Coventry City Council

Public report
Cabinet Member Report

A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet Member for Strategic Finance and Resources — 12th December 2019

Name of Cabinet Member:
Cabinet Member for Strategic Finance and Resources – Councillor J Mutton

Director Approving Submission of the report:
Director of Finance and Corporate Services

Ward(s) affected:
None

Title:
Central England (formerly Coventry) Law Centre Pension Guarantee

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Is this a key decision?
No

Executive Summary:

This report is seeking approval for the Council to provide a pension guarantee to the Central England Law Centre (formerly Coventry Law Centre) to mitigate future potential risks in relation to its pension position. This guarantee would be at a net nil cost to the Council.

Recommendations:

The Cabinet Member for Strategic Finance and Resources is recommended to:

(1) Approve the Council providing a pension guarantee to the Central England Law Centre as set out in the report.

(2) Delegate authority to the Director of Finance and Corporate Services following consultation with the Cabinet Member for Strategic Finance and Resources to identify, agree and arrange the legal and financial measures required.

List of Appendices included:
None.

Background papers:
None.

Other useful documents
None

Has it been or will it be considered by Scrutiny?
No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?
No

Will this report go to Council?
No

Report title: Central England (formally Coventry) Law Centre Pensions Guarantee

1. Context (or background)

1.1 Central England Law Centre (CELC), formerly Coventry Law Centre, is the largest law centre in the UK. It has developed from what was Coventry Law Centre, and its focus is still very much on the city. The CELC provides specialist legal advice to Coventry citizens, covering areas including but not restricted to social care and health, welfare benefits, housing, debt, immigration and asylum.

1.2 CELC has been a key local delivery partner for the Council for many years and the Council provides £440k p.a. core funding to the Law Centre. Within the Council, CELC is regarded as an effective and important voluntary sector delivery body within the city. This is demonstrated by the level of on-going funding provided by the Council and fact that the Council has periodically chosen the Centre to provide a number of other work programmes supported by specific grant funding.

1.3 Historically, CELC employees had access to the Local Government Pension Scheme via the West Midlands Pension Fund (WMPF). Scheme entry was closed for new employees in May 2007 and there is now a small number of active members of the scheme. In addition, there are former CELC employees who are already in receipt of their pension or who will be able to draw their pension when they reach the relevant age.

1.4 Under pension scheme rules, once the last CELC employee who is also an active member of the fund leaves CELC employment this triggers what is referred to as a pension fund crystallisation event. At that point the pension fund would provide a calculation of the estimated cost of all potential future pension liabilities for former employees of CELC. This calculation is made on what is referred to as a ‘least risk basis’ – meaning that the pension fund uses a series of prudent assumptions to calculate the sum. This least risk basis always results in an estimated cost that is higher than the more neutral ‘funding basis’ that is used to calculate the liability when there are still active members of the scheme in employment.

1.5 The CELC has just received the latest triennial superannuation report which determines its employer pension contributions for the next three years. Only employees working in Coventry and who were historically part of Coventry Law Centre are members of the WMPF rather than employees of other parts of the CELC. The previous (2016) deficit calculated on a ‘funding basis’ was £211k whereas the recent revised valuation for 2019 indicates a surplus of £69k. This means that the CELC will only have to make employer superannuation payments in relation to the current cost of its employees’ pensions, not any deficit recovery payments.

1.6 However, WMPF has also provided a revised calculation for a crystallisation of the pension costs based on the least risk approach, the details of which are included in the private report. When the remaining employees who are active members of the WMPF cease their employment with CLC, the Law Centre would need to pay the liability to the Fund calculated on this basis. The guarantee would be of benefit only to CELC employees and therefore does not confer any advantage on CELC.

1.7 The WMPF is able to avoid charging the least risk calculated sum if the relevant body is able to align itself with another organisation with a strong financial covenant and active employees within the Fund. The purpose of this report is to recommend that the Council takes on this role by providing a pension guarantee to CELC and the WMPF.

2. Options considered and recommended proposal

Option 1 – Do Nothing

2.1 This option is not recommended. If the Council takes no action there is a strong likelihood that the CELC will be faced with a crystallisation event calculated on the least risk basis.

Option 2 – Provide a loan to the CLC to Pay Its Pension Liability

2.2 The proposal would involve the least risk pension liability being triggered through the crystallisation event, the full amount being funded via a loan from the Council to CELC and CELC making repayments to the Council to repay the full amount of the loan over time.

2.3 This option is not recommended. It would mean that the least risk (worst case) pension liability must be funded up front – in this case by the Council. In addition, CELC would need to make regular repayments to cover these higher costs.

Option 3 – Provide a Pension Guarantee To CELC and WMPF

2.4 This is the recommended option. A pension guarantee would provide comfort to WMPF that a financially sound and strongly covenanted organisation (the Council) is in place to fund any future pension liabilities incurred by the CELC. This enables WMPF to calculate a liability on the lower funding basis and to spread the repayment of any calculated sum over the same period that the Council will be required to repay its own pension deficit (17 years). A pension guarantee put in place now would involve the CELC's share of pension fund assets and liabilities and any liability being transferred to the Council automatically at the point of crystallisation. On current valuation the liability would be nil, but this may increase with subsequent valuations. The Council will recover any costs it may incur form CELC phased in a way that is consistent with the Council's own deficit recovery period.

3. Results of consultation undertaken

3.1 CELC approached the Council to explore the options available. No wider consultation has been undertaken in relation to this proposal which will ultimately be of no net cost to the Council.

4. Timetable for implementing this decision

4.1 Subject to approval of this report the Council will seek to agree a legally binding pension guarantee with CELC and WMPF. The intention will be to ensure that this is finalised within the current financial year.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

Based on the recent valuation report (November 2019) CELC has a pension fund surplus. If a pension crystallisation event occurred, with a pension guarantee in place no pension deficit payments would be due based on that surplus position. It is important to understand the possibility that a deficit could emerge in the future. The unpredictable nature of actuarial valuations mean that it is difficult to assess the outer limits of what the level of this deficit could be.

There are a number of reasons why the Council can enter into a guarantee with confidence that this will not impose a large financial risk.

- Under the latest valuation CELC is not due to make any future deficit recovery payments to WMPF. The current deficit payment by CELC for 2019/20 will reduce to nil from 2020/21 for the following three years. Initial discussions between Council officers and CELC have discussed CELC making contributions to the Council as a down-payment against future potential risk and this will be built into any agreement between the Council and CELC.
- If a future crystallisation event occurs and the CELC share of pension fund assets and liabilities moves back into a pension deficit scenario the pension guarantee document will contain conditions for CELC contributions to repay the Council over a period consistent with the Council's own deficit recovery payments to the Fund.
- CELC would make its accounts and pension valuation updates available to the Council to ensure that it could continue to monitor the financial and actuarial position.
- The Council would hold the ultimate sanction of withdrawing part or all of its existing funding for CELC to cover any pension deficit.

  As an indication of the scale of risk comparing CELC and the Council, CELC pension liabilities represent just 0.18% (less than one-fifth of one per cent) of the Council's liabilities.

5.2 Legal implications

The City Council has a general power of competence under the Localism Act 2011 that allows a local authority to do anything that individuals generally may do which would enable the City Council to take the actions recommended in this report.

As stated in the report the guarantee provided under this proposal does not confer and economic advantage on CELC as it is of benefit to the individual employees.

6. Other implications

Any other specific implications

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

The work of Coventry Law Centre is closely aligned with many of the Council's objectives, for instance in the areas of reducing the impact of poverty, improving the quality of life for local people, protecting our most vulnerable people and empowering citizens.

It is important to observe that the work of CELC sometimes requires it to represent citizens in cases where they are challenging decisions made by the Council. The Law Centre is clear that this is a fundamental and appropriate part of the work that it undertakes. Any decisions made as a result of this report will not seek to undermine of constrain this aspect of the CELC's operations.

6.2 How is risk being managed?

The key risk with this proposal is that future movement in value relating to the notional share of CELC assets and liabilities within the City Council's pension fund arrangements moves to a significant deficit position. It is envisaged that a monitoring mechanism will be developed that calculates the broad movement in this value over time. This mechanism will not allow a calculation in relation to a segregated section of the pension fund but will provide a clear method of estimating a proxy sum based on the overall movement in the Council's funding position using the 2019 valuation as the base position.

The purpose of the recommended approach is to support the CELC's financial position and to provide comfort that the Council is not put at a financial detriment as a result of this. It is impossible to foresee the point at which these arrangements will come to an end given that legacy pension payments can take a number of decades to work through. The legal agreement will build in a review period consistent with future actuarial review updates (currently on a three-yearly basis). However, this should make provision to end the arrangement in the future, taking into account the relative position of the calculated value of the CELC's share of pension deficit/surplus and the total value of contributions paid at that point by CELC. Any such decision would be based on a reasonable and mutually agreed assessment of the then financial position and the administrative burden of continuing to implement the process.

6.3 What is the impact on the organisation?

The recommended approach should help to remove a key financial concern of one of the Council's key voluntary sector partners. This approach does not set a precedent which would apply to other organisations. It is one that is based on the CELC's pre-eminent and long-standing relationship with the City Council, the soundness of its financial position and the relatively sound state of its pension's funding position.

6.4 Equality and Consultation Analysis (ECA)

No Equality and Consultation analysis has been undertaken. The nature of the activities undertaken by CELC, which the report is seeking to support and secure, give no concern that the approval is inconsistent with the Council complying with its Public Sector Equality Duty.

6.5 Implications for (or impact on) climate change and the environment

None.

6.6 Implications for partner organisations?

No implications.

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