

**BODY:** CABINET

**DATE:** 11 February, 2009

**SUBJECT:** Eastbourne Buses – Pension Scheme

**REPORT OF:** Martin Ray, Chief Executive

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**Ward(s):** ALL

**Purpose:** Confirmation of sale and the terms and consider approach to deal with superannuation fund deficit.

**Decision type:** Key Decision

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**Recommendation(s):** That the Council make a capital contribution equivalent to the deficit as determined by the Pension Fund Administrator from the capital receipt from the sale of the shares in Eastbourne Buses.

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## **1.0 Background**

1.1 Members will be aware that following decisions of Cabinet (the last one occurred on 18 November 2008), the Council's shareholding in Eastbourne Buses was transferred to Stagecoach on 18 December 2008.

## **2.0 Receipts for sale**

2.1 A breakdown of the receipts for this sale are as follows:-

2.1

Stagecoach offer with agreed reductions for net debt schedule	£3,772,042
Less sum paid to Keolis for 20% of shareholding	£75,000
<b>Amount received by Eastbourne Borough Council</b>	<b>£ 3,697,042</b>

2.2 In addition to this, the Council's debenture was repaid in the sum of £200,000.

2.3. All credit transactions for property rent, Dotto train income and interest were also cleared.

- 2.4 In completing the transaction, the total fees and expenses incurred amounted to £61,342 (see table below) and this sum can be met from the overall receipt.

Legal fees	45,000
Stamp duty and other expenses	465
Company valuation advice	5,000
Property advice	1,127
Legal advice on further charge	800
Legal advice to directors	700
Pension valuation advice *2	8,250
Total	61,342

(plus cost of internal staff time) (This will be determined in consultation with the Acting Chief Finance Officer and added to this sum.)

### **3.0 Pension Arrangements**

- 3.1 When Eastbourne Buses was first established in 1986, arrangements were made for the staff employed at the Company at that time to remain in the Superannuation Scheme. No further employees could join the scheme and separate pension arrangements were set up for them. Since 1986, a large number of these employees have retired, others have left the company and will receive their deferred pensions at the appropriate time and there remained 16 individuals who were still with the company at the time of the sale.
- 3.2 The Council gave a guarantee at the creation of the company that all of the employer contributions required in respect of these employees would be paid. This is normally discharged by regular payments to the Pension Fund Administrators. The employer is required to make a payment equivalent to a percentage of the pay of the employees. The Pension Fund Administrators can vary the amount paid as employer contributions in accordance with regular actuarial valuations of the pension fund to ensure that it is sufficient and will continue to be sufficient to meet existing and future calls on the fund. This last actuarial valuation was completed in 2007 and applied for the financial years 2008-11.
- 3.3 Since 1986, these normal payments have been met by the Bus Company as part of its ongoing financial arrangements and in effect the Council has never been asked to meet its guarantee.
- 3.4 As reported previously, the Bus Company ceased to be a "Public Transport Company" when the Council sold its shares. This has meant that the Company cannot remain as a member of the Superannuation Fund and the employees mentioned above also cease to be members. There is no impact on those who have retired since they will continue to receive their benefits. The same is true for the "deferred" members who are awaiting reaching the correct age to receive their pension

benefits. For the 16 current contributors, there are changes. They cannot remain in the fund and so cannot accrue further service. They in effect become "deferred" members who will be able to access their accrued pension benefits when they reach the appropriate age. As part of the sale process, all of these individuals were advised of their status and when they can receive their pension. The Pension Fund Administrator made an officer available to assist with questions about their position. Stagecoach have provided opportunities for them to join a new scheme to accrue new pension entitlements.

- 3.5 When the Bus Company ceased to be a "public transport company", the employer responsibility transferred to the Council under the Superannuation Fund legislation. The Council is required to make good any deficit in the fund allocated to the original superannuable employees of the Bus Company whatever status each of those individuals has.
- 3.6 Advice has been sought from the Pension Fund Administrator on the best way to deal with this deficit. The Administrator is prepared to agree to the Council meeting this obligation on an ongoing basis. To meet the deficit at the present time on this basis requires a payment into the fund of £2,627,000.
- 3.7 This compares with a "Gilts" basis which would put the deficit at £4,269,000.
- 3.8 The ongoing basis is available to the Council as a local authority with the agreement of the Pension Fund Administrator. It does mean that the fund will be reviewed at its normal frequencies and the Council may be required to meet any shortfall that is determined at that stage. The Council could elect to deal with a future shortfall by way of another capital payment or add it to its usual revenue contribution. The payment of the capital sum now cannot guarantee that there may not be some further liability arising in regard to the guarantee.

#### **4.0 Comments**

- 4.1 The deficit is significant and did have an impact on the sale transaction. When the sale process commenced, it was assumed that the deficit was in the order of £1 million (i.e. the figure to be included in the Bus Company Accounts). The worsening in the position is due to the significant deterioration in the market during the latter half of 2008.
- 4.2 As far as the Administering Authority is concerned, and the Independent Actuary, employing an ongoing valuation method is a valid choice but only possible because of the inherently underlying credit worthiness of EBC or indeed any council in that respect. Furthermore, EBC is a member of the pension scheme in its own right and in that regard all of its other pension liabilities are valued on an ongoing basis. There would be some consistency therefore in the transferred liabilities being valued on a similar basis going forward.

- 4.3 Fundamentally, however, this becomes a choice for the Council. Making payment based on the 'gilts basis' would be at a time when the 'gilts calculation' could well be producing a much higher number than if the same calculation was done in two or three years time, because gilt rates could well rise significantly over that time. The key point is that payment on the gilts basis should minimise greatly, but not guarantee, the chances of any increase in cost to Eastbourne Borough Council at a future valuation from these specific liabilities.
- 4.4 Employing the ongoing method is consistent with the valuation methodology for the EBC pension liabilities but it does mean the cost calculation for the specific bus company liabilities could change at future valuations which could impact on contributions. However, the current ongoing calculation reflects the current market conditions which undoubtedly results in a much more prudent calculation compared to even 9 months ago. A clearer picture will be available when the results of the next pension actuarial valuation are known. This approach has the advantage of maintaining some flexibility in the use of the sale receipt overall.

## **5.0 Recommendation**

- 5.1 That the Council make a capital contribution equivalent to the deficit as determined by the Pension Fund Administrator from the capital receipt from the sale of the shares in Eastbourne Buses.
- 5.2 That total fees and expenses incurred in completing the sale be financed from the overall capital receipt.
- 5.3 That the balance of the overall receipt (after debating item 5.1 and 5.2 above) be retained until the results of the next pension actuarial valuation are known.

**Martin H. Ray**  
**Chief Executive**

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**Background Papers:**  
**None**

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