

## LOCAL JOINT CONSULTATIVE COMMITTEE

Minutes of the meeting held at 6.30 pm on 21 October 2010

### Present:

#### Employer's Side

Councillor Russell Mellor (Chairman)  
Councillor Nicholas Bennett J.P.  
Councillor Eric Bosshard  
Councillor Stephen Carr  
Councillor Robert Evans  
Councillor Michael Turner  
Councillor Stephen Wells

#### Staff Side and Departmental Representatives

Kathy Smith (Unison) (Vice-Chairman)  
Peter Beckett, Resources Department  
Adam Jenkins, Unison  
Glenn Kelly, Staff Side Secretary  
David Lambert, Environmental Services  
Peter Moorcock, GMB  
Max Winters, Children and Young People Services  
Geoff Wright, Adult and Community Services

### **1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

An apology was received from Councillor Tony Owen

### **2 APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN**

Councillor Bennett nominated and Councillor Wells seconded Councillor Russell Mellor as Chairman.

Glen Kelly Nominated and Councillor Stephen Carr seconded Kathy Smith as Vice-chairman.

**RESOLVED that Councillor Mellor is appointed as Chairman for 2010/11 and the Mrs Kathy Smith is appointed as Vice-chairman for 2010/11.**

### **3 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **4 MATTERS ARISING FROM PREVIOUS MEETINGS**

Staff side representatives questioned whether "matters Arising" was permissible within the bounds of the Constitution for the LJCC. The Clerk would clarify this.

There were no matters arising.

**5 MINUTES FROM THE PREVIOUS MEETING OF LOCAL JOINT CONSULTATIVE COMMITTEE HELD ON 10th March 2010**

The minutes of the meeting held on 10<sup>th</sup> march were received.

**RESOLVED that the minutes of the meeting held on 10<sup>th</sup> March were agreed as a correct record.**

**6 CONTRACTING OUT AND THE COUNCIL PRACTICE/POLICY**

Staff side representatives reported that, in the past, Bromley appeared to have a clear policy when it came to services being sold off; a clear open tendering process, an in-house bid at the same time and undertaking TUPE. This had always been the standard practice.

However, with homecare and extra care housing this process was not being followed. Denton and Cranbrook courts were not owned by Bromley but the Council provided the care. Staff side's opinion was that all the staff would move, the contract should be tendered and TUPE should apply.

In relation to Homecare the council currently provided 3000 hours in house service using 130 employees and agency staff. The staff side understood that all 3000 hours would go across to private agencies but there would be no open tender or in-house bid and TUPE was not being applied. Under these circumstances the staff side advised members that in their view, and having taken legal advice, TUPE applied.

In response the Assistant Chief Executive for Human Resources stated that the council does not have a policy for contracted out services and one way of dealing with these services is to out-source and in these cases TUPE does not apply.

The staff side stated that if the Council did not offer TUPE then they could not offer the contractors legal indemnity. In response it was told that legal advice would be sought.

The Staff Sides representatives then stated that if all the home carers were made redundant, under the TUPE regulations regarding consultation, the council would be in breach and he would then advise staff to sue.

The Assistant Chief Executive for Human Resources responded that the council would be seeking legal advice which would be passed to the Portfolio Holder for Adult and Community Services.

**7 ACCESS TO LEGAL ADVICE FOR THE DEPARTMENTAL REPRESENTATIVES AND STAFF SIDE**

Staff side explained that the council had set up the Departmental Representatives (Dep Reps) scheme so that employees, who were not part of a recognised trade union, would be represented. However it had become apparent that the Dep. Reps were often in a difficult position when requiring

legal advice in order to help employees. Both the council and the staff had access to legal advice but Dep. Reps did not.

The employers' side did not feel it appropriate to provide legal advice when the matter was likely to be when staff was taking action against the council. The Assistant Chief Executive for HR added that it would not be possible to offer legal advice in the present economic climate.

The Chairman suggested that the Assistant Chief Executive may like to consider dealing with exceptional cases but with no unilateral undertaking.

## **8 PAY AWARD 2011**

The staff side secretary enquired what funding the Council had set aside for the pay award 2011.

The Chairman explained that this could not be considered until the budgets were known after the 14<sup>th</sup> February 2011. However he added that it had been agreed by central Government that there would be a nil % pay rise.

## **9 HOME CARE CUTS PROPOSAL**

As this issue would be considered at the next full council on Monday and over 2000 people had signed a petition against the home care proposals this item was noted for information.

**RESOLVED that the proposal is noted.**

## **10 YOUTH SERVICE CUTS PORPOSAL**

The Staff side were concerned that there had insufficient consultation on the proposed cuts to the Youth Service. Officers explained that this was just a proposal at this stage and therefore consultation had not been undertaken.

**RESOLVED that the proposal is noted**

## **11 PARKS SERVICES CUTS PROPOSAL**

Officers explained that they had a meeting with staff and that cuts to the parks services was one of a number of issues. As it was only a proposal consultation had not yet taken place.

**RESOLVED that the proposal is noted.**

## **12 DATE OF NEXT MEETING**

The Meeting ended at 8.30 pm

Chairman

*Local Joint Consultative Committee*  
*21 October 2010*