



THE LONDON BOROUGH  
www.bromley.gov.uk

BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Steve Wood  
*stephen.wood@bromley.gov.uk*

DIRECT LINE: 020 8313 4316

FAX: 020 8290 0608

DATE: 24 March 2015

To: Members of the  
**LOCAL JOINT CONSULTATIVE COMMITTEE**

Employer's Side

Staff Side and Departmental Representatives

Councillor Nicholas Bennett J.P.  
Councillor Eric Bosshard  
Councillor Stephen Carr  
Councillor Russell Mellor  
Councillor Keith Onslow  
Councillor Tony Owen  
Councillor Diane Smith  
Councillor Michael Turner  
Councillor Angela Wilkins

Adam Jenkins, Unite  
Glenn Kelly, Staff Side Secretary  
Mary Odoi, Unite  
Kathy Smith, Unite  
Max Winters, Education & Care Services

A meeting of the Local Joint Consultative Committee will be held at Bromley Civic Centre on **TUESDAY 31 MARCH 2015 AT 6.30 PM**

Rooms have been reserved for Members and the Staff Side to meet separately at 6pm before the meeting commences at 6.30pm. The Assistant Chief Executive (Human Resources) will be available from 6.00pm to brief Members.

MARK BOWEN  
Director of Corporate Services

**A G E N D A**

**1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

**2 DECLARATIONS OF INTEREST**

To record any declarations of interest from Members present.

**3 MINUTES FROM THE PREVIOUS MEETING OF LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 10TH FEBRUARY 2015. (Pages 3 - 6)**

**4 COMMISSIONING AND CONTRACTUAL PROBLEMS**

The Staff Side would like to raise the issue of what they perceive to be problems with the service delivery of contracts commissioned to the private sector.

**5 WORKING CONDITIONS FOR BROMLEY STAFF TRANSFERRED TO PRIVATE COMPANIES**

The Staff Side would like to raise concerns about staff pay terms and conditions after being transferred to private companies.

**6 STAFF CONSULTATION CONCERNING TRADE UNION FACILITY TIME**

The Staff Side would like to raise concerns that despite assurances that the issues concerning trade union facility time would be investigated and that proper transparency and consultation would take place, the majority of employees of Bromley Council are unaware of this proposal.

**7 UNITE'S FAIR PROCUREMENT DOCUMENT (Pages 7 - 8)**

The Staff Side would like to draw attention to Unite's Fair Procurement Document.

The Staff Side would like to submit the following questions relating to the document:

- Are Councillors aware of the document?
- Do Councillors consider that the document makes reasonable recommendations?
- Are Councillors prepared to discuss endorsing the procurement strategy?

**8 DATE OF NEXT MEETING**

The date of the next meeting of the LJCC (subject to ratification by the GP&L Committee) will be the 16<sup>th</sup> June 2015.

.....

## LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 10 February 2015

### Present:

#### Employer's Side

Councillor Russell Mellor (Chairman)  
Councillor Mary Cooke  
Councillor Tony Owen  
Councillor Diane Smith  
Councillor Michael Turner  
Councillor Angela Wilkins

#### Staff Side and Departmental Representatives

Kathy Smith (Unite) (Vice-Chairman)  
Adam Jenkins, Unite  
Glenn Kelly, Staff Side Secretary  
Max Winters, Education & Care Services  
Gill Slater, Regeneration & Transformation  
Service

### **22 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

Apologies were received from Cllrs Eric Bosshard, Keith Onslow, and Nicholas Bennett. Cllr Mary Cooke substituted for Councillor Bennett. On the Staff Side, Jill Slater substituted for Mary Odoi.

### **23 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **24 MINUTES FROM THE PREVIOUS MEETING OF THE LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 21/10/2014**

Minutes of the meeting held on the 21/10/2014 were agreed.

### **25 MARKET TESTING UPDATE**

The Staff Side commenced by referring to a report that went to the Executive during January 2015. The Staff Side Secretary (SSS) mentioned that in this report, concerning commissioning, it had been stated that no savings had been assumed in the commissioning process to date. The SSS queried the logic of embarking on a process which had no guarantees of savings, as well as potential job losses. The Staff Side suggested that it would be a good idea for the Council to provide reassurances to staff that the Council was not ideologically driven in this matter.

The Chairman stated that it was not the case that the Council was ideologically driven, and that market testing had come about as a result of financial pressures on the Council due to cutbacks in central government funding. The Chairman remarked that the non assumption of savings referred to previously was made because it was not possible to accurately assess savings at this time.

A Member commented that in practice commissioning was focused on price, and that specifications tended to be standardised in nature. This meant that in certain cases there would be instances when demands were not being met properly.

A Member commented that it was hard not to feel that there was some form of ideological bias, and it was important to ensure that savings were being made, and that a safety net was in place if required. The Member cautioned against dismissing these concerns without proper investigation and consultation.

The SSS asserted that in the normal process of commissioning, there was a 10% saving assumed initially, but nothing after that. The SSS suggested that Members may not be properly informed of the current position, and that there may be services ready to be outsourced that they were not aware of.

A Member declared that the Council was not ideologically driven, and that there was a difference between market testing and privatisation. If the market testing was not successful, then the service would remain in house.

The Vice Chairman referenced the possible closure of Bromley Museum, and the resultant job losses if the closure went ahead. The Vice Chairman stated museum staff had expressed an interest in exploring the possibility of running the service and this had been refused. The Vice Chairman also expressed concerns about the out sourcing of the parks contract. However, a Member advised the Vice Chairman that Bromley Museum was not proposed for outsourcing or market testing. The Council was proposing to relocate and deliver the service in a different location away from the Priory.

A Member requested an investigation concerning the museum staff, and this was agreed by the Committee.

A Member expressed concern that the Council was focused on cutting staff and resources, was not looking at problems creatively, and that staff were not being supported sufficiently. There was also a concern that decisions were being made too quickly, before looking for alternatives.

**RESOLVED that the Committee be updated in due course after issues concerning the Bromley Museum Staff were investigated.**

## **26 PAY AWARD--2015-2016**

The Chairman responded to a query raised by the Staff Side Secretary as to the inclusion of this item on to the Agenda to which the Chairman replied that he requested it bearing in mind that an offer had been made to the Staff Side on the 15<sup>th</sup> January and considered it appropriate that we ask for response in the interests of openness and transparency. It was agreed by the Committee that the matter be discussed at the GP&L meeting that would follow upon the rising of the LJCC Committee.

## **27 TIME OFF FOR TRADE UNION DUTIES**

The SSS stated that the proposal to end the funding for the two full time trade unions posts could not have come at a worse time in the Council's history, a time of transformation, redundancies and restructuring. The SSS stated that the trade union representation in the Council had been this way for the last forty years, and that this was the best way to meet the Council's legal obligations. The SSS asserted that Bromley Council had the lowest level of trade union facility in the whole of London.

The SSS argued that all statutory duties would remain and that it was not practical or viable to introduce the changes at this time, and that indeed it would result in problems for the Council. The Staff Side expressed the view that the impression that was being given was that of a deliberate attempt to silence the trade union voice. The SSS cited the example of Barnet Council which had previously embarked on the same course, but then had to backtrack because of the problems that had resulted.

The Staff Side hoped that now could be the commencement of a process of consultation, and not that the decision had already been made. The SSS advised the Committee that a more detailed report on this matter had been provided to Human Resources.

The Director of Human Resources explained that no formal decision had been taken, and that the matter would be considered at a future meeting of the GP&L that was going to take place later that evening. The Director of Human Resources advised the Committee that although it was the case that legal obligations would remain, they could be delivered differently. It would be the decision of Members if the proposals were passed or rejected. It was wrong to give the impression that the Council were withdrawing trade union facilities.

A Member asked what would happen to the trade union representatives if the motion was passed. The Director of Human Resources responded that the current trade union representatives would go back into their normal jobs, and would be allowed "reasonable" time off for trade union activities, on the condition that such activities did not impact on their day job. It was also the case that not all organisations had paid trade union representatives.

A Member stated that it was difficult to see how such an arrangement could not impact on a worker's normal job functions.

The Vice Chairman expressed the view that the changes were foolish because less experienced representatives would take more time to deal with trade union issues, and that it would cause management problems in terms of planning and allocating work.

The Chairman concluded by stating that the issues would be investigated and that proper transparency and consultation would take place.

**28 CAR ALLOWANCE SCHEME**

The SSS expressed the view that the Council had broken promises to staff in considering changes to the Car Allowance Scheme, and that the proposals would make Bromley less attractive to potential new recruits. The Staff Side contended that the proposals were in effect an attack on wages. The SSS informed the Committee that casual users would lose 5p per mile, and that the proposals had caused anger amongst staff.

The Chairman stated that HMRC guidelines stated that 45p per mile was the recommended rate for car users, and that this was what the Council would be seeking to implement if the proposals were agreed.

**29 PROCUREMENT ISSUES**

It was agreed that this item be deferred and that a Special Meeting may need to be convened to discuss this matter when legal and technical expertise could be made available.

**30 DATE OF NEXT MEETING**

The date of the next scheduled meeting of the LJCC would take place on the 31st March 2015.

The Meeting ended at 7.30 pm

Chairman

## **The Unite Trade Union Procurement Strategy Proposal**

The Unite trade union wishes to propose a procurement strategy for consideration by the employer. We are concerned to ensure that before a decision is made to market test or outsource services; all other possible options are considered. In addition, we want to ensure more regular and rigorous monitoring once a contract is awarded. Further, we want the employer to work with Unite to avoid a "race to the bottom" as far as pay and conditions are concerned post transfer. It is our experience that despite TUPE, this is increasingly the case.

European Union procurement regulations enable local authorities to take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of services, the specific needs and involvement of service users. The Best Value duty and the Public Services (Social Value) Act 2012 give authorities a degree of flexibility in selecting the appropriate award criteria.

Monitoring is a client responsibility and cost irrespective of monitoring carried out by the contractor. The Audit Commission has previously reported that contract monitoring was regularly under - resourced by local authorities.

Unite has been dealing with a number of companies where pay and conditions have been subject to attack following TUPE transfer. Companies have increasingly found ways of legally avoiding TUPE obligations. The legislation after the "Parkwood" case now defines pay and conditions post transfer as "static" meaning companies are not obliged to pay subsequent NJC pay increases. Downward harmonisation, casualisation and lower rates for new starters are on the increase. We therefore wish to discuss the following proposal for a procurement strategy:

### PROCUREMENT STRATEGY PROPOSAL

A full service review to assess how in-house provision can be improved and enhanced should be carried out before a decision is made to market test.

If the performance of the service is good or satisfactory, no further action should be necessary.

If the review identifies some weaknesses in service performance it should be retained with a Service Improvement plan.

If the service does not substantively meet performance standards or service needs and fails to achieve improvement targets and timescales then a full options appraisal should be carried out.

Contract award criteria should have a minimum 50% based on quality. Technical criteria and price should account for the remainder.

Quality standards and the methods by which they will be achieved and maintained should be a key part of the evaluation process with a public statement detailing the approach being issued before the award of the contract.

Regular and rigorous monitoring throughout the contract period with monitoring staffing costs accounting for a minimum of 2% of the annual contract value.

The procurement strategy must include protocols on employment policies, trade union and service user engagement in the procurement process.

There should be an aim for common rights for directly employed and contracted out workers.  
This to include:

No zero hour contracts

Commitment to minimise use of agency staff

Commitment to abide by the agency worker legislation

Adoption of the London Living Wage Foundation status

No downward harmonisation

Maintenance of full TU rights and facilities post transfer

Setting up of Council/Union oversight committee to enable councillors to deal with union concerns about contractors

Unite the trade union believes that the proposals are a realistic, pragmatic way forward that will allow the Council and the trade union to work together to best protect services, pay and conditions. We hope that the Council is willing to engage in negotiations on the proposals."