

## **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

### **HUMAN RESOURCES COMMITTEE**

**24 September 2010**

#### **A. PUBLIC FORUM QUESTIONS**

A copy of public forum questions submitted by Unison is attached. Answers will be available in the meeting room one hour before the meeting starts.

#### **B. PUBLIC FORUM STATEMENTS**

1. UNITE re: agenda items 5, 6, 7 & 8.
2. GMB re: agenda items 5, 6 & 7.
3. UNISON re: agenda items 3, 5, 6, 7 & 8.
4. Dick North, Chair, Joint Employee Relations Board & Martin Jones, TU side Joint Employee Relations Board re: agenda items 6, 7 & 8.
5. Ian Scott re: agenda item 5

**FRIDAY 24<sup>TH</sup> SEPTEMBER 2010**

**QUESTIONS FROM UNISON (BRISTOL BRANCH) ON THE FOLLOWING REPORTS:-**

1. Pay Protection.
  2. Redundancy Pay
  3. Voluntary Redundancy
  4. Senior Management Restructuring
- 
- 1) Under existing policies and procedures, any changes which are implemented do not affect existing ongoing cases (i.e. employee grievances). Why is this not being recognised under the pay protection changes where it would appear there could be a service review being conducted, and if part of the service is implemented before the 31<sup>st</sup> December 2010, any employee on pay protection will receive a 3 year protected period whereas others in the same service reviewed after this date will only receive a 1 or 2 year protection.
  - 2) UNISON understands that any employee who has their wages funded partly or in full from the Housing Revenue Account (HRA), will not be affected by the Voluntary Redundancy Policy. As this has not been made clear from any of the reports, will the City Council clarify the situation in respect of HRA funded posts.
  - 3) Can the City Council confirm that posts whose funding is subject to grants (i.e. arts council etc.) will be subject to the Voluntary Severance Scheme.
  - 4) Why has UNISON, along with its trade union colleagues who are key stakeholders, have never at any time been consulted upon the contents of the Equality Impact Assessments (EIA's) in any of the reports referred to above.
  - 5) Can the City Council confirm that all authors of EIA's have received full training on EIA's and are familiar with the legal requirements.
  - 6) Who are the core cities referred to in the reports.
  - 7) Will the non teaching staff subject to pay protection in locally managed schools be subject to the revised procedures.
  - 8) Will the City Council explain the logic behind either a £700 per week maximum cap or the maximum £42K cap per annum under the redundancy policies.
  - 9) Will the senior management officers be treated in accordance with the revised policies if they are displaced following the reviews including the revised pay protection and redundancy salary capping level.

- 10) Why has the City Council to date not been prepared to discuss the implications for the 3<sup>rd</sup> tier and below staff who will be affected by the review of the Management team.
- 11) What is meant by the term “local libraries” as per the review of the Senior Management Team.
- 12) Is the proposed review of the Senior Management Team in reality, a long term aspiration of looking at a probable reduction of 1<sup>st</sup> tier posts to around 3 over the next 4 years, and reducing the 2<sup>nd</sup> and 3<sup>rd</sup> tier etc. at the same time.

### **SUPPLEMENTARY QUESTIONS**

1. UNISON is deeply concerned to learn from the HR report writer that despite feeling the Council could conclude its consultation process on the 17<sup>th</sup> September by releasing the final draft proposals, without considering the effect of some of the questions posed by the Trade Union side. The response given is in Italics and is as follows:

*An employee in receipt of pay protection under the current policy (on or before 31 December 2011) and then is then downgraded again during the year protection period. I will come back to you next week on the scenarios you describe where an employee gets re-graded downwards twice in a short period. We are developing guidance to cover this sort of issue.*

UNISON feels without guidance to consult upon including in the main policy framework, we have no idea what we are accepting and it demonstrates to us this is an ill-thought through policy with no real substance but to reduce Council Spending. We therefore ask the HR Committee to have full explanation of these guidance notes brought to the HR Committee and they consider whether full and meaningful consultation has in fact taken place in regards to the final document placed before you for decision to be made. The Trade Unions are asking for a deferment in the implementation of this policy given new consultation guidance has been produced after the event. We all have time to seek the staffs view on this added information. Failure to allow this additional time would be reason enough to lodge a dispute and spoil industrial relations.

2. The question of cost to the Voluntary Severance Scheme is also waiting for further questions to be answered by HR in relation to the inclusion quite clearly in the consultation that costs would play

a significant factor in who was chosen for Voluntary Scheme. It is clear that this Voluntary Scheme will mirror and match the Redundancy Policy which will also no doubt consider cost before making someone compulsory redundant and the same principles apply in each. In Italics is the UNISON briefing in relation to redundancy/pension access where cost is not an option for consideration:

*LGPS Redundancy Paper for England & Wales  
(13/04/2010) Read the below paper if you are in the LGPS and want to know your pension position in the event of redundancy or retirement in the interests of efficiency of the service.*

*Opposing reductions in compensation for early retirement due to redundancy - focus on the Local Government Pension Scheme in England & Wales*

*UNISON briefing paper – updated April 2010*

#### *Background*

*We at the Pensions Unit are seeing a number of examples of employers adopting less generous pension policies on redundancy or retirement in the interests of efficiency of the service than could be the case and hence this paper seeks to both clarify the law whilst outlining our concerns to members and activists alike.*

#### *Overview*

*Members of the Local Government Pension Scheme (LGPS) have an absolute right to draw unreduced benefits on their employer either making them redundant or retired in the interests of efficiency of the service, subject to the member being at least 50 years of age.*

*This age limit will increase to 55 with effect from 1 April 2010 and is already 55 for new joiners from 1 April 2008.*

*Legislation in the shape of both The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and The Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2006 permit employers to either enhance pensions or provide compensation in the event of redundancy or retirement in the interests of efficiency of the service.*

*Service and pension enhancement explained further Enhancement of pension can be in the form of awarding extra years of pensionable service up to a maximum of 10 years or through awarding additional pension up to a maximum of £5000 per annum. Regulations 12 and 13 respectively of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 permit such options.*

*Regulation 12 also allows an employer to award extra years of pensionable service up to six months after the person has left.*

*You should note that although many employing authorities take the view that awarding Compensatory Added Years on redundancy constitutes age discrimination and is hence in breach of the Employment Equality (Age) Regulations 2006 it is still perfectly possible for employing authorities to award extra pensionable service to active members under the terms of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.*

*It should also be noted that it is possible for employing authorities to award both extra pensionable service and extra pension on redundancy or retirement in the interests of efficiency of the service.*

*Discretionary compensation payments explained further We are seeing more and more employing authorities make a compensation payment instead of awarding extra years of service or extra pension.*

*The maximum award is 104 weeks pay but yet we have seen many examples of employing authorities paying out less than this, with up to 66 weeks of pay being a relatively common payout.*

*The overall limit of 104 weeks includes statutory redundancy pay (that the employer can enhance by basing it on an actual weeks pay).*

*Under the Regulations the employer cannot pay a compensation payment above the statutory redundancy payment, if added years are awarded under Regulation 12 and/or if extra pension is awarded under Regulation 13.*

*Employer's policy statements*

*Regulation 66 of The Local Government Pension Scheme*

*(Administrative) Regulations 2008 require employing authorities to prepare a written statement of their policy in relation to both the exercise of its functions to increase total pensionable service and to increase the amount of pension payable.*

*Regulation 7 of The Local Government (Early Termination of Employment) (Discretionary Compensation)(England and Wales) Regulations 2006 requires each employing authority to publish and keep under review its policy for awarding discretionary compensation on redundancy or retirement in the interests of efficiency of the service.*

*A Policy Statement is simply guidance; each case has to be decided on its individual circumstances. A Policy statement should not include any statement that the employer will never consider paying compensation up to the maximum allowed.*

*The Pensions Unit's concerns*

*We are concerned that many employing authorities are hiding behind the Employment Equality (Age) Regulations 2006 as an excuse not to award additional years of pensionable service on redundancy or retirement in the interests of efficiency of the service whereas the reality is that they can under Regulation 12 of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.*

*The granting of additional years of pensionable service is generally a much more financially attractive option to members than simply receiving a compensation payment and hence it is vital that members and activists alike question their employing authority in scenarios where it is clear that they will not grant extra years of service on redundancy or retirement in the interests of efficiency of the service and the rationale is based on an incorrect understanding.*

*Furthermore representations should be made to employing authorities whom adopt a compensation policy which is far below the maximum of 104 weeks that Regulations allow.*

*It is important to remember that discretion cannot be fettered. In other words the employer cannot say they will always grant a pre determined level of compensation on a future redundancy or efficiency retirement.*

*In summary and our message to members and activists  
Don't just accept employer excuses that they cannot award additional years of pensionable service or extra pension on redundancy or retirement in the interests of efficiency of the service because they can. Where however it is quite clear that an employer correctly understands the regulations but whose policy is quite clearly not to award additional pensionable service or pension, don't forget the fact that employers can pay compensation of up to a maximum of 104 weeks pay instead or increase the pension by up to £5000 per year.*

*Please get in contact with the Pensions Unit with examples of where you believe employers do not understand the law or are adopting positions which are clearly not particularly favourably so that we can try to assist where appropriate and build up more of a picture nationally.*

*It is also important that discretions are operated fairly between members. You should ensure that the policy is non discriminatory.*

#### *Contacts*

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#### *Contact details*

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The final Paragraph also says the policy should be non-discriminatory, yet the Trade Unions were not seen as Stakeholders in the initial stages of the EIA's see HR's response to the EIA questions below:

*4. On the EQIAs, the purpose of the Impact Assessment is so the decision maker, in this case the HR Committee, gives due regard to the equalities implications of the proposals as part of their decision making process. The procedure for developing EQIAs is to consult stakeholders as part of the development of the final EQIA. This is what we have done. The council has an agreed protocol for working with the SOGs and they are the agreed stakeholders for consulting on EQIAs. We have consulted with them. The protocol is available on the following link:- [http://intranet.bcc.lan/ccm/cms-service/stream/asset/?asset\\_id=4338019](http://intranet.bcc.lan/ccm/cms-service/stream/asset/?asset_id=4338019)*

*We have also considered trade union views as part of the development of the EQIAs. There has been no failure to follow the correct procedures.*

Given the understanding that HR Officers conducted the EIA assessments in partnership with the Trade Unions in 2008 on any review of policy or any re-write of policy, and this was an agreed protocol when did this change and why were the Trade Unions not consulted upon this change in the City Council Procedure as stated above. When did the Equalities Duties also change to reflect the Council could ignore the Trade Unions as being a body that no longer warranted stakeholder status?

If we were ignored in the consultation that took place in looking at the equality issues in writing up the EIA, this is grounds enough to warrant the Trade Unions lodging a dispute. Again we ask the HR Committee to either leave these policies as they currently stand or defer making a decision until adequate consultation has taken place.

3. The whole question of a maximum cap and a total weekly salary being used together is again running to schemes one alongside the other which in the HR response as follows in italics:

*An employer is entitled to change its pay protection arrangements. It is not possible or practicable to operate two different systems of pay protection. This would expose the council to legal challenges.*

This paragraph taken from section 1 of HR's response, completely contradicts the total cap of a set amount and a weekly cap. There can only be one way of calculating this and the Trade Unions ask the HR Committee to adopt the total cap of 42,000 as suggested in option ? This will go some ways to avoiding costly grievances as managers implement on system for one group and another system



for a different group. This kind of confusion will wipe out and negate any cost savings you were trying to make. Again the Trade Unions ask that you consider passing the total amount, and not the weekly one.

4. The trade Unions wish to ask a series of questions on the EIA.

.....

5. The Trade Unions in response to the following comments in HR's response to question 5 is

*5. The reports going to the HR Cttee contain risk assessments and include the other options that have been considered. We shall not be producing specific cost analysis on the basis you are requesting. I would remind you of the remarks of the Chief Executive in the information that was circulated to staff in August:-*

*"It is only sensible in the current climate of budget savings that we look at our current severance and pay protection policies. Many councils and public sector organisations across the country are considering similar reviews. The reality is that we will have to become a smaller organisation over the next two to three years, and make the necessary savings in doing so. I want us to do as much as we can to reduce our numbers through natural wastage, redeployment or by using a new voluntary redundancy scheme. These measures are designed to avoid compulsory redundancies as much as we can.*

The Trade Unions are concerned that by making changes of this magnitude without taking a full cost analysis of the Council budget is extremely irresponsible, given the cost of Industrial relation issues in the gaps we have highlighted so far in our question.

The Trade Unions would endorse and promote a natural voluntary scheme that did indeed make it worthwhile for our members to quite happily leave the Council if the Authority would consider all it could do under the Pension/Redundancy abilities it has in the above briefing in Italics from UNISON pension Unit. This would certainly avoid compulsory redundancy, if people who benefit from leaving were allowed to go.

If the comments in the last statement from HR are to be believed why isn't the HR Committee asking for this scheme to apply in a

way that would appease both the Trade Union members and non-trade union members? Avoid costly processes of challenge and completely ignore the cost of resolution involved in the current proposals as they stand?

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## STATEMENT 1

Submission for Human Resources Committee Friday 24 September 2010

### Agenda item 5 Senior Management Restructuring

It's difficult to determine the full impact of the changes without the job evaluation information in Appendix B. Is there any information on when the evaluations are likely to take place?

Paragraph 3.1 states the reasons for continuing with the Deputy Chief Executive post. It states the post will have an 'enhanced portfolio' and in paragraph 3.2 additional responsibilities have been added to the post. So with these extra responsibilities why is the salary likely to go down which is what we were told during consultation?

Unite has concerns about the move of Scrutiny from Deputy Chief Executive to Legal and Democratic Services. This move will result in the Statutory Scrutiny Officer being managed by the Service Director Legal Services who is the Monitoring Officer and therefore reducing the independence of the two roles.

### Agenda item 6 Pay Protection

In response to paragraph 5.3 of the report there are a number of service reviews which are to be implemented over the medium term. These include the ICT review where the 4<sup>th</sup> tier managers were reviewed first and 3 years pay protection will apply to any PITO redeployed to a lower level. Therefore, it's unfair that lower level posts SITO, ITO and AITO will not receive the same length of pay protection because reviews of these levels of ICT staff will be implemented later.

Another area is the Craft employees in Landlord Services. A consultant commenced looking at their pay nearly a year ago but still no rates of pay have been released yet. As the review commenced so long ago any downgraded staff should be granted three years pay protection. It could be inferred the review has been slowed down to wait for the revised pay protection arrangements to apply.

#### Agenda item 7 Redundancy Pay

Unite believes option B paragraph 3.1 is the option that will avoid industrial relations difficulties. I would prefer there to be no change to the current redundancy provisions but understand the current economic climate and depending on Bristol's Comprehensive Spending Review grant the scale of any future downsizing of the workforce.

#### Agenda item 8 Voluntary Severance Scheme

Unite would like to see an appeal mechanism built into the Voluntary Severance Procedure for requests that are not approved. Paragraph 5.1 states the reason this is rejected is because employees who have had their request approved may have to be suspended pending an appeal outcome. A way of avoiding this could be to not give final notifications on who will be released until all appeals have been heard in the workgroup affected.

In paragraph 7.2 it states selection will be based upon cost, operational or business grounds. If cost is used as one of the selection methods this may discriminate against older employees who may have longer service and will therefore cost the Authority more in redundancy pay. Therefore, its important to have an appeal right and more objective criteria should be used as the method of selection.

Steve Paines

Convenor



South Western Region

## STATEMENT 2

22<sup>nd</sup> September 2010

### **GMB Submission**

**Bristol City Council - HR Committee – 24<sup>th</sup> September 2010**

The GMB wish to make the following submission:

### **Agenda Item 5 – Senior Management Restructuring**

The GMB would question the rationale for the restructuring of the Council's senior management structure at the very time it needs to be promoting confidence in the leadership prior to implementing massive cuts in services and staffing levels?

### **Agenda Item No 6**

#### **Pay Protection**

The GMB would not wish to mislead any member of the HR Committee – the GMB is utterly opposed to **any** changes to the current Pay Protection policy.

The GMB **do not accept these changes are necessary or essential**, especially when we have now been informed in the previous report – senior management restructuring' a Strategic Director is in receipt of an additional payment of £11,257.76 (10% of basic salary) per annum to 'top up' their salary of over £112,000.

That '**top up**' would pay for one residential care assistant and potentially 2-3 care domestics working 25 hours per week.

The HR Committee is being asked to consider whether you make savings of £187,000 (one year protection) or £116,000 (2 year protection). The Council could be making these savings by looking at how many more 'top up's are being paid to Strategic Directors and others. Equally they could be looking at their 'strategic' planning - £702,000 spent in just preparing bids to host 'matches' and putting on the world cup 'matches' this summer.

Appendix (6) A demonstrates a significant increase in the number of staff being redeployed move from 160 (2009) to 2010 (2010). The GMB do not consider this is the right time to be removing what for many of our members is the only safety net they have between them and being cascaded into poverty.

What is missing from the equalities impact assessment is the actual jobs staff were undertaking prior to their redeployment and what actual jobs they have now been redeployed.

Whilst redeployment is compulsory providing it is a 'reasonable offer' it will automatically not be a reasonable offer if the pay protection is reduced as this may result in our members being unable to accept this offer due to financial reasons. The less the period of pay protection is the more impact this will have upon the employee's ability to consider the post if the new post is significantly less pay.

The GMB have first hand experience of Disabled members being offered redeployed jobs on significantly reduced pay.

The comment in the report referring to more men taking up pay protection than women and if pay protection is reduced it will start to address inequality of pay is offensive.

The GMB consider this proposal to be punitive to hit the most vulnerable most

### **Agenda Item 7 Redundancy Pay**

The GMB note with interest point 1.3 – the strategic leadership team has asked that this policy be reviewed – is this yet another decision that has already been made?

The GMB do not accept these changes are necessary in the light of 'waste' Bristol City Council have and continue to make with what appears to be no strategic direction. Currently this may affect only 10% of staff but what happens next with the follow up proposal to further reduce the cap?

All existing employees were appointed on the current terms and conditions to have this significant change imposed upon them is not acceptable.

If money has to be saved let the savings take the form of removal of taxi fares, commuting costs for those staff who after a considerable period of time after their appointment, still have not moved to the area; redecorating offices; spending millions of pounds on a school which is then handed over to an outside Christian society to run – what financial benefit did the Council achieve?

The GMB see this initiative at a time when many staff (especially in the 10%) will be facing job losses, as punitive. Redundancy is based upon length of service as well as pay – this will affect those staff who have worked the longest for the City council – is this the way the Council recognises the long service given by those staff – not only do they lose their job and face a very bleak future but they will not receive their redundancy pay based upon their final salary.

The GMB would urge Bristol City Council to consider the how to grow services rather than decimate them.

Just remember it was the Banks who caused this financial situation – not Public Services!

# **STATEMENT 3**

## **BRISTOL CITY COUNCIL HUMAN RESOURCES COMMITTEE**

**FRIDAY 24<sup>TH</sup> SEPTEMBER 2010**

### **COMMENTS OF UNISON**

#### **AGENDA ITEM 3 – MINUTES OF HR COMMITTEE, 2<sup>ND</sup> SEPTEMBER 2010 (MINUTE NUMBER HR 27.9/ 10 – WEB ACCESS FOR STAFF/ AMENDMENTS TO THE CODE OF CONDUCT (CoC)**

At this meeting, UNISON put forward a series of concerns in respect of what it believed to be potential human rights breaches. HR Committee were assured at the meeting by the Legal Advisor that the revised CoC would not breach any human rights issues, but as a pre-caution, suggested amendments to paragraphs contained in 11.3 of the CoC would be inserted, which it was felt would address the concerns of UNISON.

Despite assurances that UNISON and its trade union colleagues would receive a copy of the amended CoC following the resolution of the HR Committee, UNISON is disappointed that to date no such copy of the amended document has been received, and asks therefore when the document will be circulated to UNISON.

#### **AGENDA ITEM 5 – SENIOR MANAGEMENT RESTRUCTURING**

UNISON notes the intention to delete 1 first tier and two second tier posts which is brought on by the recent resignation of the former deputy CX (Jon House), and in view of the potential cuts which the authority has to make.

The proposed realignment of the new service structures are however causing some concern. It would be helpful for example for a definition of the term “local libraries” as referred to, and exactly what improvements in the service would be foreseen by moving the Library Service into the Neighbourhoods Department. UNISON believes that the Library Service is best placed at present with City Development in view of the links with the Museum Service.

The rationale behind the logic of moving Regeneration into the new service of “Economic, Green and Digital Futures” is also questionable. UNISON holds the view that if this service has to be moved, it should be placed within Neighbourhoods.

UNISON is concerned however, by the lack of any detailed information contained in the report, regarding the knock on effect caused by the proposals, to 3<sup>rd</sup> tier and below posts. UNISON believes that many posts are likely to be reviewed, and would request that urgent discussions with UNISON and its trade union colleagues are held in respect of this matter.

## **AGENDA ITEM 6 – PAY PROTECTION**

UNISON is not supportive of the proposals to remove the current 3 year pay protection for employees redeployed into lower graded posts from the 1<sup>st</sup> January 2011. UNISON rejects any proposals which it believes is both detrimental to its members and an erosion of their terms and conditions, coming at a time when both the Local Government Employers Association and Central Government are between them, looking at freezing public sector pay awards until 2013. Many of our members, particularly those on low pay, are facing severe hardship by the prospect of a 3 year pay freeze on their salaries, and with inflation currently running at 4.7 % RPI (3.1 % CPI). In effect, the City Council's proposals are seen as a "double whammy" for our members, and does little for employee welfare under the duty of care.

Whilst the City Council is looking to amend the current policy to a one or a two year pay protective period, UNISON does not consider the projected savings as is claimed in the report sufficient to justify amending the current pay protection of 3 years, and would recommend to members of the HR Committee to reject the proposals, and to retain the existing 3 year pay protection.

## **AGENDA ITEM 7 – REDUNDANCY PAY**

UNISON is not supportive of the proposals to cap the maximum payments of redundancy to those employees receiving up to £700 per week and a £42K lump sum payment for employees aged 61 and over with 20 years service or more who have acquired the maximum "60" week period. UNISON nationally is against any proposals which are seen as an erosion of the terms and conditions of its members.

UNISON does accept that following productive negotiations with UNISON and its trade union colleagues, that the City Council has improved on its original proposals and recognises that the vast majority of the City Council's workforce will in reality, see no real change to their terms and conditions of employment, if they are faced with the prospect of redundancy. However, UNISON reserves the right not to support the proposed amendment as UNISON will continue to represent the views of all of its members, including those who will be hit hardest by the change in the redundancy pay from the 1<sup>st</sup> January 2011.

## **AGENDA ITEM 8 – VOLUNTARY SEVERENCE SCHEME (VSS)**

UNISON notes the content of the report and that applicants for the VSS will have the same redundancy calculations as any other employee will have if they are faced with compulsory redundancy.

UNISON's main concerns around the VSS centre on the "selection process" that will be used for VSS, if as is being widely anticipated, there is an excess of interested staff coming forward who are interested in taking up the VSS. Whilst the numbers of employees could leave a severe staffing shortfall in maintaining service provision if all the VSS applications were granted and this has to be considered first and foremost, equally those applications which are refused could leave the individuals themselves demotivated, leading to poor service provision. UNISON fears that it has the potential



to lead to the employees being subject to Improving Poor Performance as a consequence. Another equally important factor to consider, is that some employees may well be feeling the effects of stress by a VSS request being rejected. This can lead to long term sickness, and ultimately as with poor performance, the employee could potentially be faced with dismissal from their post under capability as opposed to redundancy.

UNISON believes that if this policy is approved by elected members on the HR Committee, then an immediate risk assessment must be conducted and shared with the trade union side, outlining the potential risks as highlighted above, by refusing to grant a VSS application to employees.

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# **STATEMENT 4**

## **PUBLIC FORUM STATEMENT**

**HR COMMITTEE 24TH SEPTEMBER 2010**

### **REDUNDANCY, SEVERANCE AND PAY PROTECTION**

Unions exist to protect the interests of their members and, in the case of the public sector, those who depend on the services we provide. Accordingly, we always favour the maintenance of jobs and services and will oppose redundancies. However, when job reductions are forced on us, we would much prefer that these are achieved by voluntary means. As we have pointed out many times to the council, it is surely preferable, from the point of view of effective service delivery and workforce morale, to allow those who no longer wish to work for Bristol to go while retaining those who positively prefer to remain. Such an approach will also produce savings. Those resisting redundancy will rightly use every avenue of appeal and unions will challenge at every point in the process in order to delay implementation. Volunteers will wish to depart at the earliest opportunity.

We are opposed to the officer recommendations to reduce pay protection for redeployed staff from 3 years to 2 years and to impose a cap of £700 per week in the calculation of severance pay. Should there be any further worsening of these arrangements the unions would certainly initiate industrial action. We recognize that these proposals arise from constraints that are being imposed by central government. However, we reject the logic of the deficit reduction strategy. The massive reduction in demand arising from public sector cuts will inhibit growth and lead to even higher levels of unemployment. The notion that the private sector will grow in compensation is unsupported dogma. In the 1980s, massive public sector cuts and the decimation of manufacturing industry went hand-in-hand. Of even greater concern is the strategy of making the poorest section of workforce pay disproportionately for a banking crisis for which they bear no responsibility. Those with the greatest wealth, who did benefit most from financial services boom, should bear the whole consequences of their greed and folly.

The reduction of pay protection from 3 years to 2 years could be considerably mitigated if those on protected pay had access to redeployment for the whole 2 years. This would benefit the employee and produce savings for the council. To be effective, this would have to be combined with a re-training programme focusing on future skills requirements. Developing such skills in-house is far preferable and cheaper than employing consultants. We accept that redeployment arrangements must always give priority to those who are potentially redundant.

We are opposed to the cap. But it would be even more unacceptable if the most highly paid officers in the council, where structures are now being reviewed, were to leave under more favourable arrangements than those applied in future to other staff.

Volunteers for redundancy should not be sought via a general trawl which raises unrealistic expectations. VS should become an option once the final detailed structure of any reorganisation is known and each individual will know for certain if they are potentially redundant. By the time this point is reached the business/service considerations will already have been applied by management. It is vital that there is full consultation on the revised structure before a final proposal is presented to the staff directly involved. If the number of volunteers is less than or equal to the number of posts to be deleted, all volunteers should be allowed to go. If there are more volunteers than deleted posts, objective criteria should be applied to determine those who will be given VS. The criterion which we propose is **aggregate** local government service. This does not eliminate indirect gender discrimination but it favours women much more than **continuous** local government service. The application of such a criterion would enable the council to achieve three strategic objectives at the same time. It would improve the employment structure in terms of gender, ethnicity and age. It would be extremely short sighted and much resented by long-serving staff if cost were to be used as a selection criterion in individual cases.

There should also be provision for bumped/knock on redundancy. Employees in an area being reorganized and who are not themselves potentially redundant should be able to indicate a willingness to take VS. Their post may be able to be filled by an employee in the same area who would otherwise be made compulsorily redundant. However, there may be more than one eligible candidate so the selection criteria used for compulsory redundancy would have to be applied. More sophisticated criteria will be necessary when the numbers and skills of non-vulnerable staff seeking VS and the numbers/skills of those facing compulsory redundancy do not establish a unique match. It is difficult to see how this process could apply across the council as this would require knowledge of the wish to take VS among employees in those areas of the council where reductions were not being made. There is scope for further discussion on this.

Dick North

Chair, Joint Employee Relations Board

Martin Jones

Secretary, TU side Joint Employee Relations Board

# STATEMENT 5

*Public Forum Statement – HR Committee 24 September 2010- Ian Scott – Former Scrutiny Officer*

## **The statutory Scrutiny Officer and the Future Independence of Scrutiny and Council Accountability**

Item [5. SENIOR MANAGEMENT RESTRUCTURING](#) (25 mins)

- to approve the HR implications arising from the management restructuring.

(Report of Chief Executive & Service Director : Human Resources)

3.6 The Statutory Responsibility for Scrutiny will transfer across with the service. It will be necessary to nominate a 3<sup>rd</sup> tier manager with this specific responsibility within Legal and Democratic Services.

### **Background**

*Local Democracy, Economic Development and Construction Act 2009 (c. 20)*

## **PART 2**

LOCAL AUTHORITIES: GOVERNANCE AND AUDIT

### **CHAPTER 1**

GOVERNANCE

#### **31 Scrutiny officers**

In the Local Government Act 2000 (c. 22), after section 21 insert—

##### **“21ZA Scrutiny officers**

(1) Subject as follows, a local authority in England must designate one of their officers to discharge the functions in subsection (2).

(2) Those functions are—

(a) to promote the role of the authority’s overview and scrutiny committee or committees;

(b) to provide support to the authority’s overview and scrutiny committee or committees and the members of that committee or those committees;

(c) to provide support and guidance to—

(i) members of the authority,

(ii) members of the executive of the authority, and

(iii) officers of the authority, in relation to the functions of the authority’s overview and scrutiny committee or committees.

(3) An officer designated by a local authority under this section is to be known as the authority’s “scrutiny officer”.

(4) A local authority **may not designate any of the following under this section—**

(a) the **head of the authority’s paid service** designated under section 4 of the Local Government and Housing Act 1989;

(b) the **authority’s monitoring officer** designated under section 5 of that Act;

(c) the **authority’s chief finance officer**, within the meaning of that section.

(5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.

(6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.”

**The statutory Scrutiny Officer and the Future Independence of Scrutiny and Council Accountability**

I believe it is important that the Statutory Scrutiny Officer should be independent of other statutory officers such as the monitoring officer and 151 officer.

Scrutiny needs to be robust and independent. Scrutiny needs to be free of undue interference from service providers. From time to time, legal and finance issues (Resources Scrutiny) need to be scrutinised and scrutiny therefore needs to be independent from these services or any other service providers.

e.g. Monday, 23 July, 2001, 12:28 GMT 13:28 UK – Source BBC News - <http://news.bbc.co.uk/1/hi/uk/1452350.stm>

### **'Council faces parking pay-out**



Motorists can reclaim £105 of the penalty

Bristol City Council is set to pay out nearly £900,000 to motorists after a major parking blunder.

In April last year, the council took over the job of towing away illegally parked vehicles from Avon and Somerset Police.

The cost of the fine remained the same but the council neglected the legal requirement to re-advertise the figure.

Between 1 April 2000 and 16 May 2001, 8,500 cars were towed away.

It has emerged that the drivers are entitled to £105 of their £145 penalty back, leaving the council with a bill of £892,500.

The other £40 is the actual cost of the parking fine, which is non-returnable.

**The council has described** the mix-up as a **"monumental mistake"** at an emergency news conference.

#### **Note:**

**Bristol City Council's Monitoring Officer is the Head of Legal Services** – source BRISTOL CITY COUNCIL

CODE OF CONDUCT – SUMMARY – webref: [http://www.bristol-cyps.org.uk/services/personnel/starterpack/codeofconduct\\_summary.pdf](http://www.bristol-cyps.org.uk/services/personnel/starterpack/codeofconduct_summary.pdf)

**How can the public be assured that the Statutory Scrutiny Officer is independent of the Monitoring Officer when they are lined managed by the Monitoring Officer?**

**How can the public be assured that scrutiny of Bristol City Council's Legal Services will be robust, independent and objective when the statutory Scrutiny Officer is lined managed in Legal Services?**

**Who is Bristol City Council's current statutory Scrutiny Officer?**

**Who will be Bristol City Council's new statutory Scrutiny Officer?**

## **Bristol City Council**

### **OER4**

#### **Appointment of chief officers and deputy chief officers**

*This process is subject to Part II of the Local Authorities (Standing Orders) (England) Regulations 2001.*

(a) A committee of the council will interview for the posts of chief officers and deputy chief officers. That committee must include at least one member of the executive.

(b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the executive has been received;

(c) The committee will be responsible for the appointment of chief officers and deputy chief officers except those officers designated as follows:

Head of the Paid Service - Chief Finance Officer - Monitoring Officer.

(d) In the case of those appointments designated in (c) above the committee will recommend the full Council accordingly.

### **OER6**

#### **Disciplinary action**

##### **(a) Suspension**

The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

##### **(b) Independent person**

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

## **Consultation**

### **Internal**

2.1 Consultation commenced on 6th July 2010. 32 submissions have been received making valuable comments and suggestions.

**The point of having a consultation section for decisions on reports is to enable members to consider the feedback from the consultation before making a decision but members are being asked to make a decision without the feedback of the 32 submissions or even a summary of the consultation feedback !**

**It has not been classed as exempt information which members of the HR Committee would be entitled to see anyway. The consultation feedback should have contributed to the decision and any other options suggested as part of the consultation deserves proper consideration in line with the Council's own principles of decision making below.**

## **Bristol City Council ARTICLES OF THE CONSTITUTION**

### **A13.02**

#### **Principles of decision making**

##### **(e) A presumption in favour of openness**

Decisions taken by executive members or by officers should be taken under this presumption. **Access to material contributing to a decision should be made available to anyone with a legitimate interest** in it unless this would involve disclosing exempt or confidential information.

##### **(f) Clarity of aims and desired outcomes**

Decision makers must be clear as to what they are seeking to achieve and why. **This will often require a thoughtful consideration of other options.**

Ian Scott - Former Bristol City Council Scrutiny Officer