



Bromley local Government Branch submission

Dear Charles

Re: PROPOSAL TO END TRADE UNION SECONDMENT

I am writing in response to the above proposal.

History

As you will be aware for over 40years the council has recognised that the most efficient and effective way of meeting its legal obligations with regards time off for trade union representatives to carry out their role, has been for the council to release the elected branch secretaries from their jobs.

The time off the council has granted has shrunk considerably over the last 15years from three FTE to just 18hours per week currently given to UNISON.

In comparison to other London boroughs, Bromley currently provides one of the lowest amounts of trade union facility time. In the neighbouring borough of Croydon for instance they currently have 6 FTE on secondments.

In addition unlike a number of other local authorities who have evaluated a grade for the post based on the skills and knowledge required to undertake the role, Bromley Council has always seconded only on the basis that the employee would earn the same salary as the post that they were originally employed in hence saving itself considerable money.

In fact in my case the council has saved itself thousands of pounds in that it has not paid me the recruitment and retention payment paid to child care social work staff for many years (approximately £2000 per annum).

Historic level of change in the council

I am sure we would all agree that due to the local authority funding crisis the council is embarking on the biggest change programme in the 30years I have been working here, if not in its history.

The budget reductions planned over the next four years of some £70million are and will continue to lead to major staffing restructurings and reductions. On top of this is of course the wholesale commissioning agenda.

The level of transformation and change that the above will bring naturally will have serious Employment Rights issues for the workforce and our members. Such is the scale and speed of the changes that it will inevitably place a great strain on the council to ensure that there is a meaningful and genuine collective bargaining process within the Council.

It is somewhat surprising given the level of change that is to take place over the next 2-3 years, that the council is looking to cut the amount of time the trade unions have to carry out our legitimate functions.

This is contrary to past practice where the Council has recognised the risks of not meaningfully engaging with the Trade Unions by providing additional facility time to recognise additional work pressures, such as the Single status agreement and the job evaluation exercise.

Whilst I recognise that the proposal is not being put forward as a budget cutting exercise (in fact we believe that it could cost the council more) it is none the less a 100% cut in the budget for facility time a level of cut that no other section has faced.

Had the council stated its aim was to review the current arrangements at the end of the budget and commissioning process in 2016/17 we would understand this, after all if the council ends up employing no workers it would be difficult to argue against.

The council proposal will be a false economy and impractical and one that will satisfy neither management nor the union.

As you will be aware the council in recognising UNISON has a number of statutory duties under the ACAS code to allow paid time off for trade union representatives to undertake all of its duties. As such the council will still legally be required to fund paid release for these duties.

The council would be required to release the UNISON representative for the all work under the following formal Procedures. A failure to do on any of these can have significant legal implications for the local authority.

Disciplinary

Grievance

Sickness

Redundancy

Job Evaluation scheme

TUPE consultation

Annual Pay talks

These include all meetings, investigations, hearings and appeals under these procedures.

This work includes the right to adequate time off to meet with the member beforehand and time to prepare properly. It is not uncommon that hearings in

the council can involve literally hundreds of pages of management documents and for hearings to run over a number of days.

Department Restructures

Currently we are being inundated with budget cut proposals which involve staff reorganisations, with the promise of many more to follow in the next few years.

For each one of these reports UNISON will be entitled to adequate time off to read the reports, meet with members affected by any restructuring proposal. It will also include time off to prepare for and conduct negotiations with management and time off for presenting the union case to councillors.

Once a restructuring proposal has been agreed by council we would then be entitled to time off to individually advise any member affected as to their rights in relation to redundancy and or redeployment including time to prepare and present any redundancy appeals.

Outsourcing

For every proposed outsourcing proposal again UNISON will be entitled to adequate time off to read the reports, meet with members affected by proposal.

It will also include time off to prepare for and conduct negotiations with management and time off for presenting the union case to councillors.

As and when the council decides to outsource a service we would then be entitled to time off to meet the legal requirements for consultation under the TUPE regulations.

Local Pay

Since the council introduced Localised pay this now means that a series of weekly meetings are held from each September through to February. This would not only involve paid release time for the meetings, but also in order to prepare and present our case before management and the various council committees.

Terms and conditions

Since the introduction of Single Status and Localised pay the council has proposed and sought to negotiate a number of local changes to terms and conditions.

These have included the introduction of Car parking charges, a review of the car allowance scheme, and the introduction of a merited pay award scheme and the ending of automatic cost of living pay rise.

All of these have involved a significant amount of time in negotiations, meetings with union members and meetings presenting our case before

councillors. In addition in a number of these processes union members have appeal rights which have meant time needed for preparation and presentation of appeals.

The council has indicated that a review of terms and conditions is going to be an ongoing situation in the years to come.

This year alone we are **still** involved in the consultation/negotiations over the proposed ending of automatic pay progression for new starters and the proposed ending of the current car allowances scheme.

Job evaluation scheme

Under the council Job evaluation scheme every worker is entitled to seek a review of their grade and ask for a re grading appeal. These appeals involve a considerable amount of preparation time and then presenting a case to a panel. In addition where the council carries out a restructuring of a job role the worker has a right to challenge any proposed new grading.

Where a job evaluation panel is set up the union can also be required to sit on a panel.

Casework

In addition to the formal Casework referred to above there is much informal advice work undertaken. It is a fact that sometimes early informal intervention can save the employer time and resources.

Informal casework can be a small intervention which may require an email or telephone call or short meeting and or a discussion with HR and or a manager to resolve a matter without the need for it to progress into full blown time consuming procedures, it is often through this sort of ad hoc work that we are able to resolve a case rather than the need for lengthy and expensive legal action.

Much of this work is only possible because of ease of access by management to the union branch secretary by phone email or in person. The problem we have is that it is impossible to know initially what resource is required for each request for support and/or representation.

Impracticable for management to manage

Given the description of both the wide scope and range of work for which paid time off will **have** to be given it would be highly impractical for a local manager to on the one hand be allocate work to myself and to be constantly having to release me from the job in order to carry out the union role.

It would inevitably lead to either hearings, negotiations being delayed through postponements due to workplace commitments and/or it will lead to management frustration that work they needed to be done not being able to be carried out due to the need to be released for union duties.

Given that I am employed as a social worker it is not simply a case that work could be dropped in order to attend even a planned meetings and hearings.

Imagine the situation where a disciplinary hearing had been set up involving significant numbers of management and staff and HR, where the time off was agreed for me to represent a worker, but I was on duty and something ran over or I was carrying out a child protection investigation that was running over and can't be just dropped. This will lead to late postponements being required and the time work and cost of re arrangements and delays.

An unsafe practice

It is also likely to lead to increased pressure and conflict in the work place between the local manager and myself.

Under the current system the Facility Time has backfill funding to the department. This means there is a temp/agency/locum member of staff carrying out the work which is not being completed because the UNISON rep is carrying out trade union duties.

Under the new proposals there is no reference to funding the backfill time required. It is therefore only reasonable to see that the '**ad hoc**' release will inevitably lead to increased stress in the workplace as I try to carry out my job as well as do the union role.

As you are aware the UNISON secretary is a social worker. There is an additional risk that by adopting the time off on an '**ad hoc**' basis could **compromise** my professional status.

By that I mean, I will be working under significant duress trying to deal with the stress of what is a demanding job and coping with the knowledge of the **negative impact my** absence away from the workplace will now have on their work colleagues, services users and carers as a result of being called away to carry out their Trade Union duties.

I am concerned that the strain of carrying out trade union duties and my own work will mean constant negotiation around achieving time off. All of this combined will increase the risk of stress and burn out for myself and also on my colleagues who will be picking up the extra work.

The Council has a duty of care to me as Council employee. There is of course a risk of stress induced illness to those affected by the withdrawal of paid time off.

Right to confidentiality of staff threatened

We are also particularly concerned about the impact of the '**ad hoc**' time off proposals will have on staff with protected characteristics. Under these proposals there is an increased likelihood that members will become even more reluctant to discuss equality issues with UNISON as they fear the union will have to disclose information to the Council about them in order to secure the time off.

Who will and can carry out the role of union representation?

In response to the points above management have suggested “that all the above work **doesn't** have to be carried out by the branch secretary it can also be carried out by other representatives”.

This position ignores a number of practical realities.

Firstly to undertake the case work it must be undertaken by a legally ERA accredited representative. Whilst UNISON has the biggest union membership in the council, UNISON has only **one** other ERA accredited representative other than the Branch Secretary directly employed by the council. This unusual situation is because of the previous internal situation within UNISON when the majority of council representatives left UNISON to join UNITE.

Secondly even if they existed it is not reasonable or practical to ask local reps to be expected to carry out complex employment cases or negotiations involving TUPE, redundancies and or contractual changes. Given that the role is a voluntary one any attempt to do so is likely to push them to resign rather than encourage them to take up the role.

I should point out it is not a position that any manager in the council is put in. There is no manager for instance who is required to present or conduct hearings and or negotiations without an HR advisor supporting them.

Even if more reps existed due to their inexperience it is likely that we would end up with more appeals being lodged for which the branch secretary would be called in anyway which would mean more not less time being required.

Thirdly due to recent case Law ACAS are due to revise the legal codes of practices to strengthen the rights of a worker to have the representative of their choice. (Toal and Hughes v GB Oils Ltd)

The current Facility Time approach through the secondment provides the certainty of resource (albeit limited) which provides greater flexibility for arranging formal and informal meetings at short notice. This is something that I have found has greatly benefited both the employer and our members. The **'ad hoc'** approach will hinder this practice and potentially lead to escalations which could consequently mean a greater demand of resources from the employer.

Facility Time provides certainty in terms of preparation and planning of work for meaningful consultation and the representation of members through casework.

It also provides anonymity for our members to be able to seek advice without fear of reprisals. By that I mean we currently have significant numbers of

members across the Council who approach the branch on an informal basis seeking advice or support. Our approach is always to explore the options and seek where possible an informal resolution to any issue. It is our belief that the **'ad hoc' time off** proposal will undermine this positive relationship both with our members but also with the Council.

Risk of tick box representation and consultation.

It is our view that the **'ad hoc'** approach risks leading to a tick box culture whereby a UNISON rep turns up to meetings without any time to prepare, plan or organise a response to employer proposals such as restructures, outsourcing or representation at a disciplinary/capability hearing.

It is important to UNISON that our members are able to access their UNISON reps and that sufficient time is allowed for reps to facilitate meaningful consultation with them. In order to support consultation UNISON reps need time to read all relevant information, to research Case Law and relevant legislation in order to positively engage in negotiation and consultation.

Ad Hoc' will cost more

In conclusion I would like to reiterate that UNISON wants to be able to have a meaningful role in aiding resolutions of problems and conflicts at work. The role of a Trade Union rep can be both demanding and complex. In order for a Trade Union rep to be able to carry out Trade Union duties effectively they need reasonable paid time off from their normal work.

In 2007, the then Department for Business, Enterprise and Regulatory Reform (BERR, now BIS - Department for Business Innovation and Skills) conducted a review of facilities and facility time available to workplace representatives.

The review found the following in unionised workplaces:

- Dismissal rates were lower
- Voluntary exit rates were lower
- Employment tribunal cases are lower
- Workplace-related injuries were lower
- All of the above generated savings up to £977m for the employer.

It is my experience from representing members in Bromley Council over for over 25years that there is a very real risk that ineffective consultation and representation can and does lead to increased costs of litigation and compensation.

I am concerned that **'ad hoc' time off** will lead to further delays and prove to be more expensive both in financial terms and service delivery.

It is our view therefore that a Facility Time approach is the most cost effective means of securing meaningful collective bargaining in any organisation.

Finally it should be noted that all the above arguments have recently been rehearsed in the London borough of Barnet and after deliberation the council decided **not** to proceed with withdrawing the existing facility time agreement.

In addition Barnet have developed a formula whereby written into all the outsourcing contracts is that they proportionally fund the trade union facility time based on the number of staff transferring and as such the private sector are helping to pay for the facility time.

Glenn Kelly
UNISON Branch secretary