs 6 to 8 of Part 2 of Schedule 2 to the Regulations, the Employing Body has secured a guarantee from the Scottish Ministers, a copy of which is set out in the Schedule to this Agreement.
- 3.3 The Employing Body warrants to the Authority that any guarantee is in place with effect from the Admission Date or will be put in place with effect from such other date as required and shall be maintained in accordance with the risk identified under Clause 3.1.

4 EMPLOYING BODY OBLIGATIONS

- 4.1 The Employing Body undertakes:
- 4.1.1 The Employing Body shall provide the Authority, or any other person authorised by the Authority, with such information relating to the Employing Body as the Authority shall reasonably require, including, but not limited to accounts and other financial records and data;
- 4.1.2 to pay all contributions due under the Regulations to the Pension Fund in relation to the Pensionable Employees as certified by the actuary appointed by the Authority in accordance with the Regulations including any amendment, modification, re-enactment, or variation of any of those Regulations;
- 4.1.3 that if a person who becomes a pensionable employee by virtue of Clause 2 hereof ceases to be a whole time employee in the employment of the Employing Body and continues in their employment as a part-time employee, the Employing Body shall forthwith notify the fact in writing to the Authority.
- 4.1.4 that it shall not do anything to prejudice the status of the Scheme as a registered pension scheme as defined under the Finance Act 2004 (as amended or replaced from time to time);
- 4.1.5 that it will promptly notify the Authority in writing of any material change in the terms and conditions of employment which affect entitlement to benefits under the Scheme for its employees who are members of the Scheme and of any termination of employment of such employees, where such termination is by virtue of redundancy or in the interests of efficiency;
- 4.1.6 to adopt the practices and procedures relating to the operation of the Scheme as set out in the Regulations, and, if applicable, the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (including any amendment, modification, re-enactment, or variation of any of those Regulations) and in any pension administration strategy published by the Authority in accordance with the Regulations;

- 4.1.7 that it will promptly notify the Authority in writing of:
- 4.1.7.1 any matter which may affect, or is likely to affect; its participation in the Scheme;
 - 4.1.7.2 any material change in its activities or financial circumstances which may affect its eligibility for admission to the Scheme;
 - 4.1.7.3 any change in the Employing Body's name, status, constitution or in the type of work in which it is involved; and
 - 4.1.7.4 of any actual or proposed change in its status, and, for these purposes, change in status shall include a take over, reconstruction or amalgamation, insolvency, wind up, receivership or liquidation and a material change to the body's business or constitution.
- 4.1.8 The Employing Body shall be required to pay to the Pension Fund any payments due from the Employing Body under Regulation 66 the Regulations.
- 4.1.9 Where this Agreement ceases to have effect the Employing Body shall pay to the Pension Fund any payments due from the Employing Body under Regulation 62. Any such payments shall be determined by the actuary appointed by the Authority and recovered from the Employing Body at the time this Agreement ceases or at any other time agreed between the Authority and the Employing Body.

5 DISCRETIONS

- 5.1 In terms of this Agreement the Employing Body shall be entitled to exercise any discretion under the Regulations or the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (including any amendment, modification, re-enactment, or variation of any of those Regulations). Where the Employing Body exercises a discretion under the Regulations or the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (including any amendment, modification, re-enactment, or variation of any of those Regulations), it shall notify the Authority of each occasion.

6 TERMINATION

- 6.1 Either of the parties may give notice in writing to the other party to terminate this Agreement insofar as it relates to the future participation in the benefits of the Scheme of the Pensionable Employees. In that event, this Agreement shall, at the expiration of three months after the date of such notice, terminate to the extent aforesaid. Such termination shall not affect the rights or obligations of the parties in respect of any Pensionable Employees who cease to be active members of the Scheme at the date when this Agreement ceases to have effect or any Pensionable Employees who have been active members of the Scheme who cease or have ceased to be such before that

date.

- 6.2 For the avoidance of doubt, this Agreement shall terminate at any time should no current Pensionable Employee continue to be an active member of the Scheme for whatever reason.
- 6.3 This Agreement shall terminate automatically at any time should the Employing Body cease to be an admission body within the meaning of Schedule 2 Part 2 paragraph 1(a) of the Regulations.
- 6.4 The Authority may terminate this Agreement with immediate effect by notice in writing to the Employing Body in the event of:
 - 6.4.1 the Employing Body's insolvency, winding up or liquidation;
 - 6.4.2 a material breach by the Employing Body of any of its obligations under this Agreement or the Regulations where such breach is not capable of remedy or, where the breach is capable of remedy, the Employing Body has failed to rectify such breach within 30 days following receipt of written notice of such breach from the Authority; or
 - 6.4.3 a failure by the Employing Body to pay any sums due to the Pension Fund within 30 days following receipt of written notice from the Authority requiring it to do so.

7 MISCELLANEOUS

- 7.1 The Employing Body and the Authority agree that this Agreement, in final form, shall be available for public inspection at the office of the Authority.
- 7.2 The Employer Body hereby warrants that following receipt of a written request, it will allow the Authority or its actuary or appointed auditors to inspect and reconcile all records and information it holds relating to those employees admitted to the Pension Fund pursuant to this Agreement.

8 VARIATION

This Agreement may be modified from time to time in such manner as the parties may agree. Such variation of the terms shall be evidenced in writing and signed on behalf of all parties and read as supplementary provisions to this Agreement.

9 CONSTRUCTION OF AGREEMENT AND JURISDICTION

9.1 This Agreement shall be considered as a contract made in Scotland and accordingly to Scots Law and shall be subject to the exclusive jurisdiction of the Scottish Courts to which both parties hereby submit. Any other dispute which may arise between any of the parties shall be subject to Scots law: **IN WITNESS WHEREOF, these presents consisting of this page and the preceding 5 pages along with the schedule attached hereto are executed as follows:**

Accepted on behalf of the Regional Board for Glasgow Colleges (“the Employer Body”)

Name:
Signature: Date:
Designation:
Place of signing:
Witness name:
Witness signature:
Designation:
Address

Accepted on behalf of the Glasgow City Council (“the Authority”)

Name:
Signature: Date:
Designation:
Place of signing:
Witness name:
Witness signature:
Designation:
Address

SCHEDULE – GUARANTEE FROM SCOTTISH MINISTERS