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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:-

<b>Year</b>	<b>Net Reduction in Staff</b>
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><b>Department 'Pot'</b>          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><b>Central 'Pot'</b>          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><b>Vouchers – Set Amount</b>          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**  
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**and UNISON Regional Organiser**