



THE LONDON BOROUGH  
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DATE: 13 October 2015

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

Employer's Side

Staff Side and Departmental Representatives

Councillor Russell Mellor (Chairman)  
Councillor Nicholas Bennett J.P.  
Councillor Stephen Carr  
Councillor Simon Fawthrop  
Councillor Tom Philpott  
Councillor Diane Smith  
Councillor Tim Stevens J.P.  
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 1 - Bromley Civic Centre on **WEDNESDAY 21 OCTOBER 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 16TH JUNE 2015. (Pages 3 - 8)**

**4 QUESTIONS CONCERNING THE NEW ARRANGEMENTS TO TRADE UNION FACILITY TIME**

The Staff Side would like to ask the LJCC:

Are Members aware of how the new arrangements in respect of changes to Trade Union facility time are:

- being put into practice?
- affecting staff engagement in the commissioning process?
- affecting the rights of staff to be represented?
- affecting union officials rights to engage in trade union activities and duties; e.g. attending trade union conferences?

## **5 CONTRACT MONITORING AND COMMISSIONING DECISIONS**

The Staff Side would like to ask the LJCC:

In light of the problems and risks previously highlighted with Council contracts and contract monitoring, do Bromley propose thorough reviews of the outcomes and implications of commissioning activities to date, to ensure that future commissioning decisions are informed by lessons learned?

In particular, attention is drawn to the Ombudsman warning that Councils cannot outsource accountability for social care functions--leading to Somerset Council reviewing how it monitors its contracts with third parties.

## **6 DATE OF NEXT MEETING**

The Committee is requested to note that the next meeting will be held on 8<sup>th</sup> December 2015.

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## LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 16 June 2015

### Present:

#### Employer's Side

Councillor Russell Mellor (Chairman)  
Councillor Stephen Carr  
Councillor Ian Dunn  
Councillor Simon Fawthrop  
Councillor Tom Philpott  
Councillor Colin Smith  
Councillor Diane Smith  
Councillor Tim Stevens J.P.  
Councillor Michael Turner

#### Staff Side and Departmental Representatives

Jo Flanagan  
Glenn Kelly, Staff Side Secretary  
Mary Odoi, Unite  
Gill Slater, Regeneration & Transformation  
Service  
Kathy Smith, Unite  
Max Winters, Education & Care Services

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

Apologies were received from Cllr Nicholas Bennett, and Cllr Colin Smith acted as substitute.

Apologies were received from Cllr Angela Wilkins, and Cllr Ian Dunn attended as substitute.

Apologies were received from Adam Jenkins, and Jo Flanagan acted as substitute.

### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **3 MINUTES FROM THE PREVIOUS MEETING OF LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 31st March 2015.**

The minutes from the meeting held on the 31<sup>st</sup> March were agreed.

### **4 MEMBER TRAINING ON THE COMMISSIONING PROCESS AND CONTRACT MONITORING**

The matter of training for Members concerning contract monitoring was revisited by Gill Slater for the Staff Side. She reiterated issues that had been discussed previously by the LJCC, where it was agreed that some form of training for Members should be formulated to provide a better understanding of the processes involved in the formulation and the monitoring of contracts.

The concern expressed by the Staff Side was that reports were not always adequately highlighting the risks and complexities of contracts to Members.

A Member reminded the Committee that what had been agreed at the previous meeting of the LJCC was to progress the matter of Member training for those Members who were interested, and not for trade union representatives.

Cllr Carr asked why the Staff Side were so interested in this particular matter.

Mr Glenn Kelly responded that the Staff Side were hoping to aid in the scrutiny process. He stated that Capita had lost the Housing Benefit contract, and that the unions had been aware for some time of hidden contractual problems. He informed the Committee that most unions had scrutiny trainers, and felt that the unions could help.

Cllr Turner expressed concern that the matter of Member training had been discussed for some time, but no decisions had been made. He proposed that the training relating to contracts that had been used internally, could be used to provide appropriate training to Members at very little cost.

Mr Kelly expressed the view that there was need for this process to be speeded up.

Cllr Fawthrop commented that the key was to ensure that officers dealing with contracts should be properly trained from the offset to avoid problems occurring later.

Cllr Dunn referred to the Executive & Resources PDS Committee of the 12<sup>th</sup> March 2015 where Capita reported and attended to answer questions. He stated that a Member had asked for further detail on the failure to meet the KPI of completing 95% of service requests within 5 days, and that the question was not answered on the night. He stated that contractors should not be allowed to get away with their failures.

Cllr Colin Smith expressed the view that funding should not be made available to fund member training, as Members were already paid and should be able to bring relevant experience and skills to the table. He felt that contracts could be adequately monitored via the PDS system. If problems emerged subsequently, then they would be vigorously investigated. He felt that there was no need for unions to be involved with the scrutiny of contracts.

Cllr Stevens expressed the view that there were certain Members that had requested training and that for those who were interested this should be facilitated. He stated that any such training would be for Members only, and not for union representatives.

Kathy Smith declared that understanding was required, and that it was important for those scrutinising contracts to know what they were doing and to be able to ask the right questions.

Cllr Fawthrop highlighted that resources were not available for extensive training, and that scrutiny of contracts could work through the PDS Committees, as long as Members were able to look at the documentation in plenty of time.

Mr Kelly stated that LBB had a “thin client side” that was under resourced which was a problem. The unions were offering to help and to add resource and expertise.

Cllr Carr expressed the view that these were matters that could be dealt with by the PDS Committees and the Executive, and this was a view endorsed by Cllr Diane Smith.

Cllr Turner pointed out that most Members did not have experience with contracts and so would require training. He felt that it was very important to avoid problems with contracts from the offset, and that perhaps a dedicated Committee should be established to deal with the scrutiny of contracts.

The Director of Human Resources commented that training had a role, but it should not supplant but rather complement other measures aimed at improving the Council's capacity to manage and monitor outsourced services.

He maintained that LBB officers did not lack the ability to monitor and scrutinise contracts and in most cases were successful in doing so. He was of the opinion that there was no requirement or need for the unions to be involved in contract scrutiny, and that this would be unworkable.

The Chairman closed by stating that details of contracts were published by Mr Dave Starling, and that these details went to the E&R PDS Committee; the staff side were free to ask questions at PDS Committees, and to ask questions of procurement officers.

**It was RECOMMENDED that further consideration be applied to the training of Members with respect to contract monitoring, but that this would not include training for union representatives.**

## **5 EMPLOYEE REPRESENTATION ARRANGEMENTS**

Kathy Smith stated that Unite had offered to pay all the expenses for a Unite Branch Secretary, and so this would not cost the Council anything. She requested that management release her back into her Trade Union role. She highlighted that her manager in the library was not happy with the current arrangement whereby Kathy had to ask for time off for Trade Union activities, as this was disruptive to the working of the library. It was also disruptive to pull out other trade union representatives from other parts of the Council.

Cllr Carr pointed out that the LJCC did not make decisions; the current position that the Council had adopted with respect to trade union representation would be reviewed in the future. He pointed out what he

regarded as the needless disruption and problems that the recent strike action had caused, and questioned if the unions were properly aware of the consequences of their actions. Cllr Carr continued that permission would be given by the Council where appropriate for Trade Union duties, and that it was hoped to streamline the process in the near future.

Mr Kelly commented that Cllr Carr had not addressed the question, and that there was a statutory duty on the Council to allow for Trade Union duties. He stated that there were problems with the current set up, and that the original problem highlighted by the council was a financial one that would now be resolved if the UNITE offer was accepted by the Council.

Mr Kelly asked why the Council would reject the proposal if the issue was purely financial, and was the offer of financial assistance from the unions conveyed to Members. He also mentioned that the Council may face legal action from the Unions.

The Director commented that the unions had ample time during the extensive consultation period to put the offer to the Council but failed to do so at the time. The new arrangement was consistent with the Council decision to cease staff representation secondment, and any request for time off for legitimate trade union duties would be properly considered and balanced against the Council's service delivery interests. He further stated that the time that was allowed had to be "reasonable", and that it may not be possible to get time off for every request. The Chairman stated that the current position would be kept under review.

Cllr Fawthrop asked what would be an objective test of what was "reasonable" in terms of time allowed for trade union duties. The Director responded that time off would be allowed for a "duty", and not an "activity". It would need to be for a situation that had arisen that would impact on the terms and conditions of an employee. It was the case that the current situation could be managed and that there had been a need for change. Cllr Fawthrop responded that there was a danger that an objective test could change to a subjective test, based on the fact that no legal threshold had been established. This may be a matter that the Committee could revisit in the future.

Cllr Dunn asked if the matter could be reviewed now, and subsequently be referred back to the GP&L Committee. The Chairman responded that for now it would be more appropriate to maintain the status quo whilst keeping the matter under review, and that any future change would need to be ratified by the GP&L Committee.

## **6 TUPE PROBLEMS**

The Staff Side expressed their concerns over TUPE arrangements for LBB staff moving over into the private sector. They expressed concern that LBB had agreed to cover any redundancy costs that may occur. Their view was that this gave the impression that LBB were setting up staff for redundancy.

The Staff Side referred to a situation where staff had moved over to work for a private contractor, and where TUPE conditions were changed the day after moving over. It was stated that the workers concerned felt desolate. The Staff Side noted problems with the Landscape contract, and related this to the problems with contract monitoring that had been discussed previously. The Staff Side expressed the view that LBB could be liable for potential legal costs as a Co-Respondent. They asked if decisions were being made on a rational basis, and were Members being fully informed.

The Chairman commented that contractors would have a duty to comply with any legal requirements. The Director stated that there was a process to be adhered to, and that it was a flawed argument to suggest that LBB could control the actions of contractors. He stated that transferees or contractors could decide as a measure, that redundancies could take place and staff and their representatives would be duly consulted on this before the transfer; but any redundancy dismissal would take place after the transfer. The Director further stated that LBB could not be held liable in the courts for redundancies imposed by the contractor.

Mr Dan Jones (Assistant Director-Street Scene and Green Space) stated that in some exceptional cases potential redundancy costs were currently incorporated into contracts and noted on the relevant reports. These elements were reflected in the cost of the contract.

Cllr Colin Smith informed the Committee that the Landscape Group had joined with another organisation, and this should result in improvements.

A Member enquired if the liability for redundancy payments was time limited, and Mr Dan Jones responded that this was the case.

## **7 DATE OF NEXT MEETING**

The date of the next meeting was confirmed as 21<sup>st</sup> October 2015.

The Meeting ended at 7.45 pm

Chairman

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