

**Decision Maker:**      **General Purposes & Licensing Committee**

**Date:**                      **26 March 2015**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **Review of Employee Representation Arrangements**

**Contact Officer:**      Tammy Eglinton , HR Consultancy Manager  
Tel: 020 8313 4209 E-mail: tammy.eglinton@bromley.gov.uk

**Chief Officer:**              Charles Obazuaye, Director of Human Resources

**Ward:**

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1.      Reason for report

- 1.1      This reports sets out proposals for restructuring the current employee representation arrangements within Bromley Council. It is proposed to end the current secondment arrangement of staff into staff representation roles (i.e. the trade union and the staff side secretary roles) and to review the current role and structure of the Departmental Representatives Forum.
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2.      **RECOMMENDATION(S)**

2.1.      **The Committee is asked to note and agree to:**

- 2.1.1      **Cease the secondments of staff into the roles of Staff Side Secretary and Trade Union Representative and to return the current staff undertaking these roles to their substantive positions within the Council.**
- 2.1.2      **Review the current arrangements for Departmental Staff Representatives within the Council to reflect the reduced workforce and realignment or reduction of services in line with the proposed arrangements set out in paragraphs 3.12 to 3.15 below.**
- 2.1.3      **Subject to 1.1 above, note that the Council will continue to provide reasonable support including paid time off for legitimate trade union duties in a balanced way taking into account service delivery issues.**

### Corporate Policy

1. Policy Status: <please select>. Existing
  2. BBB Priority: <please select>. excellent Council
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### Financial

1. Cost of proposal: <please select> None
  2. Ongoing costs: <please select>.
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding:
- 

### Staff

1. Number of staff (current and additional): 2
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: <please select> Pursuant to the Trade Union and Labour Relations (Consolidation) Act the Council is required to provide reasonable support/paid time off to recognised trade unions.
  2. Call-in: <please select> N/A
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? <please select>
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1. The Council has a diminishing workforce and the current employee representation arrangements are no longer fit for purpose. The workforce is likely to reduce further with the consequence of the commissioning journey the Council is currently undertaking and also because of the pace of the process of schools converting to academy status, where Bromley Council ceases to be the employer.
- 3.2. The Department for Communities and Local Government has raised concerns about the number of public servants who are paid to work wholly on trade duties and hence, pursuant to the new Transparency Code 2014, local authorities are now required to publish the number/cost of trade union officers in “seconded” posts. The Council’s 2015/16 Pay Policy Statement addresses the requirement to publish trade union information.
- 3.3 The three main unions in the Council, excluding schools, are Unison, Unite and GMB. According to HR/Payroll records Unison has 387, Unite 192 and GMB 92 members. These figures are based on the check-off arrangement i.e. those who pay their membership fee via payroll. Some trade union members may have a direct debit arrangement in place, but the overall number of trade union members (including school based staff) in the organisation are historically somewhere between 20% and 25%.
- 3.4 The current trade union and staff representation arrangement includes two seconded officers (1.75FTE) wholly funded from the revenue budget. This is made up of 0.5 trade union role and 0.5 staff side secretary post both occupied by the same officer, and an additional 0.75 trade union role was temporarily arranged in 2008 to support the implementation of the Single Status project. The latter is currently occupied by Unite. The other 0.5 trade union funded role is occupied by Unison. GMB does not have a paid seconded officer. GMB members are generally supported by their regional officer paid for by the union
- 3.5. Bromley Council has a Corporate Departmental Representative and Trade Union Forum, which meets on a quarterly basis. The Forum is currently made up of the Staff Side Secretary and a varying number of trade union representatives, mainly from the Unison and Unite trade unions. There are also 42 places on the Forum for Departmental Representatives, although only 20 of these places are currently filled. There are similar levels of vacancies at any one time which suggests the current numbers are unrealistic and the arrangements merit review.
- 3.6. Elections for the roles of Departmental Representative and Staff Side Secretary are usually held every two years and delegates are elected by employees, irrespective of whether they are in union membership. Elections for these roles have been delayed due to the structural changes that have been taking place within the Council, however current representatives indicated their willingness to continue pending the next election. Some staff were appointed as a result of uncontested nominations to fill vacancies in the interim.
- 3.7. Since the last elections for the Staff Side Secretary role and Departmental Representatives, the Council has experienced significant financial and structural challenges. There has been radical reduction in staffing in the last few years and realignment or reduction of services necessitating a reduction in the number of departments from 7 some years ago to three now. The pace of the corporate departmental rearrangement has resulted in not having the right number of departmental representatives in the right places with the right support and training to provide effective support to the organisation and its workforce.
- 3.8 Every spend and cost line is being rigorously reviewed and challenged to ensure fitness for purpose, transparency and accountability. In the face of massive budget gaps totalling circa £50m in the next few years, the Council is proposing a number of financial and structural

changes unprecedented in the history of the organisation, resulting in difficult but unavoidable decisions. Hence, regrettably it is proposed to end the secondment of staff into staff representation roles (i.e. the trade union and the staff side secretary roles) at tax payers' expense. Staff representation should be carried out and reasonably supported by the organisation as part not instead of the representatives' normal job with the Council. The proposal is adopted in a number of public and private sector organisations to good effect without undermining good industrial relations and staff engagement.

- 3.9 The current arrangement has not kept up with the pace of financial and structural changes and challenges facing the organisation, requiring a different streamlined staff engagement structure capable of delivering tangible outcomes for staff, the organisation and Bromley residents and customers. The current arrangement with the elected staff side secretary at the centre is no longer required given the smallness of the corporate departments and the importance of localising staff engagements in teams and services to maximise staff involvement, communication and cooperation.
- 3.10 Going forward it is important to maintain a thin but fine divide between the role of trade unions and the role of departmental representatives which is currently partly blurred by the single engagement forum namely the Corporate Trade Union and Departmental representatives Forum chaired by the Director Human Resources and regularly attended by the Chief Executive. The mixed representation of trade union representatives and departmental representatives does not create a healthy non adversarial environment for meaningful dialogue and engagement with the departmental representatives in particular on issues not restricted to those requiring trade union consultation and where appropriate agreements. It is therefore proposed that a separate consultative/engagement forum for departmental representatives and a separate consultative/negotiation meeting with the trade unions are created.
- 3.11 In summary, the current arrangement is no longer sustainable or fit for purpose. It is, therefore, proposed:
- i.) to cease the secondment of staff into staff representation roles including trade union roles solely for staff representation purposes;
  - ii.) that following on from (i). above delete the staff side secretary seconded role;
  - iii) to review the structure and terms of the corporate trade union and departmental representatives' forum, with a view to adopting separate arrangements for departmental representatives and trade unions, achieving a smaller number of departmental representatives consistent with the current and future size of the workforce. Details of the proposed structures are set out below.

### **Going Forward**

- 3.12 If the Committee agree the recommendations in this report, the current departmental representatives' arrangement will be reviewed and strengthened by realigning its focus and priorities to include the following;
- \* Better engagement with senior management and Key Members including Cabinet on strategic OD matters, service redesign, change programmes, etc.
  - \* Working together to build trust and confidence in the departmental representatives' structure to deliver tangible support and change for the good of the organisation.
  - \* Mutual recognition of the changing financial landscape and the associated challenges and opportunities facing the Council.
  - \* Provide genuine support and capacity to the organisation and staff to maximise staff ability to influence change.
  - \* Develop credibility and work well with staff, managers, Members and the organisation.

3.13 The current number of departmental representatives (42, although only 20 roles are currently occupied) is no longer sustainable or effective. The high level of vacant departmental representative roles suggest that the number is not right given the pace of the structural changes in the recent years. Hence It is proposed to reduce the number of overall departmental representatives to reflect the new departmental structure and reduced workforce, as follows.

Education Care & Health Services	5 representatives
Environment and Community Services	4 representatives
Chief Executives Department	3 representatives

This would provide a total of 12 representatives across the Council, reducing from the current 42.

3.14 Therefore, the new Corporate Forum would therefore comprise of:

- ◆ 12 Departmental Representatives;
- ◆ Director of Human Resources;
- ◆ Chief Executive;
- ◆ HR Consultancy Manager

Other Directors and Attendees as appropriate to the agenda. Key Members and in particular the Leader of the Council and the Cabinet Member for Resources will be invited to actively engage and participate in the forum discussion and thus improve the contact and communication with departmental representatives on key Member priorities.

3.15 Departmental Representatives would continue to hold office for a period of two years provided they remain as employees during the period; these representatives would be elected by all (non-teaching) employees irrespective of whether they are in union membership;

### **Arrangements With Trade Unions**

3.16 Separate meetings both planned and ad hoc between management and unions will be arranged to enable both parties to fulfil their legal obligations and duties.

### **Local Joint Consultative Committee (LJCC)**

3.17 Separately there is a Local Joint Consultative Committee comprising elected Members/Councillors, trade union representatives and departmental representatives. The proposal to reduce the number of departmental representatives to reflect the workforce reduction, set out in paragraph 3 above, may require the LJCC to reconsider the membership/number of employee representatives on the Committee. If Members decide to review the composition or/and structure of the Committee unions and departmental representatives will be informed and consulted accordingly.

### **Trade Union Response.**

3.18 The three Unions are unanimous in their opposition to the proposal. The formal responses from the unions can be found on below.



GMB - Response to consultation.docx



Unison - Response to Consultation.docx



Unite - Response to Consultation.docx

The summary of the trade union position is as follows:

- i) Pace and scale of organisational changes requiring trade union and staff consultations. The unions question the timing of the proposal given the various corporate and departmental reorganisations and therefore contend that staff access to trade union support will be significantly undermined. It was stated by one of the unions, in inter alia, that “had the Council stated it aim was to review the current arrangements at the end of the budget and commissioning process in 2016/17 we would understand this, ...”
- ii) Right to trade union representations – the unions also assert that the proposal will undermine the right of individual employee to be accompanied and represented at disciplinary, grievance, redundancy dismissal meetings, etc. They believe that the proposal is practically incompatible with the Council’s legal and financial interests. Somewhat contrary, one of the unions also wrote in inter alia “the Council has not withdrawn the right to paid time off for trade union duties – it is the way in which it is allocated that is in dispute”.
- iii) service impact – the unions reject the main proposal to manage time off for trade union officers as part of their normal substantive roles because of the potential disruption to planning and management of service delivery issues and HR caseworks requiring trade union representations. They believe that individual departments will have to cope with unplanned absences from the workplace as representatives make increased requests for reasonable time off to perform trade union duties.
- iv) cost factor – the unions say that the current arrangement with 1.75FTE funded roles is value for money given the resources available to other Councils and the roles of unions in the organisation. They claim that the proposal is “simply unworkable, impractical and more expensive”

#### **4. POLICY IMPLICATIONS**

These are already covered elsewhere in the report. Suffice it to say that the Council understands the importance of good and effective communication and engagement with staff and their representatives. It will continue to review the arrangement to reflect the current and future changes and challenges facing the Council.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 The current budget for the Staff side/Trade Union post (1fte) is £46,060 which is funded £23,030 from the Chief Executives department and £23,030 from the CYP division of the Education Care & Health department. It was always acknowledged that if the secondment ended the post holder would return to their substantive post, which is not an issue as there are a number of vacancies within that team.
- 5.2 Funding for the 0.75 Trade Union post until recently was always met from within the overall library service, however after the restructure of the library service in October 2014 this was no longer possible. This post is currently being funded from one-off underspends within the Chief Executives department.
- 5.3 Ceasing of the existing arrangements will require some funding to be set aside for staff side/trade union work, so it is proposed that the £46,060 is held centrally within the Chief Executives budget until officers know how much of this is required and then the balance will be offered up as a future budget saving.

## 6. PERSONNEL AND LEGAL IMPLICATIONS

The main legal provision is the Trade Union and Labour Relations (Consolidation) Act 1992 which basically entitles recognised trade unions to reasonable paid time off for trade union duties. There is no legal entitlement to paid time off for trade union activities. The distinction is very important because trade unions activities are normally non employment related matters.

- 6.1 As stated above the unions have not suggested that the Council's proposal to continue to provide reasonable support to the unions and their officers including reasonable paid time off for legitimate trade union duties albeit under a different arrangement does not fulfil the requirements in the Trade Union and Labour Relations (Consolidation) Act 1992. The Act does not require employer to provide fully funded "pilgrim" or seconded trade union or staff representation roles. The Council will continue to provide reasonable time off for trade union duties in a way that reflects good practice and the operational requirements of the organisation. Contrary to the unions' claim the right to be accompanied and represented by a union representative is limited, in law, to disciplinary and grievance hearings. Notwithstanding, Bromley Council's arrangement in relation to disciplinary/grievance matters is far wider than the legal provision. Staff in Bromley, unlike many organisations including local government employers, can be accompanied or/and represented by any person of their choice including external representatives and friends and family members. In some cases staff have been represented by legal representatives. This will be maintained if the proposal is agreed.
- 6.2 Similarly, the proposal does not affect the legal provision to consult with recognised trade unions in relation to collective redundancies, TUPE, etc. The Council will continue to consult with the unions and negotiate with them where appropriate.
- 6.3 For reasons already covered elsewhere in this report, the current arrangement of seconding staff to the centre for trade union or/and staff representatives fails to recognise the pressure to review and scrutinise every resource and structure in the organisation. The number of union members is also a crucial factor. Having a fully funded trade union role in the centre to support a relatively small trade union membership in the current pressure is unsustainable going forward. The unions have responded negatively to the idea of paying or contributing to the cost of the current arrangement. The consultations with the unions started on 10 February and to date the unions have not offered any credible alternative to the proposal. The consultation document was also copied to all the existing departmental representatives and a further copy was posted on One Bromley for staff information or/and comments. Some staff have already commented either to HR or Members, or both. Their views are not dissimilar to the trade unions' response above.
- 6.4 If the proposal to end the current arrangement of seconded staff representation roles is agreed, two staff members are directly affected. Both officers will be supported and retrained if appropriate to return to their substantive roles. They are not redundant because they have a substantive role to return to which will be carefully and sensitively managed because of the length of time one of them in particular has been away for. HR will work with the individuals and their line managers to ensure a smooth transition as well as finding the right balance if and when legitimate request for time off for trade union duties are considered.
- 6.5 The future arrangement will be reviewed in consultation with the unions and the departmental representatives in the interest of good industrial relations, effective staff engagement and the Council's overall duty of care to Bromley residents. Contrary to the unions' position the proposal will provide union members and their departmental representative-colleagues to assume greater responsibilities to participate in the challenges and opportunities facing the Council.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]