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DATE: 15 October 2012

GENERAL PURPOSES AND LICENSING COMMITTEE

Meeting to be held on Tuesday 23 October 2012

5 LOCALISED PAY AND CONDITIONS OF SERVICE (Pages 3 - 48)

Copies of the documents referred to above can be obtained from
www.bromley.gov.uk/meetings

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Decision Maker: **General Purposes & Licensing Committee**

Date: **23 October 2012**

Decision Type: Non-Urgent Non Executive Non-Key

Title: **LOCALISED PAY AND CONDITIONS OF SERVICE**

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Chief Officer: Charles Obazuaye, Assistant Chief Executive (HR)

Ward: Borough wide

1. Reason for report

This report details the outcome of consultation on the Council's localised pay proposals for Members' consideration.

2. **RECOMMENDATION(S)**

2.1 **The General Purposes and Licensing Committee is asked to:**

2.1.1 **Note and consider the issues set out in this report: and**

2.1.2 **Recommend the proposal to Full Council for approval, or**

2.1.3 **Decide whether to make any changes to the Council's proposals for localised pay to be recommended to full Council.**

Corporate Policy

1. Policy Status: New Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal: Funding considerations related to any consolidated increase in staff salaries or one-off consolidated rewards will be aligned with and considered as part of the Council's normal budget setting processes.
 2. Ongoing costs: As above
 3. Budget head/performance centre: Council-wide staffing budgets
 4. Total current budget for this head: £75m (excluding schools delegated budgets)
 5. Source of funding: Existing and future Revenue Budget
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Staff

1. Number of staff (current and additional): The proposals affect all 3,711 employees of the Council including 1,339 staff in Community and Voluntary Controlled schools. These figures exclude teachers whose pay and conditions of service are currently governed by statute and who are therefore outside the scope of this report.
 2. If from existing staff resources, number of staff hours: The Officer Steering Group includes senior managers from service departments, and in addition to HR staff the project also relies on the specialist input of a number of other staff across the Council including financial, legal and payroll services.
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Legal

1. Legal Requirement:
 2. Call-in: As this is a non-executive decision call in is not applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All staff covered by the proposals set out in this report are involved directly or indirectly in providing a range of front-line services.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

Background

- 3.1 In 2010 the Council and the Trade Unions concluded the Single Status Agreement. This meant that through local negotiation and agreement the Council introduced a pay and grading structure specific to Bromley known as the “BR grades”. The Agreement also delivered significant local changes to many other terms and conditions of NJC staff, thereby ensuring that any enhancements to basic salary are offered only when there is evidence of a compelling business need to do so to deliver services.
- 3.2 There are however a few remaining core terms and conditions of NJC and Soulbury staff which are still determined through collective bargaining at national (NJC) or regional (GLPC) level:
- Annual pay award
 - Sick leave and sick pay
 - Maternity and Adoption leave and pay
 - Car Mileage rates
 - Sleep-in allowance
 - Industrial Injury Allowance
- 3.3 Most significantly, the lack of local control over the annual pay review for NJC and Soulbury staff means that Council is not able to align decisions about pay with consideration of other local cost pressures, as part of the overall budget setting process. The remaining NJC and GLPC frameworks also restrict the extent to which the Council is able to align its reward structures with staff and organisational performance. On 29 May 2012 Members of this Committee therefore authorised the Assistant Chief Executive (HR) to progress formal consultation on localised pay proposals to bring the remainder of these terms and conditions under the Council’s control.
- 3.4 Key drivers behind the proposals include the fact that local control and accountability will result in there being greater emphasis on local circumstances in the pay review process. This in turn should improve the Council’s ability to offer a reward package which enables the Council to recruit and retain the right quality staff through challenging and changing times. A greater alignment between reward and staff performance is also supportive of the Council’s performance management culture, and consistent with the Council’s HR Strategy.
- 3.5 The consultation exercise has been undertaken on the basis of the proposals set out in the report attached at Appendix 1. The proposals include the introduction of a localised pay review process and merited local pay arrangements for all staff. These are consistent with the Council’s performance management culture and based on:
- a non-consolidated reward scheme for exceptional performers; and
 - withholding pay increases from poor performers
- 3.6 The Council will need to withdraw from the national and regional bargaining frameworks, and secure changes to existing contracts of employment to achieve these changes.
- 3.7 Under the proposal the Council will set a single pay review process for all its workforce, except teachers. Currently there are different pay review processes for different employee groupings resulting in different annual pay rates being set at different times creating cultural and budget management challenges for the organisation. The single pay review process will cover the following staff namely:

- 3,234 NJC staff (“Green Book”) and 19 Soulbury staff who are currently employed on a combination of national and local terms and conditions; and
 - 196 management grade officers and 262 lecturers at the Bromley Adult Education College who are already employed on local (Bromley) terms and conditions of employment.
- 3.8 The proposals involve changes of contractual and a non contractual nature. The proposed **contractual** changes are as follows:
- 3.8.1 The introduction of a single annual pay review mechanism to apply to all staff to replace:
- NJC and GLPC collective bargaining for “Green Book” and Soulbury staff;
 - The Inbucon recommendation and performance related pay arrangements for staff on the Bromley management grades;
 - The Local Joint Negotiating Committee for Lecturers in Bromley Adult Education.
- 3.8.2 Withholding general pay increases from underperforming staff until a sustained satisfactory level of performance is achieved.
- 3.8.3 With the exception of the pay arrangements set out above, existing terms and conditions would be maintained unchanged (“as is”) at the date of implementation and any future changes to the remaining terms and conditions of service in paragraph 3.2 except pay will be the subject of local negotiation and determination (other terms and conditions are already localised through the Single Status Agreement).
- 3.8.4 The introduction of Professional/Technical grades which mirror management grades 5 and 6 for highly specialised/technical posts which do not carry management responsibilities.
- 3.9 The **non contractual** element involves the introduction of a scheme of discretionary non-consolidated rewards for Exceptional Performance.

Consultation process and responses

- 3.10 During the period of consultation there have been over 50 staff meetings attended by more than 900 staff where the proposals have been presented and discussed in detail and staff comments noted.
- 3.11 There have also been a number of meetings with trade union representatives with a view to achieving the changes by negotiation and agreement, and the proposals have been discussed with the Staff Side Secretary and at the corporate departmental and trade union forum. From the outset however trade union representatives made it clear that they are totally opposed to the proposals, and have no mandate locally or regionally to enter into any local agreement which includes Bromley’s withdrawal from national and regional collective pay bargaining.
- 3.12 In addition the proposals have been presented to a number of meetings involving Head Teachers and Chairmen of Governors in schools before and after the summer break. Although it did not prove possible to fully engage with schools’ staff until after the start of the Autumn term, all staff were written to individually and 6 meetings were held across the Borough to which schools staff were invited to attend.
- 3.13 A dedicated mailbox was set up and published for consultation purposes, and written responses have so far been received from or on behalf of 103 staff using this method.
- 3.14 A summary of the main points raised by staff, trade unions and departmental representatives during the consultation process is set out below based on comments from written responses received, as well as verbally from staff, trade union representatives, departmental

representatives and the Staff Side Secretary. A more detailed schedule of responses will be circulated separately.

- 3.15 A copy of the written response received from Unison on 12 October is attached at Appendix 2 and a copy of the draft report previously circulated by the Staff Side Secretary is attached at Appendix 3.

Single Local Annual Pay Review Mechanism

- 3.15 The main issue for staff as regards this aspect of the proposals is whether in return for giving up their contractual link to any NJC or GLPC pay increases, they can trust the Council to deliver across the board pay increases which are no less than those that they might otherwise receive. Staff can understand the Council's wish to be fully in control of its finances, but are fearful that the real objective behind the proposals is to create a local process that can be used to deliver future budget savings, despite re-assurances that the Council is committed to maintaining competitive terms and conditions of service in order to recruit and retain a well motivated quality workforce.
- 3.16 Staff are also concerned that any across the board increase will be less than it might be, because a larger share of any available "pot" will be set aside for the non-consolidated rewards for exceptional performers which do not increase the base salaries' budget in future years. The Assistant Chief Executive (HR) has sought to re-assure staff that the Council will need to maintain basic salaries commensurate with those elsewhere in the marketplace, but these concerns remain.
- 3.17 Although the trade unions are fundamentally opposed to the Council's withdrawal from national and regional pay bargaining, at a collective level the Trade Unions have acknowledged that it would not be possible to take local decisions on the annual pay review whilst also remaining within the NJC and GLPC frameworks.
- 3.18 The trade unions have also expressed their opposition to the Council's proposal to consult rather than negotiate over the annual pay award locally, and the consequential erosion of their negotiating rights should the Council withdraw from the NJC and GLPC arrangements. The importance to the Council of re-aligning decisions about pay with considerations of other cost pressures through the budget setting process/timescale has been emphasised to representatives in the discussions, and the option of building in a time-limited period for negotiation was explored. However the trade union representatives concluded that this approach was unacceptable given that the potential for delay arising from collective bargaining is an inherent part of the negotiating process.
- 3.19 From the perspective of schools' staff, and in particular Head Teachers and Chairman of Governors clarification is sought from the Council as to how the funding implications of contractually binding and discretionary local pay decisions would be managed. In particular if these exceeded any assumptions about pay increases within the DSG allocations.
- 3.20 A recurring view amongst staff is that they might be prepared to agree to give up their contractual link to national and regional pay bargaining if the Council were to offer some tangible guarantees or assurances about future pay awards. The Staff Side Secretary has suggested that there could be a formula based on RPI or an assurance that any increase would at least match the national pay award.

Withholding the annual pay increase from under-performers

- 3.21 There were mixed responses to this proposal. Some staff support the proposal as they felt that it resulted in a fairer approach. Others, including the trade unions, felt that poor staff

performance is a management issue which should be addressed using established procedures, but should not result in withholding pay from staff who are subject to the same cost of living pressures as the rest of the workforce. However, being able to withhold any pay increase due to poor performance would supplement rather than replace or supplant the existing disciplinary/capability procedures. Staff and the Unions were also reminded that the Council is currently able, under the existing national framework, to withhold increments from under performing staff.

Localising other terms and conditions

- 3.22 Staff perceive that they get a certain level of security from the national and regional arrangements because the trade unions have negotiated a “minimum” set of conditions below which participating Councils cannot go. As such their concerns are similar to those set out above in relation to the proposed local pay review arrangements. Despite being given examples where Councils have negotiated reduced terms locally, and being advised that changes to terms and conditions are currently under discussion nationally, staff still remain concerned and have therefore sought further guarantee that the Council will not make any detrimental changes to their terms and conditions. The Council’s continuing commitment to seeking agreement to any changes through local negotiation with the trade unions does however go some way to address this.

Contractual changes for Management Grade Staff

- 3.23 Although Management Grade staff are already on localised pay arrangements, the proposals potentially have a relatively greater impact on this staff group. This is because of the potential impact that cessation of consolidated performance related pay will have both on pensionable pay and on individual’s ability to progress up the pay scales without any re-negotiation of basic salary. A number of managers have requested that in return for signing new contracts consideration be given to the re-introduction of incremental progression for staff on the management grades and/or a “buy-out” incentive similar to those in the Single Status Agreement to compensate for potential future losses. In response, the Assistant Chief Executive (HR) advised that an automatic increment scheme is not appropriate for MG staff partly because of the size and complexity of the MG grading structure.

A Scheme of Discretionary Non-consolidated Rewards for Exceptional Performance

- 3.24 The nature and number of the comments received confirmed that performance related pay is an emotive issue, and re-assurances were sought that the scheme would complement rather than replace the existing range of recognition and reward measures. Some respondents welcomed the opportunity to be considered for an additional reward, others (a good number), including the trade unions, expressed strong opposition for the concept and concern about the practicalities. Schools’ staff and head teachers were also unsure as to how such a scheme could work in schools, and preferred a possible team-based award instead at the discretion of the Head teachers and Governors. A number of staff stated verbally that they would be prepared to accept/consider localised pay if this scheme was withdrawn from the proposals.
- 3.25 Staff sought re-assurances that the scheme would operate consistently across all departments/services, and that issues such as favouritism and relationships with managers would not affect transparency and fairness. There was also a general perception that it would not be possible to define nor achieve “exceptional performance” in some of the lower graded jobs in particular. Some staff expressed support for a team reward rather than one based on individual performance as they felt this better reflected the interdependency of roles in the public sector. Many staff felt that the scheme would be divisive, undermine teamwork and result in the majority of staff feeling undervalued and dissatisfied. Those staff who had worked

with similar schemes previously either expressed support or resistance dependant on the nature of their experiences.

- 3.26 The majority felt that if such a scheme were to be introduced the criteria to determine exceptional performance should be operationally defined locally within the context of a particular service area. Some element of moderation would be necessary to respond to concerns about consistency and fairness, and management training in the operation of the scheme would be essential.
- 3.27 The type and amount of any reward payment also received a lot of attention. Initially the suggestion of a voucher scheme as an alternative to cash was viewed with some scepticism although this lessened as the range of options was explored. It was generally accepted that if the scheme were to proceed, then the value of the voucher/payment needed to be sufficient to act as an incentive and promote a sense of “reward”, but also be perceived as within acceptable limits by Council taxpayers and the public generally (the “onlooker test”).
- 3.28 The range of options discussed included payments based on a percentage of basic pay (with an option to bottom-load for lower graded staff) or a fixed amount irrespective of grade; however no overall preference emerged. The majority also supported a position whereby the Council arranged with HMRC to pay any tax due on the reward; this would have the advantage of avoiding the de-motivating impact of a potential reduction in employees’ net pay in the following year as a result of tax liabilities.

A Professional/technical grade equivalent to management grades 5 and 6

- 3.29 Apart from seeking confirmation that the proposed grades for non managerial roles that evaluate higher than grade BR14 will in effect mirror the equivalent MG grades, this aspect of the proposals has received little attention from staff. This reflects the fact that affected staff have been reassured that this is only a change in the grade designation.

4. Going Forward: Managing Staff Confidence

- 4.1 If Members agree to recommend the proposals to Full Council for approval, officers will continue to engage staff and their trade union and departmental representatives including the Staff Side Secretary to gain and maximise their support and involvement during the implementation stage. The unions and their departmental representative colleagues’ constructive comments on the design of processes or procedures to support the implementation will be actively considered. Officers will also seek their involvement in evaluating the impact, if any, of the proposals on the staff recruitment, retention and morale, and performance management culture in the future.
- 4.2 Officers will continue to reassure staff that the proposals will enable the Council to innovate and flex its reward strategies to reflect local financial circumstances, in a way not always possible under the existing national and regional negotiating frameworks. This approach is consistent with the Building a Better Bromley “Excellent Council” strategic objective. Being able to offer a merited reward to exceptional performers reflects this objective. Being able to recognise exceptional and good performers, and under performers and reward them according to their contributions to the organisations is fundamental to establishing an environment where knowledge can be generated, shared and deployed effectively to improve performance.
- 4.3 Staff and their representatives have been reassured that the Council has no desire to offer less competitive terms and conditions to staff now or in the future and thus lose its competitive advantage in the labour markets. We will always monitor and consider benchmark data in local, regional and national markets in order to ensure the right rate is being paid for the right job at the right time.

- 4.4 As Members are aware a sizeable number of local authorities mainly in the South east area are already outside of the national and regional collective negotiating frameworks. There is no evidence from any of these authorities to suggest that a localised merited pay framework in Bromley will undermine the Council's relationship with staff in the medium – long term. In the short term officers will continue to stress that the Council has no desire to undermine staff confidence in our terms and conditions of employment. It is not in the interest of the Council or the unions for staff to be alarmed about the proposed localised pay arrangement. This will be achieved by ensuring that the implementation process reflects the Council's core values and in particular the REAL leadership values (Respect, Empower, Ambition, and Learn). The implementation will also be underpinned by the following core principles namely:
- Transparency – merited pay will be evidenced and documented. No surprises.
 - Fairness – decisions will be scrutinized corporately by HR partly to ensure legal/equality compliance pursuant to the Equality Act 2010.
 - Simplicity – local managers will be empowered to exercise professional decisions with a high level of capability. Managers will receive additional training support to deliver a new look performance management culture.
 - Mandatory performance appraisal – supervision and appraisal is a “right” hence the latter will be mandatory going forward. Managers’ right to manage is incomplete or meaningless if managers fail regularly to appraise their staff contributions to Building a Better Bromley. Employees’ right to be managed fairly is equally important so too is their right to be supervised and appraised!

5. POLICY IMPLICATIONS

- 5.1 The introduction of localised pay and conditions is consistent with the Council's objectives around an Excellent Council and the HR Strategy. It also reflects the Council's Core Operating Principles in particular the drive to be efficient and non-bureaucratic seeking to reduce interference and bureaucratic control.

6. FINANCIAL IMPLICATIONS

- 6.1 With the exception of the Scheme for Exceptional Performance and ceasing both the annual pay increase for unsatisfactory performance and PRP for management grade staff, the proposals are based on an “as is” basis and can therefore be contained with existing budgets. Funding considerations related to any increase arising from the local annual pay review process and the one-off non consolidated rewards will be aligned with and considered as part of the Council's normal budget setting processes. The cost of the independent annual pay advice circa £5k will also be contained within existing budgets.

7. LEGAL AND PERSONNEL IMPLICATIONS

- 7.1 As was flagged up in the report to this Committee on 29 May 2012, the impact of the ongoing 3 year pay freeze, the prospect of future pension scheme changes and the budget related/cost saving measures which are threatening job security across the board have all impacted on staff morale. The context within which this consultation process has been undertaken has therefore been difficult especially as the proposed changes are perceived by many to further threaten their security and be potentially to their detriment.
- 7.2 In the current circumstances in particular employees are more inclined to seek guarantees and assurances before voluntarily agreeing to accept such changes, and this is reflected in many of the responses that have been received.
- 7.3 The trade unions and the Staff Side Secretary are fundamentally opposed to the proposals in particular because they cannot be achieved without the Council withdrawing from the national

and regional collective bargaining arrangements. Local and regional trade union representatives have no mandate to agree to the changes locally, and it will therefore be necessary to obtain staffs' individual agreement to implement the changes if they are agreed.

7.4 If individual agreement is not secured then ultimately the Council may consider other legal options to achieve the changes including, as a last resort, the dismissal and re-engagement option. Given the trade unions' position they are seeking their members' commitment to refuse to voluntarily sign new contracts, and a likely consequence of this is that a further 90 day period of statutory consultation would be required to further explore all options first.

7.5 There are no equality issues arising from the proposals. As stated elsewhere in this report, pursuant to the Equality Act 2010, HR will monitor and analyse the profile of staff in receipt of the proposed merited reward and the withdrawal of pay increase from poor performers.

7.6 In general terms staff terms and conditions and remuneration are covered by Section 112 (2) Local Government Act t 1972 which provides that an officer appointed by the authority

“... shall hold office on such reasonable terms and conditions, including conditions as to remuneration...”

Terms and conditions and remuneration can be varied from time to time as long as proper procedures are followed.

7.7 Other legal and personnel considerations are as set out throughout this report.

Non-Applicable Sections:	N/A
Background Documents: (Access via Contact Officer)	Report HHR12003 General Purposes and Licensing Committee 29 May 2012 “Localised Pay and Conditions of Service”

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Decision Maker: **General Purposes & Licensing Committee**

Date: **29 May 2012**

Decision Type: Non-Urgent Non Executive Non Key

Title: **LOCALISED PAY AND CONDITIONS OF SERVICE**

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Chief Officer: Charles Obazuaye, Assistant Chief Executive (HR)

Ward: Borough wide

1. Reason for report

- 1.1 The annual pay award and various other staff terms and conditions are currently determined via joint employer/trade union negotiations conducted at national (NJC) and regional (GLPC) level. However now more than ever before the various challenges facing local authorities differ significantly according to their local circumstances. One effect of this is that the NJC and GLPC negotiating frameworks are hampered by the inevitable difficulties arising from the need for them to attempt to reconcile the different policy approaches and financial circumstances of the various constituent local authorities.
- 1.2 Current challenges facing local authorities include operating with limited and decreasing resources and competing demands. It is therefore essential to ensure that decisions with significant financial implications are controlled locally, and aligned with budget setting processes and performance outcomes. Within this context this report sets out proposals aimed at withdrawing Bromley from the national and regional collective bargaining arrangements and introducing localised pay and conditions for all staff except teachers.
- 1.3 Subject to Members' endorsement of the proposals and agreement the Assistant Chief Executive (HR) will embark on a process of formal consultation with the relevant recognised trade unions, staff and staff representatives.

2. **RECOMMENDATION(S)**

2.1 **The General Purposes and Licensing Committee is asked to:**

2.1.1 **Note and comment on the proposals set out in this report; and**

2.1.2 **Authorise the Assistant Chief Executive (HR) to progress formal consultation with trade union and departmental representatives and staff.**

Corporate Policy

1. Policy Status: New Policy
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal: Estimated Cost
 2. Ongoing costs: Recurring Cost
 3. Budget head/performance centre: Council-wide staffing budgets
 4. Total current budget for this head:
 5. Source of funding: Existing Revenue Budget 2012/13
-

Staff

1. Number of staff (current and additional): The proposals affect all employees of the Council except teachers whose pay and conditions of service are currently governed by statute.
 2. If from existing staff resources, number of staff hours: The Officer Steering Group includes senior managers from service departments, and in addition to HR staff the project will also rely on the specialist input of a number of other staff across the Council including financial, legal and payroll services.
-

Legal

1. Legal Requirement:
 2. Call-in: As this is a non-executive decision call in is not applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All staff covered by the proposals set out in this report are involved directly or indirectly in providing a range of front-line services.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 In December 2009 the Council and relevant recognised trade unions reached a collective agreement known as the Single Status Agreement. The main thrust of the Agreement was to harmonise pay arrangements across different sectors of the Council's workforce to address equal pay risks, whilst at the same time simplifying the pay structure to make it clearer, fairer and more efficient.
- 3.2 By means of Single Status the Council introduced a pay and grading structure specific to Bromley known as the "BR grades". Through local negotiations and agreement the Council was also able to introduce significant changes to certain other terms and conditions thereby ensuring that any enhancements to basic salary are offered only when there is evidence of a compelling business need to do so to deliver services.
- 3.3 However although Bromley has gone some way towards localised arrangements, the annual pay review and a number of other core terms and conditions are still determined at national or regional level. This impacts on the control that the Council has over its own employment framework and the link with other business priorities.
- 3.4 Following the implementation of Single Status there also remains a need to re-assess all management grade posts at grade MG6 to:
- ensure that there are no residual equal pay issues at the interface with the new BR grades; and
 - find a more appropriate remuneration mechanism for those staff in highly technical and/or professional posts which do not carry management responsibility but which evaluate higher than BR14 (the top BR grade on the Bromley scale)
- 3.5 Given the above context now is an opportune time for the Council to seek to extend its localised pay and grading arrangements in consultation with key stakeholders including trade unions and departmental representatives and staff. The key drivers behind the need for further change and localisation include:
- Gaining control over the annual pay review process and timetable at a time of significant financial challenge for the Council in order to achieve better alignment with budget setting processes and greater responsiveness to change;
 - Exercising local control in order to give greater emphasis to local circumstances, and improve the Council's ability to innovate and flex in ways not achievable within the nationally agreed terms;
 - Improving the Council's ability to align reward with staff and organisational performance;
 - Achieving efficiencies through harmonisation of the management grade and other Bromley staff pay review arrangements.

Proposals

- 3.6 A big challenge will be balancing the proposals for change with maintaining a motivated and skilled workforce. It is therefore proposed that the Council withdraws from the current national and regional arrangements broadly on an "as is" basis. This means that with the exception of the proposals regarding the annual pay review and the performance related payments for management grade staff, existing terms and conditions would be "frozen" at the point of withdrawal. Any future changes would be for the Council to determine locally in conjunction with the trade unions, staff and staff representatives.
- This approach would keep to a minimum the impact of the changes on existing staff whilst at the same time enabling the Council to exercise more control and improve the links between pay and performance.

3.7 If Members agree then the next steps are for the proposals summarised below and in the attached appendices to be the subject of detailed discussion with the relevant recognised trade unions, staff, departmental representatives and other key stakeholders. The outcome of these discussions and any subsequent changes will be reported to Members for consideration and approval.

3.8 In summary the proposals are to introduce:

3.8.1 A Single Local Annual Pay Review Mechanism (see Appendix 1)

A single local annual pay review mechanism to replace the separate arrangements that currently exist for Bromley employees under the NJC Green Book, Soulbury Committee, Local Joint Negotiating Committee for Bromley Adult Education lecturers, and Management Grade staff. This would involve withdrawing from the existing collective bargaining arrangements as well as ceasing to accept a recommendation from Inbucon on the market movement in salary for staff on the Bromley management grades.

3.8.2 A Scheme of Discretionary Non-consolidated Rewards for Exceptional Performance (Appendix 2)

A scheme which aims to improve the links between pay and performance by recognising and rewarding exceptional performers on an individual basis. In order to maximise the amount of money that can be targeted to reward performance, and to ensure that the value of the benefit is not affected by other considerations, it is proposed that the nature of the rewards payable under the scheme are non-pensionable. The options to deliver this objective are currently under consideration and include, for example, non-cashable vouchers.

3.8.3 A Professional/technical grade equivalent to management grade 6

For highly specialised/technical posts which do not carry any significant management responsibilities, but which evaluate above grade BR14.

4 POLICY IMPLICATIONS

4.1 The introduction of localised pay and conditions is consistent with the Council's objectives around an Excellent Council and the HR Strategy. It also reflects the Council's Core Operating Principles in particular the drive to be efficient and non-bureaucratic seeking to reduce interference and bureaucratic control.

5 FINANCIAL IMPLICATIONS

5.1 With the exception of the Scheme for Exceptional Performance and ceasing the annual pay increase for unsatisfactory performance, the proposals are based on an "as is" basis and can therefore be contained with existing budgets. Funding considerations related to any increase arising from the local annual pay review process and the one-off non consolidated rewards will be aligned with and considered as part of the Council's normal budget setting processes.

5.2 This reports seeks Members approval to proceed with formal consultation on the draft proposals. More details on the financial implications of the changes will be available once the final proposals, following the outcome of consultation, are known. Any final proposals will be reported to Members for their consideration.

6.0 LEGAL AND PERSONNEL IMPLICATIONS

- 6.1 The Council is required by law to constructively engage and meaningfully consult staff and their representatives and, in particularly, the recognised Trade Unions on the proposals. Therefore, a series of consultative meetings and briefing sessions will be arranged across the entire organisation, including schools, to present the “raison d’etre” (business case for change) to staff, Trade Union and Departmental Representatives and other key change leaders and managers (e.g. Head Teachers, governors, line managers, etc.) in the organisation.
- 6.2 The consultation process will not be easy, given the impact of the on-going pay freeze, pension changes and other budget related/cost cutting measures, at local and national levels on staff morale and the real or perceived level of trust amongst staff. The initial reaction from the Unions is not encouraging and, whether they are open to persuasion with a view to achieving a collective agreement, will be assessed during the initial two month consultation period.
- 6.3 If an agreement is not secured the Council may consider other legal options, including individual agreements by staff to vary their terms and conditions of service. As a last resort, the Council may consider the “dismissal and re-engagement” option but this will require a further consultation of one month or three months, depending on the number of staff affected (in line with Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992).
- 6.4 Also, the proposal reflects the provisions in the Localism Act, particularly as regards improving democratic accountability and transparency in senior staff pay.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]

LONDON BOROUGH OF BROMLEY**OUTLINE PROPOSALS FOR A LOCALISED ANNUAL PAY REVIEW MECHANISM****1. Context**

- 1.1 Reward and recognition is a key theme of the Council's agreed HR Strategy. This includes establishing strong links between performance and reward, and celebrating individual and organisational achievements.
- 1.2 Local authorities currently face significant challenges including the need to reconcile competing priorities and demands on resources whilst remaining competitive in the marketplace for skilled labour. The Council therefore believes the time is right locally to extend its ability to determine its own employment framework, including remuneration, in conjunction with key stakeholders and with the involvement of the relevant recognised trade unions.
- 1.3 This paper should be read in conjunction with the paper setting out the Council's proposals for the introduction of a scheme of non-consolidated Rewards for Exceptional Performers as part of its local reward and recognition framework.

2. Objectives of the Annual Pay Review

- 2.1 The Council expects high standards of performance from staff at all levels as the norm. By means of the process of the localised annual pay review the Council aims to
 - ensure that staff are appropriately rewarded for the job that they do;
 - enhance the Council's ability to compete by maintaining a simple, fair, transparent and affordable pay and reward structure that attracts and keeps a skilled and flexible workforce;
 - improve the links between organisational efficiency, individual performance and reward; and
 - ensure that decisions on reward and recognition are better aligned with the considerations and timetable of the annual budget setting processes and timetable

3. Scope

- 3.1 The introduction of a single local annual pay review mechanism would replace the current arrangements for Bromley employees under the Green Book, Soulbury Committee, and Bromley local grades including Management Grade staff.
- 3.2 As part of consultation consideration will be given to whether teaching staff at Bromley Adult Education College should also be included within the scope of these arrangements. The pay and conditions of this staff group are already determined locally by the Council's Local Joint Negotiating Committee

4. Proposed changes

- 4.1 The introduction of a localised annual pay review will mean that subject to consultation the Council would:
 - 4.1.1 Withdraw from the NJC, GLPC and Soulbury Committees and introduce an annual local pay review mechanism to replace the existing national and regional collective bargaining arrangements;

- 4.1.2 Cease to accept a recommendation from Inbucon on the market movement in salary bands for staff on the Bromley Management Grades (MG). In future:
- 4.1.2.1 the MG annual salary review would be undertaken via the same single local annual pay review mechanism as all other staff (except teachers whose pay and conditions are governed by statute); and
- 4.1.2.2 The existing PRP scheme for MG staff will be discontinued.
- 4.1.3 Introduce a scheme of discretionary non-consolidated non-pensionable Rewards for Exceptional Performance applicable to all staff; and
- 4.1.4 Reinforce the link between individual performance and pay, by proposing to withhold pay increases for under performing staff.
- 4.2 The process of the local annual pay review would lead to a local decision taken by full Council as part of the budget setting process. The Executive and subsequently full Council would consider the recommendations of the General Purposes and Licensing Committee and determine the amount to be allocated to any increase in staff pay in the coming year on the basis of:
- (a) a general cost of living increase;
- (b) the amount available to support the Council's proposed scheme of non consolidated non-pensionable performance related rewards.
- 4.3 Consideration by all parties involved in the annual review process will have particular regard to:
- Affordability; inflation
 - Market settlements elsewhere including the NJC, GLPC and Soulbury Committee
 - Organisational performance
 - Stakeholder views
 - Trade union and staff perspectives
- 4.4 Details of how the annual pay review mechanism might work and the key milestones in the process are set out in Table 1 attached.

LONDON BOROUGH OF BROMLEY – LOCALISED PAY PROPOSED ANNUAL PAY REVIEW MECHANISM	
The staff falling within the scope of these arrangements are Bromley employees under the Green Book, Soulbury Committee, and Bromley local grades including Management Grade staff.	
TIMESCALE	ACTION
August/ September	Officers assemble the relevant information: <ul style="list-style-type: none"> • Affordability; inflation • Market settlements elsewhere inc NJC • Organisational performance • Stakeholder views • Staff representatives
October/ November	Officer led consultation meetings with Trade Unions to consider the information in the local context and to receive their annual pay submissions.
December	Officers present information to General Purposes and Licensing Committee which makes recommendations to Executive and full Council
December/ January	Recommendations considered by E&R PDS and Executive
Jan/Feb	GP&L and Executive recommendations presented to full Council which agrees amount and detail of any annual cost of living pay increase and the amount to be allocated to a non-consolidated performance payment “pot” to be included in the draft budget
Jan/Feb	Consultation on the draft budget including with staff and staff representatives
February	Executive and full Council receive outcomes of consultation and agree the budget
1 April	Effective date of any cost of living increase

LONDON BOROUGH OF BROMLEY

**OUTLINE PROPOSALS FOR A SCHEME OF
DISCRETIONARY NON-CONSOLIDATED NON-PENSIONABLE
REWARDS FOR EXCEPTIONAL PERFORMANCE**

1. Context

- 1.1 Reward and recognition is a key theme of the Council's agreed HR Strategy. This includes establishing strong links between performance and reward, and celebrating individual and organisational achievements.
- 1.2 The HR Strategy is based on an assumption that all staff come to work to do a good job and make a difference. The Council expects high standards of performance from staff at all levels, and seeks in return to maintain a simple, fair, transparent and affordable pay and reward structure that attracts and keeps a skilled and flexible workforce. As part of the strategy the Council is committed to developing a scheme based on non-consolidated rewards for exceptional performance.

2. Objectives of the Scheme

- 2.1 The Scheme aims to enhance the Council's ability to recognise and reward exceptional performers, thereby improving the link between employees' remuneration and performance on a local and more individualised basis.
- 2.2 The Scheme offers all staff (except Teachers) the opportunity to be considered for a non-consolidated non-pensionable performance related reward. It replaces the existing PRP scheme for Management Grade staff, and supplements a range of other recognition and reward measures as set out in Table 2.

3. Eligibility

- 3.1 The Scheme is open to all employees except teachers who are excluded from the scheme on the basis that their pay is governed by statute.

4. Criteria

- 4.1 In order to be considered for a non-consolidated non-pensionable performance related reward the employee will have:
- **Delivered exceptional/outstanding performance which goes well beyond the normal expectations of the role; and**
 - **Sustained a satisfactory attendance and disciplinary record.**
- 4.2 In applying the criteria the focus should be on outcomes i.e. what has been achieved as distinct from input/effort (e.g. hours worked). The scheme also seeks to avoid "double counting" in that it is a condition of the scheme that the employee has not and would not more appropriately be eligible to receive one of the pay enhancements set out in Appendix 1 for the same performance.

5. Amount of Payment

- 5.1 The value of the rewards needs to be considered, options could be to base them on a percentage of basic pay (excluding any enhancements for weekends, nights, public holidays, travel etc) with a specified minimum amount, or a fixed sum. The amount payable may vary from year to year depending on the number of recipients and organisational performance, and may be weighted in favour of frontline staff.
- 5.2 In order to maximise the amount of money that can be targeted to reward performance under this scheme, and to ensure that the value of the benefit is not affected by other considerations, it is proposed that the nature of the rewards payable under the scheme are non-pensionable. The options to deliver this objective are currently under consideration and include, for example, non-cashable vouchers.
- 5.3 Rewards payable under this scheme will be liable for tax and national insurance contributions in the normal way.

6. Frequency

- 6.1 Nominations for a reward under this scheme will be considered annually by a corporate panel of officers (see section 7 below).

Views are sought as to how this arrangement should be varied for school staff

7. Nomination Process

- 7.1 Nominations should be made to the appropriate Assistant Director by line managers or individuals; self nominations are allowed. Nominations will be informed by the outcomes of performance appraisal, but the scheme does not operate as an integral part of the performance appraisal process applicable to all staff.
- 7.2 The nomination should include a supporting statement as to why the individual(s) are considered to meet the criteria set out in section 4 above.
- 7.3 All nominations will be subject to moderation by the Assistant Director with nominees having a right of appeal to the Departmental Chief Officer. The Assistant Director will submit the final list of nominations to the Assistant Chief Executive (HR) by February each year.

8. Decisions

8.1 Staff below Deputy Chief Officer

- 8.1.1 All nominations will be considered at a Directors' meeting supported by HR. The Directors will be advised by an Officers' Panel consisting of one service representative from each of the Departments, a Chief Officer, and an elected staff representative.
- 8.1.2 The Assistant Director will attend to present his/her nominations to the Panel.
- 8.1.3 The decisions of the Panel will be final.

8.2 Chief Officers and Deputy Chief Officers

- 8.2.1 Chief Officers will present their nominations to the Chief Executive who will consult with the Leader and Portfolio Holders before reaching a decision which shall be final.

PERFORMANCE RELATED RECOGNITION AND REWARD MEASURES	
MEASURE	CRITERIA
Acting Up	Temporarily undertaking the full duties and responsibilities of a higher graded post for a continuous period of 28 days or more (except where covering for annual leave)
Honorarium	Temporarily undertaking duties and responsibilities outside the scope of the employee's substantive post where: <ul style="list-style-type: none"> • the additional duties and responsibilities are exceptionally onerous; and/or • the duties outside the scope of the post are undertaken over an extended period; and/or • the duties of a higher graded post are shared between two or more officers
Accelerated increment(s)	Where in the opinion of the Chief Officer an employee who is not on the maximum of the grade has demonstrated particular merit or ability
Progression through a Linked Grade	Where the employee has demonstrated to the satisfaction of the Chief Officer that s/he has satisfied the criteria to move to the next higher grade in the career path, and will be undertaking the duties and responsibilities at the level of the higher grade
Salary uplift for MG staff	Where in the opinion of the Chief Officer or Chief Executive in consultation with the Assistant Chief Executive (HR) an employee has taken on additional responsibilities and/or demonstrated particular merit or ability
Time off in lieu, Overtime or additional hours	Recompense for hours worked in excess of the employee's contractual hours under the arrangements agreed as part of the Bromley Single Status Agreement
Soulbury SPA points	Additional discretionary spine points for Soulbury staff based on LA service and a structured professional assessment to recognise their contribution to the Authority's role in raising standards in schools, improving involvement of young people in community activities, and the promotion of child development and learning

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RESPONSE TO BROMLEY PAY & CONDITIONS LOCAL PROPOSALS

Proposals for a localised annual pay review mechanism

Proposals for a Scheme of discretionary non-consolidated
non-pensionable rewards for exceptional performance

October 2012

EXECUTIVE SUMMARY

Main points of the Response:-

- The National Agreement provides a minimum standard for pay awards, terms & conditions for staff. Withdrawing from the National Agreement will remove this protection for staff in LBB.
- The National Agreement provides autonomy for local authorities in many areas. LBB can already enhance the pay, terms & conditions of its staff from within the National Agreement. Whilst UNISON remains wholly opposed to any form of performance related pay, there is no requirement to withdraw from the National Agreement for such a scheme to be introduced.
- The Local Government Association are currently looking to reform Local Government Pay, Conditions and Negotiating Machinery. It would be wise for LBB to wait until such discussions have taken place before making a decision about withdrawal.
- LBB have not provided staff with any guarantee that they will not seek to reduce their current (already minimum) terms & conditions of employment after withdrawal.
- Removing the protection provided by the NJC will not be an attractive proposition to current or future staff and will not result in LBB being able to attract and retain a skilled and flexible workforce.
- The proposal to withhold a cost of living increase from staff who are perceived to be 'under-performing' is unacceptable and is likely to lead to legal challenges.
- A cost of living award must always take priority over any other pay award.
- The proposal to prevent the trade unions from negotiating on behalf of their members is authoritarian and demonstrates LBB's complete disregard for staff's right to be a member of a trade union and for the right of that trade union to act on behalf of its membership to seek to obtain the best possible outcome through meaningful negotiation.
- The introduction of a Scheme of discretionary non-consolidated rewards for exceptional performance (Voucher Scheme) opens LBB up to Equal Pay challenges.
- The detail of how the Scheme will operate is not clear. It is clear, however, that this will not make the pay structure clearer, fairer or more efficient. The decision making process is severely flawed, unworkable, and can only result in a demotivated and angry workforce.
- In order to enforce its proposals, the Council will have no choice but to dismiss and re-engage its workforce which will bring with it adverse publicity.

FORMAL RESPONSE

In providing a formal response to the 'outline' proposals put forward, Unison has met with and consulted with a large number of members who will be directly affected by the proposals.

It is important to state at the beginning of this document that Unison and its members remain wholly opposed to LBB withdrawing from the National Agreement or introducing any form of performance related award scheme.

We have conducted a survey amongst all our members who are directly employed by LBB. We believe the responses speak for themselves:-

Withdrawing from the National Agreement

97% of members **do not trust the Council** to not reduce pay, terms & conditions if the proposals are imposed.

Introducing a scheme of discretionary non-consolidated rewards to exceptional performance

A total **94%** of members said that this proposal was a bad idea (17%) or a very bad idea (77%)

All other responses on the above were either 'not sure' or 'undecided'. **NO ONE** thought either proposal was a good idea.

Our position and comments on the proposals are set out below.

National Agreement

The National Agreement (Green Book) is a national body which **all** local authorities in Greater London are currently signed up to. It means that pay awards, terms and conditions are negotiated at a national level and all those who are part of the Agreement adhere to the agreements made. Part 2 of the Green Book is the part which can only be negotiated on at a national level (at the NJC) which includes an annual pay award.

The National Agreement sets out the **minimum** standards for pay awards, terms & conditions of staff employed by local authorities signed up to it.

If Bromley Council withdraw from the National Agreement it will be able to reduce the pay, terms & conditions of its staff to below the minimum standards set by the NJC.

Bromley already provides only the minimum terms & conditions set out in the NJC. It is important to note that within the National Agreement, Bromley has always had the autonomy to provide its staff with better terms & conditions (as a number of other boroughs already do) but has consistently chosen not to do so.

Staff are therefore extremely concerned that withdrawing from the National Agreement is the route by which Bromley will seek to reduce their pay and working conditions even further, particularly given the current financial climate and ongoing cuts programme. Staying within the National Agreement would assure staff that Bromley are committed to providing them with at least the national minimum.

The Local Government Association are currently looking to reform Local Government Pay, Conditions and Negotiating Machinery.

Withdrawing from the National Agreement would result in LBB losing the many benefits of national representation, including the economies of scale that national pay negotiations bring and the ability for the National Employers to speak on behalf of the sector in discussions with Government.

Surely it would be wise for LBB to wait until such discussions have been held before 'jumping ship'.

Terms & Conditions other than Pay

Bromley proposes to withdraw from the National Agreement on an "as is" basis; that is, other terms & conditions (except for pay) will be "frozen" at the point of withdrawal with *any future changes being determined locally*. Freezing other terms & conditions at the 'point of withdrawal' does not in any way provide any reassurance or protection for staff in respect of future detriments they may suffer once they no longer have the protection of the National Agreement.

LBB has not provided staff with any guarantee that their current (already minimum) terms & conditions of employment will not be attacked 'after' withdrawal.

Localised control over budget setting for Pay Awards

LBB argue that with the current challenges facing local authorities it is essential to ensure that decisions with significant implications are controlled locally and aligned with budget setting processes and performance outcomes and that localising terms & conditions will improve the Council's ability to 'innovate and flex' in ways that the current nationally agreed terms have not encouraged.

The **only** 'achievement' that withdrawing from the National Agreement can bring is that the Council may have the ability to set its pay award ready to pay on 1 April each year. Any other 'innovations or flexibility' are already possible whilst **remaining** in the National Agreement and always have been. If Councillors have been advised this is not the case then they have been mis-informed.

LBB, as with all other London Councils, have had to budget each year for a likely NJC pay award, albeit that for the past few years those monies have not been utilised in pay awards given the freeze on local government pay. Unison does not understand why, when all other local authorities in London are able to budget in this way, that LBB are unable or unwilling to? Again, there has been no restriction within the national agreement that has prevented LBB giving a pay award to its staff if it so wished, but it has chosen to continue with the pay freeze. LBB refused to pay the £250 pay rise announced by George Osborne for all public sector workers earning under £21k a year. Other London Councils (within the National Agreement) have paid the award, either as a consolidated or non-consolidated payment. This in itself demonstrates to staff that LBB have no real desire to support their staff, particularly those in the lowest paid roles. If LBB are not willing to pay

£250 to a small proportion of their staff, why would staff be convinced that LBB would make a pay award to the whole workforce?

If LBB are arguing that they need to stay competitive in the labour markets then they will need to provide a pay award which is at least as high as any awarded through the NJC. In this respect, LBB will in any case have to put aside a budget for pay awards each year and which will need to be at least if not higher than that set aside in previous years. This makes no financial sense given the current climate.

It is the view of Unison and its members that this proposal is geared to provide LBB with the opportunity to take a decision **not** to make a pay award at an early stage in the budgeting process. LBB have given no commitment or guarantee to staff that this is not the case; there is no promise or indication of a probable pay award via a local decision making process.

Competition in the Labour Markets

LBB claim that it is not in their interests to cut pay, terms and conditions as to do so would negatively impact on its ability to recruit and retain a 'skilled and flexible' workforce.

LBB have provided to us figures on the net reduction in numbers of staff in each of the last three financial years:-

Year	Net Reduction in Staff
09/10	28
10/11	192
11/12	224

The proposal document makes a clear reference to staff already stepping 'up to the challenges of delivering more (or the same) with less resources' which is clearly the case given the reduction in staffing numbers. Staff are already stretched to the limit.

The proposal states that LBB wants to maintain a simple, fair, flexible, transparent and affordable pay and reward structure that attracts and keeps a skilled and flexible workforce.

The Council has still been able (within the National Agreement) to offer enhancements to basic salary where evidence of a business need to do so is shown, thereby enabling LBB to recruit and retain staff where it may otherwise be difficult to do so.

Other local authorities in London already provide better pay, terms & conditions for their staff **within** the National Agreement. Bromley could choose to enhance pay, terms & conditions for its staff within the National Agreement to attract and retain a skilled and flexible workforce. Offering a package that has no minimum levels of provision cannot be considered as an attractive proposition. Whilst employees may currently choose to work in Bromley, this may well not be the case if their minimum protection levels disappear and they then seek the stability and guarantee that working for an employer within the National Agreement brings with it.

LBB have provided no evidence to support its proposal to implement a 'Voucher Scheme' to reward exceptional performance. Staff are far more likely to be attracted to a decent rate of pay than a voucher reward they may never be able to attain.

SINGLE LOCAL ANNUAL PAY REVIEW MECHANISM

Our opposition to this has been set out above. In addition we would make the following comments:-

Proposal to withhold pay increases for under performing staff

Unison is firmly opposed to withholding a cost of living increase from staff who are perceived to be under-performing.

There are processes and procedures in place for LBB to use if it believes staff are under-performing. Unison has also suggested the introduction of a Capability Procedure. Whilst one is in place for community schools there is no such procedure for other LBB staff.

The Council already, within the National Agreement, have the autonomy to withhold incremental rises for poor performance.

To withhold a cost of living increase in addition to this is archaic and wholly unnecessary. Such a system would do nothing to attract and retain staff to work for LBB. We believe it will be impossible to apply consistently across departments and will likely lead to legal challenges.

There are many and varied reasons why a staff member may be 'under performing' for a period of time which could be related to factors such as family issues, illness, bereavement etc. It is wholly unfair to penalise someone who is struggling to do their best in very difficult circumstances.

It is Unison's view that withholding cost of living awards from staff will be cost-driven and will result in staff being penalised because of budget pressures within departments. Currently, the numbers of staff having an incremental rise withheld due to poor performance is very low (based on figures provided by LBB) and we are deeply concerned that this figure will rise significantly if the ability to reduce salary costs via the cost of living award are introduced.

Amount to be allocated to any increase in staff pay

It is proposed that the Council will budget for staff pay on the basis of:-

- (a) A general cost of living increase;
- (b) The amount available to support the Council's proposed scheme of non-consolidated non-pensionable performance related rewards ('Voucher' Scheme)

During discussions with LBB on the proposals it has been confirmed that this proposal does allow for the Council to make a decision to not provide a cost of living increase but to budget only for the 'voucher' scheme.

This is wholly unacceptable.

An 'across-the board' cost of living award should always take priority over any other pay award available to staff. That a well-deserved cost of living award could be taken from committed, hard-working staff in order to shore up a Voucher Scheme that will ultimately benefit a few in comparison is unpalatable, unjust and unfair.

Removing negotiating rights from the trade unions in relation to pay

It has been made very clear to the trade unions that LBB will **not** negotiate with us on pay awards. Whilst we will be able to put in pay submissions and comments along with other stakeholders, we will be refused the right to negotiate.

To staff, this authoritarian model demonstrates LBB's complete disregard of an employee's right to be a member of a trade union and for the right of that trade union to act on behalf of its membership to seek to obtain the best possible outcome through meaningful negotiation.

Refusing to negotiate with the trade unions on Pay does not of course prevent trade union members from taking industrial action. In our survey, 81% of members were prepared to take some form of industrial action against the proposals with a further 16% being undecided at this stage.

The Council is more likely to avoid industrial action on Pay occurring if it meaningfully negotiates with the trade unions as part of the process.

SCHEME OF DISCRETIONARY NON-CONSOLIDATED REWARDS FOR EXCEPTIONAL PERFORMANCE

In addition to the comments made previously, we would add the following:-

The detail of the Scheme and how it will operate is not at all clear and Unison has been unsatisfied with the response it has received to date. During discussions with LBB on the proposals we have been accused of dealing in too much detail, however, our members want to know how the proposals will affect them personally and the lack of detail has prevented them from being able to comment as comprehensively as they would have wished.

The 'outline' proposals appear to have changed throughout the process and we have not been provided with a final version of what will be presented to Councillors.

Single Status

The proposal refers to the Single Status Collective Agreement reached between LBB and the recognised trade unions in December 2009, the aim of which was to 'harmonise pay arrangements across different sectors of the Council's workforce to address equal pay risks'. The proposal also states that at the same time it simplified the pay structure to make it clearer, fairer and more efficient.

In order to be considered for a voucher, apart from sustaining a satisfactory attendance and disciplinary record, staff must have "delivered exceptional / outstanding performance which goes well beyond the normal expectations of the role."

Introducing rewards for 'exceptional' performance is counter-intuitive to the ethos behind single states – equal pay for work of equal value. Under single status all roles were evaluated and given an appropriate grade to ensure that the work that staff carried out was valued appropriately and fairly rewarded in relation to all other roles in the Council.

UNISON argues that if staff are working over and above what is expected of them, then the role needs to be re-evaluated using the recognised Scheme. The new Scheme invites staff to work well beyond what their grade is recognised for in terms of pay in order to 'possibly' be awarded a voucher.

In addition, the Voucher Scheme will leave the Council vulnerable to Equal Pay claims.

Performance related recognition and reward measures

LBB already have a system by which staff can be rewarded for exceptional performance, measured by the following categories:-

- Acting Up
- Honorarium
- Accelerated increment(s)
- Progression through a Linked Grade
- Salary uplift for MG staff
- Time off in lieu, overtime or additional hours
- Soulbury SPA points

UNISON has requested that LBB provide information – over the last three years – on the total number of staff that received a performance related recognition and reward, broken down by numbers in each year, grades, and then further broken down by protected characteristics: gender, race, sexual orientation and disability.

We have been advised this information cannot be provided as it is not held in the format requested. Unison has gone back to LBB requesting that as much information as possible is provided, broken down into the information that is held. LBB must be able to provide figures on staff who have received performance related recognition payments, at least broken down by the various categories, grades and gender. To date, this information has not been provided to us.

During discussions, LBB have confirmed that the current reward measures will remain and the 'Voucher Scheme' will be in addition. UNISON has asked for a clear definition of what is meant by "delivered exceptional / outstanding performance which goes well beyond the normal expectations of the role". To date, we have not had a satisfactory response to this, only that this will be "determined by managers within the grade having regard to specific service pressures and complexities".

It is unclear what exceptional performance, outside of the reward measures already available, exist. LBB have not been able to demonstrate how the scheme will be determined "consistently and fairly". There is no specific criteria – it appears it will be on the basis of a manager's / Panel's perception of their staff – many of whom they will not know well or have an in-depth knowledge of the role they carry out.

From discussions with our members, it is clear that those who are currently on MG grades believe that Performance Related Pay (PRP) does not work – they are already subjected to a PRP Scheme. They are wholly opposed to the Voucher Scheme.

Value of Reward Vouchers

No information has been provided as to how the 'pot' will be distributed, who will be making decisions on who gets vouchers, or what the value of the vouchers will be.

<p>Department 'Pot' If each department is given a 'department pot' for awarding vouchers then it follows that depending on the number of staff considered to have 'excelled' the value of the vouchers will vary across department .</p>	<p>How can this be fair to all staff?</p>
<p>Central 'Pot' If the pot of monies for vouchers is held centrally, then the number of staff considered to have 'excelled' will receive vouchers of the same value</p>	<p>Depending on the number of staff considered to have excelled, the voucher value could be considerably different each year – depending on both the pot of money budgeted for and the number of successful staff in the scheme</p> <p>How can this be fair?</p>
<p>Vouchers – Set Amount It has been indicated that the vouchers will be a specific, set amount.</p> <p>Regardless of the level 'Pot' is held at, because there is a set budget, there will be a limited number of voucher awards available. It then follows that those making the decision will be doing so based on the number of vouchers available to be rewarded rather than genuinely considering whether a member of staff has 'excelled'</p>	<p>How can this be fair?</p>

If LBB are committed to rewarding staff who have 'excelled' then in order for the scheme to be truly fair, all those who meet the (undefined) criteria would receive a voucher of a certain amount. Putting aside a specific limited 'pot' of money for vouchers can only be divisive and lead to inequality of treatment.

It doesn't work.

Decision making process

The proposal states that nominations will be considered at a Directors meeting supported by HR and that the Directors will be advised by an Officers' Panel consisting of one service rep from each of the departments, a Chief Officer and an elected staff rep.

We have since been advised that it is the preferred option that "managers will be empowered to make the decision", albeit that staff have raised legitimate concerns around possible relationship difficulties with managers.

To date, there are no firm proposals for us to comment on.

There is no clear appeal procedure. UNISON's view is that this Scheme leaves itself wide open to the 'blue-eyed boy' syndrome where perceptions of favouritism and unfairness will emerge and which can only create bad feeling within workplaces with staff being singled out for special treatment, regardless of the hard work and commitment that is shown by all staff on a daily basis in order to deliver services amidst staff reductions and budget cuts.

The Scheme can only lead to a de-motivated and angry workforce. Those who do not benefit from a discretionary payment/award are likely to form a large percentage of the workforce given the likely budget available for such a Scheme – based on LBB's continual stance that savings must continue to be made and budgets continue to be cut.

Community Schools

There is no indication of how the voucher scheme may work in schools or how the voucher scheme would be funded ie; whether schools will have access to the budgeted 'pot' or whether schools will be expected to introduce the scheme but from their current budget allocation.

How can this be fair to schools staff?

It is difficult to comment on the effect on schools staff when no information is available on how the Scheme is to be implemented.

Unison is wholly opposed to the proposal.

FINANCIAL IMPLICATIONS

LBB currently incur a cost for the independent advice regarding market settlements/salaries elsewhere for the management grade pay award. LBB have confirmed that this cost will be higher as future information will need to relate to the whole workforce.

Although UNISON has asked for information on the current costs and likely future costs, this information has not been provided.

UNISON's position is that it does not accept that the financial implications are small or 'nil' due to withdrawing on an 'as is' basis as has been stated by LBB.

The cost of 'buying in' information, as with management grades currently – but for the whole workforce, will carry a higher cost in the future.

The complexity involved in a local authority considering and consulting on an annual pay award cannot be under-estimated and we are adamant that costs to the Council in staff time alone will be significant.

LEGAL AND PERSONNEL IMPLICATIONS

UNISON and the other trade unions have made it clear from the beginning of the process that we will not and cannot enter into a collective agreement to vary staff's terms & conditions.

The Council will have to vary each and every staff member's contract of employment.

We have collected hundreds of signatures from staff who are very clear that they will **not** sign a new contract of employment on a voluntary basis.

With well over 100 staff refusing to sign voluntarily, the Council will have to consult for a further 90 days and will have no choice but to seek to dismiss and re-engage the workforce and will undoubtedly be subject to adverse publicity if this course of action is followed.

CLOSING COMMENTS

The National Agreement provides a protection for staff that means they have a guarantee that their terms & conditions will not fall below a certain minimum standard. Withdrawing from the National Agreement will remove this minimum protection. This will only serve to make it more difficult for LBB to attract and retain a skilled and flexible workforce. Remaining in the National Agreement and providing enhanced pay, terms & conditions that are fairly applied to all is the only way LBB can achieve this.

LBB argue that they wish to 'innovate and flex' in ways that they cannot do whilst in the National Agreement. This is not the case and many options are available to LBB to be flexible within the National Agreement.

UNISON members are wholly opposed to LBB withdrawing from the National Agreement and to the introduction of a rewards scheme for 'exceptional performance'. The reasons for this have been set out in this document.

LBB have provided no guarantees to staff with regards to the protection of their current, minimum, pay terms & conditions once withdrawal has taken place.

The Local Government Association are currently looking to reform Local Government Pay, Conditions and Negotiation Machinery and it would therefore be wise for LBB to wait until

such discussions have taken place before making a decision to move to localised arrangements is made.

Helen Reynolds
Pro-temp Branch Secretary for Bromley UNISON
and UNISON Regional Organiser

STAFF SIDE SECRETARY REPORT

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August 2012

Proposed withdrawal From National Terms and Conditions

1. Introduction

This report is in response to the council's current consultation on the proposed setting up of local pay and conditions for all non teaching staff and removing staff from the National Joint council (NJC) terms and conditions and the Solbury terms and conditions.

The council have been (unsuccessfully) at pains to try and persuade staff that the proposals are not an attempt to attack the wages and conditions of staff.

Given that this exercise is being conducted in a climate of massive budget reductions, the biggest job cuts in Bromley's history with the promise of more to come, staff are rightly suspicious of the council's intentions.

This suspicion has further increased as detailed proposals have come forward and the failure of the council to offer any guaranteed assurances.

2. Overwhelming opposition from staff

The views of staff have been clearly demonstrated on a number of occasions to the council.

2.1 Council meeting 25th June 2012

The resolution moved by the Staff Side at the full council meeting on the 25th June required a minimum of 500 signatures from the staff this was easily exceeded.

2.2 Lobby of the Council 25th June

Over 120 staff attended the lobby called by just one trade union. This was the biggest lobby faced by the council since it started its cuts programme in the last two years.

2.3 Staff Side ballot

Despite a request from the Staff Side for the council to conduct a ballot the council refused. In light of this as the staff side secretary I have been conducting my own ballot of all affected staff. The question posed in the ballot is **“Do you support the council’s proposals to come out of national terms and conditions”**.

To date 726 staff have voted with just 7 staff supporting the council’s proposals and 719 voting to oppose the proposals.

It should be noted that the ballot has been conducted **after** the council has issued the details of the proposals to all staff **and** at the same time as the senior HR officers have been travelling the borough conducting “road shows” to sell the proposals to the staff, road shows which the staff side and trade unions were not allowed to participate in.

Given that I have also had the obstacle of having to conduct the ballot at peak holiday time and with school staff not at work, It is clear from the massive response to the ballot so far that there is no support for the proposals even from the council own management.

It is my intention to run the ballot up to the 26th September council meeting to allow as many staff as possible to vote.

3. Why we are opposed to the specific proposals

3.1 The Annual Pay award

At the moment if a cost of living pay award is awarded nationally the council is contractually bound to pay it to every worker from the 1st April each year.

The council tries to state that we have nothing to fear from this yet during the consultation it has refused to give any assurances with regards to the pay award.

They have not stated for instance that any local pay award would either at least match the national pay award or that it would be based on a formula that was “RPI plus a %” like the ones that exist in the rail industry.

3.1.2 ***Bad Past experience***

Frankly Staff do not trust the council as they have already had the experience of what the council has done at a local level on pay in the recent past.

When the government announced a £250 pay rise for all public sector workers earning under £21k a year, what did Bromley do? They refused to pay it!

Some councillors appear to be under the misapprehension that they were not allowed to pay this, ***this is a myth*** a number of councils **did** pay it whilst still remaining in the national agreement if they can do it why didn't Bromley?

We have also seen what they did when the managers were supposed to get a contractual 1% pay rise last year. The council said it was not fair to pay to managers and not staff. I then asked that they pay 1% to all staff and they refused and instead effectively stole their own manager's money.

3.1.3 ***Timing of Pay award***

It is being suggested that one of the reason the council wants to have local pay awards is to help plan for in year budgets. I do not accept this argument . The council sets a budget for all services in March and regularly has to vary them in year according to service needs. This is no different to pay the council makes a provisional estimate as to the award and then pays the award once agreed backdated to the 1st April. Only on one occasion in the last 25years has the council had to make an in year additional payment. In recent years the trend is fort the council to have to pay out less than it budgeted for. If this were the only real reason for local pay it is not beyond the whit of the council, staff side and unions to find a way of remaining in the National pay bargaining arrangements and getting budgeting certainty in April each year. For instance it could negotiate the award to be paid by March and then top it up and back date it, if the NJC award was subsequently greater without coming out of the NJC.

However the staff side feels that the budget timing issue is merely a smokescreen.

3.1.4 ***Imposition not negotiation***

Originally the council's indicated that ***all*** it intended to do was to replace the national negotiations over pay and replace them with local negotiations.

However as the details emerged it is clear what we are being asked to accept is local “consultation” and then ***imposition not negotiations***.

3.1.5 **Double jeopardy “poor performers”**

The second and key problem over the pay award is **if** a pay award is agreed locally by councillors in February each year then it will be paid to all staff in April, **BUT** management will be able to withhold the pay award from **“underperforming staff”**.

This would mean a pay award that is supposed to deal with the increase in cost of living is now to be used as a stick to beat staff with to work harder or face having paid rises denied to them.

The Staff Side believes that this is a recipe for staff to be picked on or used as an excuse to save money for a department or section particularly when managers are under pressure to come up with another £25m to save.

If staff were “underperforming” the council already has policies and procedures it can use, ultimately it can discipline staff for poor performance. This proposal could lead to double punishment for staff.

The HR negotiators have alleged that there is often a call from staff that “under performance is not being dealt with by management”, (despite the fact that I don’t believe that there is any evidence to back this up), even if this was the case then that is the fault of management in not dealing with it, not an excuse to hold back a workers pay rise.

3.1.6 **Performance related Pay rises - “a life sentence”**

The council have failed to see the long term effect of with holding a pay rise in any one year. It would mean that if in one year of a workers working life with the council they were deemed to have “underperformed” their pay would be held whilst others increased. The effect of this would be they would end up earning less than their colleagues doing the same job forever, no matter how good their future work was. This is legally questionable let alone morally.

3.2 **The New Bonus scheme – A Divisive Dangerous Gimmick**

The council have now come forward with their bonus scheme proposals called **“A scheme of discretionary non consolidated non pensionable rewards scheme for exceptional performance”** They are proposing to make a payment for those deemed to **“delivered exceptional performance which goes well beyond the normal expectation of the role”**.

However it is **not** to be a pay rise or a re-grading, it is in fact **not** even going to be paid in cash but will be a **“Non cashable voucher”**! This voucher will not count towards a worker’s on going pay or pension.

There has been no budget set aside for this scheme and no figure placed on the bonus.

During the negotiations it has been suggested that this will be set each year by the council. It has **not** been decided whether it's a fixed figure or to be done as a percentage of a workers wage.

Having a limited pot one way or another will either mean smaller payments made from year to year or less people get it from year to year which would defeat the alleged purpose of paying for "exceptional performance".

To qualify staff have to deliver exceptional performance but this **won't** be measured by how much "effort" you put in or "hours worked" but on the "outcomes" of your performance.

Even if a staff member meets this superman status they could still be denied it if their sickness level is deemed unsatisfactory, so if a member of staff ends up making themselves sick working too hard, they lose out!

In the council meeting in June the leader of the council and the portfolio holder said they believed that the majority of staff were "hard workers and performing very well". The effect of this sort of is it divisive and would act to demoralise the majority of hard working staff. It goes without saying that for every one person given the "bonus" hundreds more won't get it.

Given that no assurance have been given re the annual pay award the staff side believes that having the bonus scheme could be used to spell the end of pay rises altogether to be replaced by a non consolidated bonus scheme seeing our pay shrink further and further.

If the council is so wedded to the introduction of a bonus scheme it could introduce one without the need to opt out of the NJC or Solbury agreements as such I do not accept that this is a justification for the proposal.

3.2 Other terms and conditions not protected

Along side the Pay award, the proposal would mean placing all our other conditions (such as annual leave, sick pay, maternity and grading scheme) into a new Bromley set of terms and conditions.

Whilst the council has said that at the point of transfer to the new Bromley contract they would remain the same as they are now. However the consultation document states that they would be looked at on an "**as is basis**". The Staff Side believes that given the council has failed to give any assurances that all these terms and conditions would remain at least in line with the NJC agreement if not within the NJC then this proposal puts staff at risk of the council beginning to attack those terms and conditions as well.

3.3 Impact on Management Grade (MG) staff

At the time of writing whilst I am aware of the proposal to remove some professional based staff from the Management grades due to the fact that they don't manage staff. To date I have not been told which staff are to be removed from the MG grades and I have not been told what the proposed new grade for these staff is to be.

The management grade staff would of course be affected by the negative implications of removing them from the protection of the national agreements on annual leave, sick pay etc and will now also be affected by the new pay proposals and lose their current performance related pay agreement. As such all the above comments are equally applicable to these staff.

Glenn Kelly
Staff Side Secretary

DRAFT

16 OCT 2012

ASSISTANT CHIEF
EXECUTIVE (HR)

The Council's proposals to remove staff from National Terms & Conditions is a threat to our pay, terms and conditions some of which have been won for us by generations that have preceded us. Why else would Bromley Council choose now to bring out these proposals, given the climate of massive budget cuts, the biggest job cuts we have ever seen and a promise of more to come.

The Council say that this is not about cutting our pay, terms and conditions the questions that need to be answered then is why do it? NT&C give staff a safety net a bottom line for our pay T&C. If Bromley Council want to reward us with better pay, T&C they are free to do that under National T&C, they just can't pay us less.

Let's look at history. Bromley Council have always given us the absolute minimum they can, both with pay and terms & conditions. While other Councils have rewarded their staff with above the national minimum, in leave, sick pay etc Bromley have kept to the minimum.

When the Government announced a pay freeze for public sector workers they also announced a £250 pay increase for people earning less than £21k a year. Although a good number of London Boroughs honoured this commitment Bromley Council refused to pay their low paid members of staff.

The leader of the Council said at the full council, when we had the biggest lobby Bromley has seen, that his colleagues in Croydon had made a payment to their low paid employees and Bromley would have liked to have done the same, but couldn't because we are tied by N/T&C, it seems strange then that Croydon Council are in N/T&C so if Croydon could pay why didn't Bromley.

Bromley Council didn't because they choose not to. So why should we believe the Council now with promises that this is not about an attack on our pay and T&C?

Why would we believe that its not about making us pay for a crisis we had no hand in with the introduction of car parking charges for staff that have not had a pay rise for three years?

Why would staff trust the Council when they voted in, in all of five minuets with no discussion, the change of criteria for essential car users meaning some staff will lose £900 a year and have to pay the parking charges.

Why would staff trust the Council when rather than give staff the day off for their hard work and commitment in very difficult circumstances, when it wanted to close all non essential services on the 28th December, it decide to make staff use half a day of their annual leave. After all the Council would save money by closing down.

Be in no doubt it won't be words that will convince staff Bromley Council can be trusted it will be their actions.

Annual Pay Award

Under N/T&C if a cost of living pay award is made the Council is contractually bound to pay it to all employees from 1st April each year. That award is negotiated between the Representatives of Local Authorities and Trade Unions, at the end of that process union members are balloted if they want to accept the award or not.

Under Bromley's pay review there will be no negotiations just consultations in other words, like most of the consultations on reorganisations they listen to what staff have to say, they even write a report saying what we have said, then say thanks for that we are going to do what we proposed in the first place. That's what staff believe is exactly what will happen under consultation over pay, whatever the Council decides to pay, if anything, will be imposed on the 1st April each year.

It gets worse instead of deciding what its thought can be afforded and then paying that to all as a cost of living pay rise, the amount will be split into two pots. One pot for the cost of living award and one pot for the super employee award.

As yet, staff still don't know if there is a formula for splitting the amount between the two pots, the fear is that more money will be put into the non consolidated non pensionable pot with less in the Cost of Living award pot.

The questions around the super employee payment still have no answers - who will decide who is a super employee, is it local management or corporate? - No answer.

What would an employee have to do to be super, when Senior Management accept that the vast majority of their workforce are very good workers? - No answer. This really is a recipe for if your face fits.

Holding back the cost of living pay rise from poor performers.

Senior managers say they know that the percentage of people who are just poor performers is minuscule. Bromley has procedures to deal with people who just don't do their jobs. At one meeting when Unite asked why, if the percentage is so low, don't managers deal with poor performance, the reply was managers are not doing this as they don't like doing it. Well if that is the case how much harder and divisive will it be for managers to have to tell a member of their team they are recommending that they don't get the pay increase at all.

The next question is how much is all this going to cost and who will be doing all the work that is now done nationally?

The consultations will now be with managers - head teachers - outside bodies - trade unions - other stake holders and of course members. Who do you know that has that amount of extra time in their job? However, if as we suspect, it will not be meaningful consultation but us being told what we get and it being imposed every 1st April I suppose most Chief Officers could manage it.

Managers alongside having to manage most services with fewer and fewer staff will now have to alongside pads, decide who will not get a pay increase through poor performance, and who in their opinion is a super employee.

They will also have to deal with the division in their teams who have all worked really hard to provide their services only to find that maybe one of their number is deemed super to the rest. Most of our services rely on team work how divisive will this be.

Then there are the moderators who will decide if someone is or is not a super employee. Who are these going to be? - No answer

Appeals

Staff can appeal if deemed a poor performer. Staff can appeal if they are not chosen as a super employee. Staff can appeal if their manager puts them forward as a super employee but the moderator thinks their not.

So who will attend the appeals? Will there be Directors or Assistant Directors chairing appeal panels with H.R. Consultation advising them? We take it managers will have to bring the case for either recommending or not, somebody for a super voucher or recommending someone doesn't get the cost of living pay award. A trade union representative in the interests of natural justice.

The question has to be asked again how much is all this going to cost in staff time and who has the spare capacity to do the work.

Along side the pay award, the proposals mean putting all other terms and conditions (such as leave, sick pay, maternity, grading schemes, mileage payments etc) in the hands of Bromley Council. The consultation document on these proposals say staff will be transferred to Bromley contracts with all other terms & conditions remaining the same. However, as always the devil is in the detail the document also states that the other terms & conditions will be looked at on an "as is basis".

Unite believes that if the council really meant their rhetoric that this proposal has nothing to do with cuts in our pay terms and conditions as a minimum they would have agreed to write in every workers contract their commitment to keep pay and all terms and conditions at least in line with the NJC award.

The Staff Side Secretary has been holding a ballot of staff, as the employers refused to do so.

The result so far 726 staff have voted against with just 7 voting in favour. An indication of the mistrust of the workforce has towards our employer.

Unite requests that Councillors reject this proposal. Show your staff that at a time of the biggest cuts to services and jobs that most of us have ever seen, you value and take on board their fears and worries. Staff have clearly shown that they want the protection of National Terms and Conditions. The question Unite asks you is what do you want to do that you cannot do now except cut our pay and conditions?

Kathy Smith
Bromley LG Unite Branch Secretary

These believe that if this council really meant their mission that this proposal has nothing to do with cuts in our pay terms and conditions as a minimum they would have agreed to write in every workers contract their commitment to keep pay and all terms and conditions at least in line with the LNU award.

The Staff Side Secretary has been holding a pot of staff as the employees refused to do so.

The result so far 138 staff have voted equal with just 1 voting in favour. An indication of the mistrust of the workforce has towards our employer.

Units requests that Councilors read the proposal. Show your staff that at a time of the biggest cuts to services and jobs that most of us have ever seen, you value and take on board their fears and worries. Staff have clearly shown that they want the protection of National Terms and Conditions. The question Units asks you is what do you want to do that you cannot do now except cut our pay and conditions?

Kathy Smith
Bromley LD Units Branch Secretary