

# Human Resources Committee

## 18 February 2021

### Public Forum Items



#### Questions

Name	Subject
Suzanne Audrey	Senior leadership structure changes since 2016

#### Statements

Name	Subject
Jeff Sutton GMB	Proposed TUPE transfer of BCC staff to BWC
Tom Merchant – Bristol UNISON	Proposed TUPE transfer of BCC staff to BWC
Councillor Jo Sergeant	Outsourcing of BCC Facilities Management to BWC
Councillor Mhairi Threlfall	Pay Policy Statement & Senior Management structures



## HR Committee – 18 February 2021

### Questions from Suzanna Audrey

#### Background

Item 9. Senior leadership structure changes since 2016, the report states

The significant issues in the report are:

- Senior leadership costs have reduced by £941k per annum since 2016.
- The number of senior leadership roles within the Council has reduced from 25.2 FTE to 15 FTE since 2016.

#### Question 1

Please can you explain how this relates to, and incorporates, the costs of work undertaken by external consultants who are undertaking work that might otherwise be undertaken by members of the senior leadership team?

#### Answer 1

*It does not cover the costs of work undertaken by external consultants which may have been undertaken by the leadership team. The purpose of the report is to compare the number budgeted full-time equivalent roles at Director level and above as at May 2016 and the position in February 2021.*

#### Question 2

How much money has been spent by Bristol City Council since 2016 on Colin Molton while he was interim Executive Director of Growth and Regeneration (and if possible in his current role)?

#### Answer 2

*The costs of Colin Molton's interim appointment as Executive Director are published in the Council's annual accounts. These are available on Council website:-*

<https://www.bristol.gov.uk/council-spending-performance/bristol-city-council-audited-accounts>

*Colin Molton is no longer engaged by Bristol City Council.*

## **Number 1**

**HR Committee – 18 February 2021**

### **STATEMENT from GMB**

**Subject: Proposed TUPE transfer of BCC staff to BWC**

The GMB is looking for your help to support its members in Security and Cleaning Services

A paper is shortly to be presented to the Cabinet proposing the TUPE transfer of these departments to Bristol Waste.

We have been told that there are similarities between the work undertaken which would mean these departments would fit better with BWC!!

From what we have been told BWC only undertake their own cleaning and security whilst BCC staff work for a variety of Businesses across the City. BWC's security would be mostly static but BCC static security staff are not included in this transfer.

The management of BWC would have us believe that this is the opportunity for them to grow their business, which they can do as a Teckal, and return any surplus to BCC.

When pressed on how much BWC had passed to BCC so far the MD stated 'about £1.75m a year for the last 3 years from profit from the HWRC (Household waste recycling centres). What he didn't see aware of that these had previously been TUPE'd over to BWC so they were only giving back to BCC which was it's in the first place.

No sign of any real surplus made by BWC since its inception it's seems to be behaving along the lines of Bristol Energy having to be propped up to help it stay solvent. We all saw what happened to Bristol Energy and know, roughly, how much BCC lost.

This transfer is a back door way of BCC giving more financial support to BWC. BCC will be paying BWC to provide services it currently provides itself. BCC Facilities Service management have already said in separate meetings with Unions that it will in the future have to look at the actual costs of the services it provides in the future. This will increase the margins for BWC and bolster their balance sheet perhaps allowing them to give the increase back to BCC in the form of a surplus!!.

Not one member of BCC staff covered under this paper has expressed a wish to move across. The vast majority, many of home are long service, wish to stay with BCC. BWC staff have little faith in their current management often referring to their previous CEO in glowing terms

We are asking for you to see this as it is, an attempt to give BWC more financial support by the back door. What is needed is review of BWC management team to see why it isn't producing the returns expected.

Please reject this proposal.  
GMB Branch President

GMB Avon and Wessex Branch



## **Number 2**

**HR Committee – 18 February 2021**

### **STATEMENT from UNISON**

**Subject: Proposed TUPE transfer of BCC staff to BWC**

*Statement starts:*

A mere twenty-four hours after I wrote to political stakeholders regarding our opposition to the outsourcing of our members, management announced that they were thinking of outsourcing Bristol City council's security and cleaning staff to the Bristol Waste Company. It was not unexpected by myself but it was a shock to some of my colleagues. We had been officially told that there was no plan to transfer these staff and some of my colleagues were annoyed at seemingly being misled.

Several senior people connected to the council have shown some surprise at our position regarding this outsourcing; after all, "we own" the Bristol Waste Company. BWC's terms and conditions, in my opinion, are not as good as Bristol City council's. As has been pointed out the transferred staff will retain their main BCC terms and conditions. However there are possible stings in this tail -

- those terms are not guaranteed forever and over time may "harmonise" with the company;
- other terms of their employment are not protected such as where they are posted and what particular hours they do;
- flexible working and reasonable adjustments can be changed;
- they are likely to be subject to the Bradford Factor which tends to lead to dismissal for ill-health quicker than our own system;
- all new staff will not receive the same terms that their workmates will get; and
- pay and conditions going on from the point of transfer will no longer be subject to national pay negotiations nor the same gender, equal-pay job evaluation.

Therefore their broad terms can't immediately change; but, how you work, where you work, when you work, when you get warnings for sickness or how you can be dismissed, can. So, a single-mum with caring needs that has a certain amount of leeway (the scope of which is sadly shrinking at BCC) to take account of those needs may find that that leeway might be up for grabs when she transfers. The same goes for staff with disabilities. Some might argue that that is not the role of a business to give leeway for people with difficult social positions, but the equality agenda has made it clear that it is and when we take into account the authority's duty to promote equality then transferring staff out is not what we should be doing. When I asked specifically about work/life balance and reasonable adjustments I was told that BWC's policy would apply and not BCC's, even under Tupe.

Besides, if we own BWC why do the basic conditions seem poorer than those enjoyed by BCC?

The affected staff are very angry indeed over this and we don't see why we should be shielding anyone from what is an understandable disaffection on the part of our members.

#### Flexibility

The argument has been made that using a Teckl company frees the council up as far as modern, flexible service delivery is concerned. We don't see why modern and flexible services can't be delivered in-house. (The same can be said, incidentally, regarding the energy department transfer.) Our role is not to put obstacles in the way of efficient services but to promote fairness, protect work/life balance; push for equality, decent wages, and health and safety. We have been misrepresented as promoters of Spanish practices and old-fashioned services. I promote the latest good practice; I simply oppose attacks on the conditions of the ordinary working man and woman, which we, at least, still endeavour to represent.

#### "In-Sourcing"

The argument has been made that this is not outsourcing but in-sourcing: that is, staff will be transferred from one block of staff controlled by Bristol City council to another. In BCC, staff have the protection of national pay negotiations and the green book, which BWC does not seem to have. Our reps at BWC tell us that the equality set-up is not good enough but they were told, when they asked, that they couldn't have Bristol City council's even though BCC owns them.

But BWC staff look up to Bristol City council standards and wish they had them, even with all the problems that we have. But if you look at the scope of ethical and equality safeguards in BCC you can see why they would want the opportunity of such engagement.

In BCC we have safety committees at all levels and a corporate safety committee with councillor oversight. We have joint consultative committees at departmental level so that staff and unions can talk to each other about change. Covid-19 has modified some of this but compensatory consultation takes place. Above the JCCs is the corporate joint consultative committee that is run jointly with unions and management and considers matters that can't be resolved and then reports to the HR committee that has councillor oversight.

Staff can appeal to the councillor-run appeals committee if they are dismissed for whatever reason. There is a wellbeing board and a new equality board that has staff engagement. There are staff-led groups that allow staff from traditionally underrepresented groups to input into the larger strategy of the organisation. There are a multitude of equality-focused staff ensuring that BCC takes steps to reduce inequality at all levels.

And these processes tend to meet six-weekly or quarterly so it is not overly bureaucratic: it is in fact workforce engagement and supposed to be the standard in any organisation.

BWC has a small fraction of all this. The process of transferring staff to BWC risks creating a two-tier workforce. And as staff who have transferred retire or are dismissed, new staff are appointed on contracts that are less favourable because they have no protection from Tupe, which is more two-tier workforce. You could argue that it all becomes a three-tier workforce with those on base-level terms from BWC, those with some BCC protections but working under BWC management and BCC staff.

The Market

Finally, the only time staff like a Tupe is when the company is failing and someone steps in to take over, which is not the situation now. The rest of the time staff who face transfers feel like they are bought and sold like cattle and though this phrase really upsets HR it is how the staff feel and I don't see why I should be shielding the organisation from this level of disappointment from so many staff.

Regards,

T Merchant,

Branch secretary, UNISON

### Number 3

#### Statement to HR committee on outsourcing of BCC Facilities Management to BWC

There are two components to this issue, only one of which can be considered by HR committee. However I would argue that the two are inextricably linked so am including both.

1. Corporate structure/business plan of BWC (not in HR Committee's remit)
  - a. The purpose of BWC was to deliver waste management services on behalf of BCC to all Bristol residents\*, as private contractors had been unable to do.
  - b. It was a Teckal company so that it could provide these services without BCC needing to put the contract out to tender.
  - c. An incidental benefit of Teckal was the 20% additional income potential from contracts with other clients. *I am concerned that diversification into other business areas may not be in the interests of BCC and that this 20% should be focused on waste collections, perhaps in certain geographic areas, reducing the amount of competitor vehicles on the roads and therefore reducing congestion.*
  - d. Waste collection is a client service to Bristol residents, which was outsourced some time ago. Facilities management is a department that serves the council. It does not directly serve residents (I am aware that cleaners work in some residential properties but these are part of a service agreement with the tenants so they are still working for BCC). *Any outsourcing proposal would seem to benefit the destination company and not the council.*
  - e. We have yet to be informed about the possible impact of Brexit on status of Council-owned companies using the Teckal model.
  - f. There is also the risk of central government intervening, through legislation, and forcing the privatisation of council-owned companies – Teckal or otherwise.
2. Staffing arrangements
  - a. Issues affecting staff at BCC can be discussed at HR committee. Issues affecting BWC staff cannot – see question 1 above. *There does not appear to be an equivalent forum for BWC staff. They will be reliant on union representation and management. This feels like another example of BCC avoiding responsibility for staff by palming them off on arms-length companies.* The only scrutiny for council-owned companies is OSMB, which, we are told, cannot discuss the HR arrangement of BCC.
  - b. Terms and conditions for BWC staff are not the same as those for BCC staff. This means that those TUPE'd across to BWC from BCC would have better Ts&Cs than those already at BWC and any future appointments. This would mean that two people doing exactly the same job would be on different contracts.
  - c. Policies around attendance management and work/life balance are different between the two employers
  - d. There is talk of opportunities for career development and an apprenticeship programme. *I don't see how either of these things happening should be dependent on a transfer of staff from one organisation to another.*
  - e. I have heard this proposal being described as a 'co-sourcing' arrangement between BCC and BWC. *I therefore do not understand why it is necessary to move staff from one organisation to another?*



- f. If the lowest paid staff are moved out of BCC, our pay ratio will become smaller, making us look good. This could present an opportunity for existing and/or incoming senior management to push their pay upwards so that we remain at 10:1. *I would like to know what the top-to-bottom pay ratio is at BWC (including the holding company). I realise this is not in the scope of HR committee, which returns us to the earlier issue of scrutiny, or lack of it.*

Conclusions:

This is a cost-saving opportunity, reducing BCC's outgoings, to the detriment of current staff and/or:

It is an opportunity to grow the BWC business in a different direction, when BWC should arguably be focussing on winning waste collection contracts in the private/commercial sector.

Any council-owned business should employ its staff on identical contracts to their colleagues at BCC.

Council-owned businesses should be scrutinised in a joined-up manner. This does not mean the lumping together of what can sometimes be disparate issues but a real connection between the various functions involved – scrutiny or otherwise. This would allow us to consider governance, HR issues, service delivery and not allow any of these important aspects to fall down the cracks.

'Arms-length' is a legal status and should NOT be staff management policy.

Councillor Jo Sergeant

## Number 4

### Statement to HR Committee on the 18<sup>th</sup> of February 2020

Mhairi Threlfall

#### Topics: Pay Policy Statement & Senior Management structures

There are a lot of wonderful things that our Labour administration has managed to deliver over the past four years, but we must not lose sight that the only reason we have achieved that, is through the hard work and dedication of our staff.

I don't think anyone would argue that our Chief Exec has not worked during the Covid-19 pandemic to manage our response. However, this hard work has been carried out at every level of this council, and every member of staff has had to work in an uncertain environment (dealing with working from home, with their kids etc.) and for our front line workers within a life threatening situation.

Personally, the mayor and councillor uplift at this time made me feel incredibly uneasy. Generally, salary uplifts for elected members tend happen after an election, which of course last year was postponed. However, the decision of this uplift did occur long before the impacts of the pandemic, but this is not the case of the paper sitting before you today.

An uplift of senior leadership when we know of the impacts of the pandemic, and are still living through it, creates a moral and ethical choice. The chief executive uplift may be a small one, but there is no parity here with other hard working staff who will face a pay freeze. Singling out the Chief executive could likely impact on morale, morale that has already been impacted by the current climate our staff are working in.

I therefore ask for you as the HR committee to consider the wider context of this uplift, not any single person affected by it, and the impacts on staff, for instance:

- **Leave policy** – staff were advised at the beginning of the pandemic that they would be entitled in line with the changes by central government to carry over their leave in April. Recently on the source, staff were informed (without apology or notice that this was a change) that the Council was to change its leave policy and not enable staff to carry over their leave, and worse, punish those who had been furloughed. This had followed a communication to staff that they were not entitled to take carers leave and were asked to take annual leave first (also contrary to government guidance). Unison are taking this up with the Council as the change is not only unethical but actually not reflective of the UK government guidance, but I think it is really important for HR committee members to understand the context that they are making decisions in and the impact this has had on staff. The handling of this and our leave policy also might be something that HR committee may wish to investigate
- **Other local authorities** - South Gloucestershire Council and North Somerset Council have both thanked their staff by giving them additional leave. Indeed my own workplace gave staff three days extra holiday at Christmas as a thank you for our hard work. Conversely, we have not remunerated/thanked the majority of our staff except via an email. Actions are louder than words and this has left many staff feeling demoralised. I would ask the HR committee to consider offering staff a formal thank you for their hard work.

- **Senior Management Structures** – whilst some may wish to celebrate the reduction in senior management posts, the impact of this on the efficiency of an organisation is often not considered. In my opinion, the revised structures are not fit for purpose. Despite reducing senior management by half, we have not seen half the savings. This new structure also has a challenge in terms of recruitment and retention, as the Director and Executive Director posts are far too broad in scope to encourage diverse candidates or specialisms in high need areas. It results in stressed and stretched individuals, who then stress and stretch others within the council. This is evident from my local councillor casework, where responses from officers have been as early as 4am and as late as 3am on evenings and weekends. This is not sustainable long term, and the saving ends up being a loss. I would ask HR committee to consider asking for impact data of these changes to senior management structures, including staff turnover (and recruitment costs), staff satisfaction, the additional cost of the use of internal contractors to cover workload/specialisms lost, and staff working hours at the levels of the council impacted by this policy change.
- **Contractors** – staff are expected to deliver in an environment where we are increasingly using contractors both internally and externally to deliver work which could be delivered in house. These contractors earn significantly more than our own staff and yet often come with a deficit of knowledge and connection to the local community compared to our internal staff. We do not have clear pathways to encourage our ‘home grown’ staff into senior positions and yet are investing significant amounts of money in strategic partners. We have also started processes to TUPE staff into our own companies (e.g. Security) without it appears adequate communication with staff (a lack of complaint does not actually indicate whether this job was done well). It is also not clear what would happen to our staff if BWC was to be wound up, sold or no longer be a teckal company. The same issues appear with the use of internal contractors. An example from my time as cabinet member was the splitting up of the Transport Department, which was recommended by an internal contractor who knew nothing of the internal dynamics of the team (or even team members names) and this impacted on staff and their morale. My opinion is still that this was short-sighted and results in disjointedness between the strategic and deliver/maintenance arms of the department. There are places in the Council where it makes sense to hire contractors (e.g. building works), however, we have come to a point in my opinion of expensive over use that is impacting on the ability of the council to deliver whilst impacting on morale and the feeling that staff are not trusted to deliver. This is despite the fact that in some areas, there were actually less contractors employed than during the previous administration!

These are only a few examples of the context that staff are currently working in. Staff are working above and beyond at the moment (I recently received an email from a finance officer on a Sunday lunchtime) and the impact this, on top of worries about the Covid-19 pandemic and its social and economic impacts, Brexit and climate change, it does not seem appropriate to single out one officer for remuneration over others.

### **Recommendations**

We are a Labour authority and as a Labour authority should be putting our workers first. Therefore I would like to ask the HR committee to:

1. Delay the Chief exec uplift until after we have come out of the pandemic and/or treat our other staff with similar parity by also offering an equivalent (such as the thankyou offered by SGC and NS)
2. Look in to and recommend a formal thank you for all staff regardless of your decision today
3. Investigate how staff have been communicated over, and the content of, our current Carers Leave and Annual leave policies
4. Look into the use of contractors (including internal ones) for delivery of work that could be delivered more effectively by a fixed term contract and review the process by which facilities management staff were informed about their change in employment and clarify that plans are in place to mitigate the associated risks of this change and protect our staff
5. Request impact data on the senior management policy changes, including additional costs of internal consultants to enable delivery, staff recruitment and retention, staff impact etc. to enable you to adequately scrutinise this policy

Councillor Mhairi Threlfall