

## **AGENDA ITEM NO: 4**

### **To : Members of the Human Resources Committee**

Councillors : Steve Comer, Mark Wright, Geoff Gollop, Sean Beynon, Fi Hance

Copy to : Robert Britton, Service Director, Strategic HR  
Will Godfrey, Strategic Director; Resources  
David Trussler, Strategic Director, Transformation  
Minute Book, DSO, ISO, Spares x 15, Linda Fitton  
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### **HUMAN RESOURCES COMMITTEE**

**2<sup>nd</sup> September 2010**

### **PUBLIC FORUM STATEMENTS**

| <b>AGENDA ITEM</b> | <b>AUTHOR OF STATEMENT</b> | <b>SUBJECT(S) OF STATEMENT</b>                             | <b>No.</b> |
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| 8                  |                            | Local Government Pay                                       |            |
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| 6                  |                            | Default Retirement Age                                     |            |
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## **BRISTOL CITY COUNCIL HUMAN RESOURCES COMMITTEE**

**THURSDAY 2<sup>ND</sup> SEPTEMBER 2010**

### **COMMENTS OF UNISON**

#### **AGENDA ITEM 5 – WEB ACCESS FOR STAFF / AMENDMENTS TO THE CODE OF CONDUCT**

UNISON has serious concerns regarding the potential breaches of the Human Rights Act 1998 and 2000 with regards to the proposed amendments to the Code of Conduct (CoC) under paragraph 11.3. of the CoC. In particular, paragraph 11.3.2 (Social Networking websites) and 11.3.3 (Personal websites and blogs) are the areas of the revised policy which UNISON believes should be rewritten.

1. The Human Rights Act 1998 provides a right to a personal life, including a right to correspondence (Article 8) and a right to freedom of expression (Article 10). The proposed sections 11.3.2 and 11.3.3 do not appear to take any account of these rights.

Both sections are attempts to regulate staff's expression, correspondence and behaviour in their personal and private capacities.

While both Articles 8 and 10 are qualified rights, such qualifications are usually applied on a case-by-case basis, rather than through the type of blanket qualification attempted in section 11.3.2 and 11.3.3.

The very brief 'Legal and Resource Implications' note attached to the report to the committee fails to even acknowledge staff rights under the Human Rights Act 2000, let alone provide any evidence that the council has engaged in any efforts to properly and fairly qualify these rights. The council's comparatively minor reputational and confidentiality concerns are not legitimate qualifying aims anyway. These are usually concerned with important things like national security and the prevention of crime.

All public authorities are legally obliged to treat their staff in accordance with the Human Rights Act 2000. The committee therefore needs to ensure and provide clear evidence that the proposed sections 11.3.2 and 11.3.3 properly comply with council's obligations under the Human Rights Act 2000 and that the issue of proportionality has been clearly and openly addressed. There is absolutely no evidence of this in the current report.

2. The drafting of sections 11.3.2 and 11.3.3 is such that it would enable a hostile management to easily prevent Bristol City Council staff engaging in legitimate trade union and political activity. It will also prevent staff playing a coherent role in the civic life of the city.

Examples of UNISON's concerns are:-

“ The employees[staff] must refrain from identifying themselves as working for the Council, or disclose the name of Bristol City Council on it, or allow it to be identified by details, which has or may have the effect of bringing the Council into disrepute”.

This clause prevents staff from even naming Bristol City Council. This is entirely incompatible with engaging in normal and legitimate political and trade union activity. Neither could staff engage in any of the normal aspects of civic life on this basis.

The clause also prevents city council staff identifying themselves as such. This is entirely incompatible with engaging in legitimate trade union activity.

The clause also prevents staff allowing Bristol City Council to be "identified by details". The meaning and reach of this term is unclear. Although it appears to be a catch-all phrase aimed at discouraging staff from engaging in legitimate political or trade union activity by circumscribing their ability to discuss their employer.

The phrase "bringing the Council into disrepute" is not clearly defined or explained. The term "may have the effect of" is another catch-all open to the subjective interpretation by management. This will discourage legitimate political or trade union activity.

“The employees must not identify other Council employees or service users without their consent”.

The meaning of this phrase is unclear. Does "identify other Council employees" mean that employees cannot be named at all? Or does it mean staff are not able to identify anonymous employees or service users? This clause needs to be much clearer in its intention and meaning.

“The employee [staff] must not make any defamatory remarks about the Council, its service users, employees or managers or conduct themselves in a way that is detrimental to the Council”

Defamation is a legal term and entirely a matter for the High Court. Neither members, officers, strategic leaders nor their business partners have the authority to declare a statement defamatory. References to defamation in this context therefore appear superfluous.

The term "detrimental to the Council" is woolly, not defined and, as usual, incompatible with staff engaging in legitimate trade union and political activity.

“The employees” [staff ) must not disclose personal data or information about the Council, or its service users, employees or managers that could breach the Data Protection Act 1998.(e.g. photographs, images)”.

This clause is perfectly reasonable. It also suggests that sections 11.3.2 and 11.3.3 should be immediately scrapped and replaced with a gentle reminder to staff that at all times they are subject to the Data Protection Act, the Human Rights Act, copyright law, laws of contempt and the laws of defamation. This will serve to provide the council with the level of reputational and confidentiality protection that the law currently allows. It would also not interfere with staff's human rights.

3. The proposed code provides no definition of "Social networking websites". Neither is there a widely held ad hoc definition available or even a widely agreed consensus on what they may be. This is a recipe for confusion. It also means that the council has failed to properly differentiate between "Social networking websites" and other internet and world wide web utilities.

The intention seems to be to spread the widest net possible over trade unionists' and political activists' use of sophisticated and popular web-based campaign and organisational tools. This is unacceptable.

Whilst the HR Committee report fairly and accurately reflected the discussions between the City Council and the Trade Unions, there were no discussions around data protection issues and before UNISON can give its support to the revised CoC, the areas referred to above must be redressed as quickly as possible.

UNISON would further point out, that is it has still to be demonstrated by the City Council that Netsweeper can provide reports that are fit for purpose for identifying excessive usage of websites. Failing this, the existing I.T. information is not good enough to make a decision on whether an employee has been "excessively" using the internet.

#### **AGENDA ITEM 8 – LOCAL GOVERNMENT PAY**

UNISON notes the letter dated the 8<sup>th</sup> July 2010 addressed to all Chief Executives of Local Authorities in England, Wales and Northern Ireland, from the Local Government Employers (LGE).

UNISON would point out that since the letter was sent, the single status unions have already responded to the LGE's position on the 2010 / 2011 pay claim, by lodging a claim with ACAS for arbitration in order to settle this years "dispute". Both sides have a right to go to arbitration, and the outcome is binding on both sides.

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Submission for Human Resources Committee Thursday 2 September 2010

Agenda item 5 Web Access for Staff/ Amendments to the Code of Conduct

The Authority should benefit from the proposed increased web access to web sites. There are however, shortcomings in the Netsweeper monitoring software as outlined in paragraph 3.2 (d). The software cannot account for the situation where an internet explorer window is minimised after viewing a web page.

In response to paragraph 4.1 Basic Business web access should also include forums, which a number of Council employees may already be members of. Forums are an excellent source of external advice and guidance for officers and staff.

The legal advice states employees must be made aware of amendments to the Code of Conduct. How is this going to be done before the 1 October implementation date including those employees who do not have access to the Source/ Group Wise?

Agenda item 6 Default Retirement Age : Implications for Bristol City Council

In response to paragraph 4.2 of the report Unite the Union would like to see the default retirement age abolished prior to changes in legislation taking effect from the 1 October 2011. There are individual appeal rights where employment past 65 is not agreed but these are dismissal appeals. It will be hard for individual employees to understand why their application to work beyond 65 is being refused when they know the legislation will be changing from a future date.

Agenda item 8 Local Government Pay

The Single Status trade unions at a national level have lodged a dispute in response to the national employers decision not to apply the £250 increase announced by the Chancellor in the last budget. A meeting with the national employers has been requested and the dispute will be referred by the trade unions to ACAS.

Steve Paines Convenor



South Western Region

## **GMB SUBMISSION TO HR COMMITTEE 2<sup>ND</sup> SEPTEMBER 2010**

The GMB wishes to make the following submission to the above Committee:-

### **1. Backfilling of posts by apprentices**

The GMB did not receive a response to the concerns raised at the last HR Committee in relation to apprentices being used for either agency staff or permanent staff. The GMB issued a copy of a letter demonstrating that this was being proposed.

### **2. Web Access for Staff – Amendments to the Code of Conduct**

The GMB is concerned that staff may be penalised whilst undertaking their duties and responsibilities. The GMB would also like to know whether this applies to the computers in the Canteen.

### **3. School Support Staff Negotiating Body**

The GMB is concerned that the School Support Staff Negotiating Body appears to have been put on hold under the Coalition Government. The GMB is concerned that the specific issues affecting school support staff are not being properly addressed. We therefore ask Bristol City Council to support the progression of this Body.

### **4. Local Government Pay**

The GMB would urge Bristol City Council to adopt the pay award for those staff who would qualify under the Government regulation as we consider that those most affected are within the middle to lower pay bands.

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**Organisation Officer**

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