



THE LONDON BOROUGH  
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DATE: 3 February 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 Committee Room 2 - Bromley Civic Centre on **TUESDAY 10 FEBRUARY 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 THE LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 21/10/2014 (Pages 3 - 10)**

**4 MARKET TESTING UPDATE**

The Staff Side would like to raise its concerns that market testing is now being accepted that it will not deliver the savings the council requires and as such puts into question the whole commissioning agenda.

In addition, the Staff Side would like to repeat its concerns that there continues to be a lack of transparency and openness with the staff and the unions.

## **5 PAY AWARD--2015-2016**

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

The Staff Side would like to outline their opposition to the proposals to end the council's 40 year practice of agreeing secondments for trade union branch secretaries and the impracticalities of the council meeting its legal obligations through representatives being taken in and out of work to carry out their role. In addition it is being proposed at a time of the greatest upheaval in council services in the council's history.

## **7 CAR ALLOWANCE SCHEME**

The Staff Side would like to explain to the council why is it opposed to the ending of the essential car user allowance and the cutting of the mileage rate, which could see key groups of staff such as social care staff lose nearly a £1000 a year in pay.

## **8 PROCUREMENT ISSUES**

The Unite Union have raised the following matters on behalf of the Staff Side:

### **Question 1:**

Have members seen and are they satisfied with the rigour of the "risks log" (of costs financial, reputational and other) associated with the complexity of contracts for multiple linked services or individual services, or are they willing to gamble with the good of the public they are elected to serve and public money and risk joining the elite group of media worthy contract failures.

### **Question 2:**

The publication of the guidelines for the new procurement process Competitive Dialogue with Negotiation CDwN has been delayed. Are members satisfied that the risks for any early users of the new procedures which have not been fully set out by Government have been fully appreciated? For example the reported risk that a new procurement will be required if the changes exceed a percentage of the original contract value – 10% for services and supplies.

## **9 DATE OF NEXT MEETING**

The Committee is requested to note that the next meeting will be held on 31<sup>st</sup> March 2015.

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## LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 21 October 2014

### Present:

#### Employer's Side

Councillor Russell Mellor (Chairman)  
Councillor Nicholas Bennett J.P.  
Councillor Stephen Carr  
Councillor Keith Onslow  
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

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

Apologies were received from Councillor Eric Bosshard and from Mary Odoi. Gill Slater attended as a substitute for Mary Odoi.

### **16 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **17 MINUTES FROM THE PREVIOUS MEETING OF LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 19th MARCH 2014**

The minutes of the previous meeting of the LJCC were agreed.

### **18 PAY AWARD 2015**

The Staff Side Secretary indicated that he wished to discuss the 2015/16 pay award, together with management proposals to end pay progression for new appointments. The Staff Side Secretary outlined several factors that were adversely affecting the living conditions and standard of living for LBB employees:

- the cost of living had increased
- housing costs had increased by 11% in LBB in the last twelve months
- travel to work costs had increased by 7%
- there had been a fall in earnings in real terms
- the RPI had increased by 2.4%

The Staff Side Secretary stated that according to figures provided by the Daily Telegraph, housing costs in Bromley were expected to rise by 25% at 2018.

The Staff Side Secretary further stated:

- the average price on a three bedroom house in Bromley was £381,000
- the average price of a three bedroom flat was £237,000
- the average Bromley rent was £1500.00 per month and rising

The Staff Side were of the opinion that in recent years, LBB employees had in fact experienced an 18% drop in real term living standards, and that if the minimum wage had been aligned with increased living costs, the minimum wage would now be £18.00 per hour. The Staff Side were of the opinion that there was now a big gulf in pay in LBB between the average LBB employee, and senior management.

The Staff Side argued for a £1.00 an hour pay increase across the board, and for a minimum wage of £10.00 per hour.

For the Employer's Side, the Director of Human Resources expressed disappointment that the Staff Side had not previously raised the matter of their proposed pay award at the Officer Forum. He added that it did not augur well for good industrial relations if the Staff Side did not raise discussions with management first, before approaching the Committee. The Director of Human Resources stated that in his opinion, the statistics that the Staff Side had mentioned were questionable, and omitted to make any reference to the £60m savings target that the council had to find over the next four years. The Director of Human Resources declared that the proposals of the Staff Side would cost £6m per annum, and that such a proposal was reckless and irresponsible in the current financial climate.

Councillor Carr queried the source of the data that had been provided by the Staff Side, averring that in fact fuel and food costs were currently lower. The response of the Staff Side Secretary was that these were national statistics taken from the Government website. The Staff Side Secretary countered by stating that food costs in particular had increased, and that LBB was one of the lowest paying boroughs in the area. The Staff Side felt that the workforce was bearing the brunt of the council's cutbacks, and that this was at a time when the reserves of the council were not depleted.

The Staff Side raised the matter of ending the incremented pay scheme for new appointments and argued that this was not fair. They felt that problems could arise for the council with respect to legality and equality, and that this could cause serious problems for LBB. It was argued that staff would not want to work for LBB, and may prefer to go and work in other boroughs if such a scheme was operating. The Staff Side submitted that the changes with respect to incremental pay would be bad for LBB's financial structure, would not give rise to any savings, and would create a two tier workforce. The Staff Side requested that management withdraw the proposal.

The Director of Human Resources remarked that the way in which the unions had dealt with this matter was wrong, and disrespectful; he felt that the unions

were attempting to circumvent the standard LBB protocols. He argued that it was not true that new entrants would always come in at the lower end of the pay scales, and that there existed flexibility from management to appoint at higher rates. The Director of Human Resources stated that the new proposed pay structure was empowering and would not adversely affect recruitment, and that Camden Council was already operating such a structure without any adverse effects.

The Vice Chair (Staff Side) disagreed with the notion of “flexibility”, and stated that this matter may not just be limited to new starters, but may also progress to affecting existing employees on new contracts. The Vice Chair stated that this was a stressful time for staff, who were struggling to live normal lives, and it was an additional burden imposed on staff who were also worried about the effects of commissioning. The Vice Chair suggested that the reason for the various changes being considered by management was to make LBB more attractive when services were being considered for transfer out.

Councillor Wilkins queried why the Director of Human Resources felt that the issues of the pay award and incremented pay should not be on the agenda. Councillor Wilkins stated that the logic in the proposals was hard to see, and could also give rise to issues around equality.

The Chairman responded that a dialogue existed between both sides and that if the Staff Side requested that a matter be added, this request was normally accommodated out of courtesy.

The Director Of Human Resources commented that the reason that he had felt the pay matter should not be on this agenda was because the method adopted by the Staff Side on this occasion undermined the consultative process—it was better to talk first, before escalation. He argued that the incremental pay changes would create a culture of empowerment and flexibility, and that the equality issues raised were a “red herring”.

The Staff Side Secretary noted that the Director of Human Resources had expressed “disappointment” in his actions. He stated that as there was only three meetings of the LJCC every year, the Staff Side had to make the most of any opportunity to make their views known. The Staff Side Secretary commented that he was surprised that the Director of Human Resources proposed to censure debate. He stated that the changes to the pay structure at Camden were new and were the result of a voluntary agreement, and that the notion of “flexibility” was false. The Staff Side Secretary stated that LBB was the only council in London that was seeking to stop pay increases and increments, and that it was a fantasy to believe that such a policy would be attractive to new entrants.

Councillor Carr stated that the issue of a two tier workforce was a “red herring” and that it was not the case that LBB had not been supporting workers. Councillor Carr felt that LBB had always been up front with the workforce, and that staff were motivated.

## **19            TERMS AND CONDITIONS OTHER THAN PAY--COLLECTIVE AGREEMENT**

The position of the Staff Side on this matter was as outlined in the agenda text:

*“At the time the council introduced local pay and conditions, they did so on the assurance that the only thing that would change was in relation to the pay award, and that all other terms and conditions would remain the same. Also that these terms and conditions could not be changed other than by collective agreements between the union and the employer.*

*During a recent court case, it became clear that the stated intend of the council is not what is actually stated in the contracts of employment for LBB employees. In light of this the Staff Side wish to propose that the contracts are amended to reflect the council’s stated position; this can easily be achieved through a collective agreement being drawn up between the unions and the council.”*

The submission of the Staff Side was that the stated intend of the council (stated when the council moved from national terms and conditions to local terms and conditions) was not as written in the contracts of employment. It was on this basis that the Staff Side were seeking an amendment to the existing contracts. The Staff Side Secretary commented that “collective talks” were distinct from “collective agreement”. The Staff Side offered to draw up a new contractual clause.

The Director of Human Resources responded that he was not enthused by the idea of the Staff Side Secretary drawing up a legal document, and that the current contract of employment was drawn up as part of the consultation process, and the wording had not been questioned.

Attention had been drawn to clause 28 of the contract of employment that dealt with the matter of “Collectively Agreed and other Terms and Conditions”. The Director of Human Resources informed the Committee that the recent court case (referred to by the Staff Side) had not ruled on Clause 28, and that LBB were happy with its legality. The Staff Side Secretary responded that there was an issue with Clause 28 because the Unions had not signed up to it.

## **20            COMMISSIONING**

The matter of Commissioning was raised for discussion by the Vice Chair.

The Vice Chair stated to the Committee that LBB’s Chief Executive had commented recently that commissioning was not making the cost savings that had been hoped for. The Vice Chair mentioned that staff had been receiving commissioning letters, and that these were stressful. The Vice Chair further stated that when potential providers were receiving soft market testing letters, it was the case that they were being asked what *they* wanted, rather than

what LBB *required*. The Staff Side stated that the unions and many LBB employees were convinced that LBB were committed to commissioning on an ideological basis, rather than being influenced by objective facts.

The Vice Chair expressed concern with respect to an apparent list of defaults from the contractor “English Landscapes”. These were noted as:

- poor documentation
- inexperienced staff
- playground checks not being undertaken
- lack of firm commitment to resolve issues
- complaints from the public

The Staff Side then referenced problems with the cleaning contract; the Staff Side stated that toilets and kitchens had to be recleaned. Two other high profile failed commissioning contracts were referred to and these were the G4S failure during the Olympics, and the problems with contractors moving prisoners in vans. The Vice Chair then referenced the problems and high costs that had been experienced by Birmingham City Council and the “Service Birmingham” contract run by Capita.

The Chairman stated that LBB contracts were closely monitored by LBB officers, and if there were problems with contractors, they would be penalised and action would be taken against them.

Mr Marc Hume (Director of Regeneration and Transformation) attended to answer the queries and concerns expressed by the Staff Side concerning Commissioning. Mr Hume made the following key points:

- a) Savings: It was not the intention of LBB to use the commissioning process to provide all of the cost savings that LBB were looking for; commissioning was just one mechanism that the council were using to achieve cost reductions. In this regard it was noted that business cases should be well thought out and presented. Officers would make recommendations, but Members would make the final decisions.

Mr Hume informed the Committee that savings and income totalling over £300,000 had recently been made on two new commissioning contracts; these were with respect to customer services and Financial Assessment and Appointeeship. Mr Hume stated that LBB was good at commissioning, and that LBB should build and learn from these successes. Mr Hume also referred to the commissioning that had been done with respect to “My Time” and Waste Disposal, and commented that LBB were satisfied that these contracts were running successfully.

- b) Mr Hume then moved on to discuss the Social Value Act, and confirmed that LBB were fulfilling their legal obligations under the Act. In this regard, Mr Hume highlighted LBB’s actions with respect to the

customer services contract, and that the council had opted for a local solution, which avoided relocation.

- c) Mr Hume stated that LBB were correctly following Contract Procedure Rules, and that service heads monitored the Risk Register. Mr Hume also made the point that all the commissioning reports would be lawful, and had a legal section incorporated.

The Staff Side Secretary reiterated the belief of the Staff Side that the council was ideologically driven with respect to commissioning, and averred that most of LBB's contracts had been given to large companies like Liberata and Capita, indicating that this was not really a free market exercise. The Staff Side Secretary stated that the £300,000 mentioned by Mr Hume was misleading.

The Chairman reiterated the point that the Council would not always use the commissioning option, and that in some cases there would be no inducement to use outside contractors.

The Staff Side expressed the opinion that inadequate preparation and thought was undertaken before pursuing commissioning options, and that many of these options were not really suitable for contracting out, wasting staff resources. The opinion was expressed that certain contracts were being micro-managed, but that this was often not the case with costly commissioning contracts. The Staff Side felt that cost holes were not being identified, and that the analysis undertaken with respect to large commissioning contracts was qualitative rather than quantitative. The Staff Side were concerned that large contracts were not adequately scrutinized.

The Chairman maintained that PDS Committees were providing adequate scrutiny of contracts.

Councillor Wilkins was concerned that in certain cases, the commissioning out of contracts was resulting in cuts to services, degrading the quality of services, and resulting in job cuts. Councillor Wilkins highlighted problems with the contract for street cleaning services and stated that the quality of street cleaning had worsened. Councillor Wilkins questioned the ability of just three LBB officers to adequately monitor LBB's waste and street cleaning contracts. It was suggested that in certain cases, contractors did not apply the same enthusiasm and resources to fulfilling the requirements of the contract that they had applied in gaining the contract initially. Councillor Wilkins also referenced problems with commissioning that had been experienced in Birmingham and Barnet.

Councillor Owen stated that it would be a good idea if the Staff Side provided details of alleged contract defaults in a particular contract, so that the council could have the opportunity to thoroughly investigate and deal with any issues that were identified. Councillor Owen expressed concern that there was a lack of flexibility in long contracts, and also with the fact that there was a



“democratic deficit”, in that these contracts were harder for councillors to influence than internal services run by LBB staff.

The Chairman asked the Staff Side Secretary to make a report to the Committee pertaining to inefficiencies in a selected contract, so that this could be presented to the Committee for investigation. The Chairman requested the Staff Side to submit the report to the Committee Clerk in plenty of time to be incorporated into the next agenda.

A Member from the Staff Side stated that there were no Bromley staff to monitor the Parks Contract.

Councillor Carr responded that this was not the case, and that Bromley staff would monitor the Parks Contracts, and that service level agreements would, be adhered to. Councillor Carr explained that LBB had already negotiated improvements to contracts, and that negotiation was crucial in these matters. Councillor Carr acknowledged that there were issues with street cleaning services, and that these would be investigated. Councillor Carr stated that the process of commissioning had in fact resulted in savings with respect to front line services.

## **21            DATE OF NEXT MEETING**

The date of the next meeting of the LJCC Committee was noted as 16<sup>th</sup> December 2014.

The Meeting ended at 7.50 pm

Chairman

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