

**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

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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 within 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.

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