

LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 25 February 2016

Present:

Employer's Side

Councillor Russell Mellor (Chairman)
Councillor Nicholas Bennett J.P.
Councillor Simon Fawthrop
Councillor Tom Philpott
Councillor Colin Smith
Councillor Diane Smith
Councillor Tim Stevens J.P.
Councillor Michael Turner
Councillor Angela Wilkins

Staff Side and Departmental Representatives

Gill Slater, Regeneration & Transformation Service
Kathy Smith, Unite
Jill Crawley, Environmental and Community Services

21 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies from the Staff Side were received from Mary Odoi and Glenn Kelly. From the Employer's Side, apologies were received from Cllr Stephen Carr, and Cllr Colin Smith acted as alternate.

22 DECLARATIONS OF INTEREST

Cllr Simon Fawthrop declared an interest in his capacity as an employee of British Telecom.

23 MINUTES FROM THE PREVIOUS MEETING OF LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 8th DECEMBER 2015

The minutes from the previous meeting held on 8th December 2015 were agreed.

24 TENDERS FOR THE COMMISSIONING OF THE LIBRARY SERVICE.

The Staff Side enquired why LBB had not disclosed that Community Links had bid for the management of the community libraries. They also asked if LBB were now prepared to disclose the identities of the other bidders, and to reveal which organisations had come forward to run the main library service.

The Staff Side were of the view that this information should have been disclosed under the Local Government Transparency Code, Section 20 which dealt with commercially sensitive contracts

Mr Colin Brand (Assistant Director for Culture, Libraries and Leisure) stated that a contract would consist of an offer and the acceptance of that offer. A tender remained an offer until a contract was agreed. It was also the case that tender details were confidential. No contract existed, and so the transparency code did not apply. He assured the Committee that commercial confidentiality had been correctly applied, and that the company details had been released at the correct time through a Portfolio Holder decision.

It was noted that after it was revealed that Community Links had been granted “preferred bidder status” to manage the community libraries, action had been initiated outside of Community House by the Unions.

A debate took place concerning the nature of this action. Members expressed concern that the action undertaken by the unions may in fact be secondary picketing. The Staff Side contended that the unions were not engaged in secondary picketing, but had been peacefully protesting. Their aim was to persuade Community Links to withdraw from the process. Cllr Fawthrop was of the view that what had taken place was secondary picketing to exert pressure on a potential supplier. He was of the view that action should be taken, and that LBB should consider suing for consequential loss.

The Vice Chairman argued that the action undertaken could never be interpreted as a picket, as a picket prevented people going into their places of work. She insisted that there was never any attempt to prevent anyone entering Community House, and that the Unions were simply distributing leaflets.

Cllr Colin Smith asked why the action outside of Community Links had been referred to as a “picketing” on a Unite website, and why were people in wheelchairs being obstructed. The Vice Chairman responded that wheelchair users were not being obstructed. Mr Brand referenced a Twitter webpage where the term “picketing” was used, and stated that more detail could be provided if required. The Director of Human Resources also stated that literature referenced “picketing”. The Vice Chairman reiterated her view that no secondary picketing had been undertaken.

Cllr Angela Wilkins commented that the facts needed to be established, and that the distribution of leaflets was not picketing. It was also a fact that an individual could use terminology incorrectly due to a lack of training or experience and so there was a need for calm.

A Member queried if the action by the Unions constituted a breach of the law.

The Chairman asked the Staff Side how they had gained access to the confidential information concerning Community Links. The Vice Chairman stated that someone was sitting in the public gallery reading a part 2 report, and that a member of the public noted the contents of part of the report.

Cllr Colin Smith asked if the Vice Chairman was permitted to pass on information in her capacity as Staff Union Representative. The Director of

Human Resources stated that it was not known at what stage in the process the Vice Chairman may have revealed the information. Cllr Smith expressed the view that the issue should be investigated.

Gill Slater felt that the Council should pay more attention to the requirements of the Transparency Code for the future, and that LBB may be prudent to take legal advice concerning this. Cllr Fawthrop acknowledged that the Transparency Code was important, and as much information as possible should be detailed in Part 1 reports. The Chairman assured the LBB had an open policy. Mr Brand referred to the original report that had been drafted concerning community libraries, and stated that 90% of the information was detailed in the part 1 report, and that the part 2 report was brief.

The Director of Human Resources made the following points:

- The term “picketing” should not be used by the Unions going forward
- It should be made clear to Union members that they did not benefit from legal protection in this case
- The Union may be at risk of financial penalty
- The Union may be guilty of unlawful secondary action
- The Union should reflect on their position and ensure that they held a valid mandate

25 BIDDING FOR COMMUNITY LIBRARIES AND THE FEASIBILITY REPORT PRODUCED BY AMEY FOR TFM (TOTAL FACILITIES MANAGEMENT) SERVICES

The Staff Side asked if the Council would share details of the feasibility report produced by AMEY for Total Facilities Management (TFM) services that the Council were preparing to outsource. The Staff Side expressed the view that the Council was obliged to share the information under the Local Government Transparency Code 2015.

The Chairman commented that the AMEY report was confidential. Mr Brand stated that a consultation process had been undertaken, and that the relevant information had been provided. He explained that Regulation 21 of the Contract Procedure Rules stated that LBB was not allowed to discuss the tender process as this was confidential. The information could not be released as it was commercially sensitive.

Gill Slater asked what information could be released that was not confidential so that staff input could be considered. She suggested that staff may be able to comment and input to the feasibility study.

The Committee noted that the feasibility study would be scrutinised by the E&R PDS Committee on March 16th 2016, and then by Executive on the 23rd

March 2016. If the proposals outlined were agreed, then a three month due diligence period would follow. Consultation would then take place with staff and the unions. The marketing for the tender was being undertaken on a like for like basis, and was neither increasing nor reducing. Mr Brand assured that the information that Ms Slater was seeking would be revealed via the due diligence process.

Councillor Wilkins asked if the feasibility report was a public or private report. Mr Brand responded that as much as possible (if not all) of the report would be public. Ms Slater expressed concern that staff were being excluded from the process, and were not being allowed access to information and specifications. She expressed the view that quality was key, and the assessment of quality was difficult and was concerned that staff were not able to highlight potential risks to the Council.

The Chairman reminded the Committee that the intention was to transfer the service on a like for like basis, and that any new contract would be scrutinised by the Contracts Working Group. He was of the view that the Staff Side were expressing hypothetical arguments which were not helpful, and that they should let the professionals progress.

Cllr Fawthrop stated that the Unions may like to consider putting forward a bid for the service. Mr Brand stated that there was an ongoing dispute concerning the release of specifications, but that the Trade Unions had the information. He informed the Committee that experts had drafted the specifications, and that the documents were in circulation for staff to see.

Ms Slater contended that:

- There was still work outstanding on specifications
- Specifications had a “ripple” effect
- The process had not factored in time for the information to be studied by individual Heads of Service
- The information should be located in one easy to access link

26 THE IT CONTRACT

The Staff Side had requested information concerning estimated savings for the new IT contract with BT. They had also asked if there was now a final account or report that was going to the Contracts Working Group which would set out any true savings achieved.

There was no officer available at the meeting to answer the question. The Committee agreed that the question be accepted, and that an answer be drafted by the appropriate officer, and then emailed to the Committee. In this way, the Staff Side would benefit from an answer to the question, without having to wait for the next meeting. It was further agreed that if the Staff Side

were not satisfied with the answer, the matter would then be deferred to the next LJCC meeting.

RESOLVED:

(1) that the question be accepted

(2) that an answer be drafted by the proper officer and disseminated to the Committee

(3) that if the Staff Side were not satisfied with the written answer, the matter be deferred to the next meeting of the Committee

27 DATE OF NEXT MEETING

The Committee noted that the next meeting of the LJCC had been set for 8th June 2016. This was subject to formal ratification of the new LBB Calendar of Meetings by the GP&L Committee.

The Meeting ended at 7.15 pm

Chairman

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