

By: Chairman Superannuation Fund Committee  
Director of Finance

To: Superannuation Fund Committee – 18 September 2009

Subject: **APPLICATION FOR ADMISSION TO THE FUND**

Classification: Unrestricted

---

Summary: To report on applications to join the Pension Fund and changes to current admissions.

## **FOR DECISION**

---

### **INTRODUCTION**

1. This reports sets out information on applications from organisations to become admitted bodies within the Pension Fund and seeks committee approval on changes to existing admission agreements.

### **MYTIME ACTIVE**

2. Maidstone Borough Council outsourced the management of Cobtree Golf Course to MyTime Active in January 2009. Three employees are involved in the TUPE transfer from Maidstone Borough Council to MyTime Active. These employees are currently on secondment from Maidstone Borough Council to MyTime Active.
3. Mytime Active is a company limited by guarantee and a charitable leisure trust that re-invests any surplus to enhance sports, arts and play facilities.
4. The application has been made under Regulation 6(2)(a)(i) of the Local Government Pension Scheme (Administration) Regulations 2008, as amended. Under this Regulation, there is a requirement for a form of bond or indemnity to be provided. The bond/indemnity is actuarially assessed to cover the costs of early retirement in the event of redundancy. The weighted average age of the transferring employees is 36.8 years and therefore no one is eligible for early retirement. The actuary has assessed the level of the bond/indemnity to be nil for the first year of the contract. In the event of the termination of the admission agreement allowing MyTime Active to participate in the Pension Fund, any financial liability not covered by the Bond, is the responsibility of the scheme employer ie. Maidstone Borough Council.

5. The completed questionnaire and Memorandum and Articles have been examined by Legal Services to ensure compliance with the Local Government Pension Scheme Regulations. Legal Services have given a favourable opinion.

#### **TWINKLE TOES NURSERY LIMITED**

6. The Abbey School, Faversham is outsourcing its day nursery from 1 September 2009. The successful bidder awarded the contract to take on the management and day to day running of the nursery is Twinkle Toes Nursery. Nine employees are involved in the TUPE transfer from The Abbey School to Twinkle Toes Nursery.
7. Twinkle Toes Nursery is a limited company formed to take over the management and day to day running of the Abbey School Day Nursery.
8. The application has been made under Regulation 6(2)(a)(i) of the Local Government Pension Scheme (Administration) Regulations 2008, as amended. Under this Regulation, there is a requirement for a form of bond or indemnity to be provided. The bond/indemnity is actuarially assessed to cover the costs of early retirement in the event of redundancy. The actuary is currently assessing the level of the bond/indemnity.
9. The completed questionnaire and Memorandum and Articles have been examined by Legal Services to ensure compliance with the Local Government Pension Scheme Regulations. Legal Services have given a favourable opinion.

#### **THE AVENUES TRUST COMMUNITY SUPPORT SERVICES LIMITED**

10. The Avenues Trust Community Support Services Limited is the successful bidder for a contract outsourced by Medway Council to provide homecare services. Twenty three employees are involved in the TUPE transfer from Medway Council to The Avenues Trust Community Support Services Limited.
12. The application has been made under Regulation 6(2)(a)(i) of the Local Government Pension Scheme (Administration) Regulations 2008, as amended. Under this Regulation, there is a requirement for a form of bond or indemnity to be provided. The bond/indemnity is actuarially assessed to cover the costs of early retirement in the event of redundancy. The actuary is currently assessing the level of the bond/indemnity. In the event of the termination of the admission agreement allowing MyTime Active to participate in the Pension Fund, any financial liability not covered by the Bond, is the responsibility of the scheme employer ie. Medway Council.
13. The completed questionnaire and Memorandum and Articles have been examined by Legal Services to ensure compliance with the Local

Government Pension Scheme Regulations. Legal Services have given a favourable opinion.

### **THANET COMMUNITY HOUSING ASSOCIATION/ORBIT**

14. A report was made to the 3 July Committee meeting on the name change of Thanet Community Housing Association to Orbit South Housing Association and advising that a new admission agreement would be drafted to reflect this change and up date the agreement to reflect current legislation. The recommendation in the report was for members to note the change of agreement. However, committee approval is required for KCC to enter into the amended agreement and use the KCC seal.

### **SWALE HOUSING ASSOCIATION**

15. It is proposed that Swale Housing Association will be subject to a statutory amalgamation to merge a number of Industrial and Provident Societies. Swale Housing will not cease to exist following the amalgamation; it will continue to exist as part of a larger entity. Importantly, Swale Housing will continue to employ its employees.
16. A new admission agreement has been drafted by Legal Services to reflect the change referred to in paragraph 15 and update the agreement to reflect current legislation. The admission agreement restricts membership of the Pension Fund to those employees of Swale Housing who were members and eligible employees who are nominated by Swale Housing to join. There is no entitlement for employees of the other organisations within the statutory amalgamation to join the Pension Fund.

### **MITIE/COMPASS GROUP UK**

17. Hereson School and Ellington School for Girls are being amalgamated and the new school will be located on the Ellington School for Girls site. Both schools have closed at the end of August 2009 and the new school opened in September 2009. The new school will initially be split across the two original sites until the buildings at the new school have been completed. Ellington School for Girls is part of the 6 School PFI contract and the cleaning and catering staff are employed by Mitie or Compass Group UK Limited (both organisations are transferee admission bodies within the Pension Fund in respect of the 6 Schools PFI contract). Hereson School employed their facilities management staff direct. At September 2009, School years 7, 8 and 9 have transferred from the Hereson site to the Ellington site. Years 10 and 11 have remained at the Hereson site. The transfer of years 7 to 9 necessitates a transfer of employees from Hereson to Ellington and legal have advised that TUPE applies.

18. There is no transfer of service or assets by means of a contract under the scenario described above. It is not therefore possible for Mitie or Compass Group UK Limited to apply for admitted body status in this instance. As Mitie and Compass Group UK Limited have Transferee admission body status for the 6 Schools PFI contract, it would be possible for the existing admission agreement to be amended by means of a Deed of Modification to allow access for any employees transferring from Hereson to Ellington and commencing employment with Mitie & Compass Group UK Limited. It would need the agreement of all parties to the original Admission Agreement to allow this to happen.

### **RECOMMENDATION**

19. Members are asked to agree to the admission to the Kent County Council Pension Fund of:

- (1) MyTime Active;
- (2) Twinkletoes Nursery;
- (3) The Avenues Trust; and

agree that legal agreements can be entered into in respect of:

- (4) Thanet Community Housing Association/Orbit;
- (5) Swale Housing Association; and
- (6) further agree that subject to the agreement from all parties to the original admission agreement that a Deed of Modification can be entered into in respect of Mitie and Compass Group UK Limited;
- (7) and in respect of all of the above matters agree that once legal agreements have been prepared for all of the above matters, the Kent County Council seal can be affixed to the legal documents.

**Jane Gibbons**  
**Principal Accountant (Investments)**  
**Ext. 4625**