



Submission to HR Committee 5th March 2021 – **STATEMENT NUMBER 1**

TUPE transfer of Cleaning and Security to BWC

There are a few points that the GMB would like to raise a few issues that come out of a statement from David Martin to staff who may be TUPE'd out as well as John Walsh's report.

JW report–

Background

A concept proposal was originally presented to BCC by BWC on Thursday 19th September 2019. The concept proposal came from BWC as an attempt to expand their business in line with their business objectives and expertise- and the identification that the council could benefit from a different approach to some FM service delivery. This was presented to the BCC commercial team, who have subsequently been disbanded. The FM services covered by the proposal were transferred to workforce and Change in February 2020. There was a re-engagement in February 2020 from BWC with relevant team members in BCC. Following this there was an agreement made (underpinned by a letter of intent from BCC) to explore the proposals further and enter into a Due Diligence phase to ensure that the proposals offered value for money. Bristol City Council representatives have been working with the management team from its teckal enterprise Bristol Workplace (an operating division of Bristol Waste) over several months, to determine the feasibility of introducing an integrated facilities management (FM) service.

GMB

When these services were transferred to Workforce and Change there was constant dialogue between Management and staff about reviewing the service, re-grading the jobs, revamping Operating procedures etc. to make the Services fit for purpose.

We, the Unions were engaged with and there was a positive spin put on the future of these staff by Management. The possibility of outsourcing was asked and denied.

The day following our last such meeting the TUPE transfer was announced! You can see why we are suspicious of the whole project.

JW

A BCC internal governance board was set up during the Due Diligence phase composed of key team members representing FM, Legal, Procurement, HR, Finance and IT. The purpose of this group is to scrutinise the proposals in order to reach a decision about progressing forward to cabinet. The internal board made a unanimous decision on the 27th October 2020 to explore set service lines (Security and Cleaning and associated contracts), but not the entire scope of the proposal by BWC, but with agreement that other service areas could be explored in the future.

We would like to know and need to know what other services were originally in scope and will eventually be looked at to be TUPE'd over.

JW

Additionally, the service team and people involved in the delivery have access to wide ranging opportunities for career development, training, rewards, recognition and other organisational benefits.

DM

Over time, Bristol Workplace intends to bid for additional work and grow the business further. Bristol Workplace is committed to investing in its workforce by providing continuous career and development opportunities, offering training and mentoring, and introducing apprenticeships. Bristol Workplace is also keen to support employee health and wellbeing through wellbeing workshops, helpline, regular bulletins, mentoring programmes, health and lifestyle plans, and exercise programmes

GMB

We fail to see why the staff concerned cannot achieve these benefits by staying with BCC. Isn't BCC investing in its staff, supporting their health and wellbeing. Don't we provide all of the above a BCC?

Do BWC offer flexitime and Carers Leave?

JW

The integrated service team will introduce specialist management and service personnel from BW, together with BCC service personnel that will be transferred into BW employment. This provides a single management approach that will be focused on serving the BCC 'soft' FM service needs, including the training and development of this team in modern service techniques and best practice. BW will invest in the introduction of new service equipment and technology; it will manage all of the services working closely with the BCC executive management team.

GMB

Aren't the specialist management team from BCC failing to do their job? If the BCC management of FM were up to the job would we be in the position we are now? Or is this down to previous

management who stopped the provision of training, stopped recruitment, decided not to tender when school cleaning contracts came up, who ran the service with an insufficient number of managers and both under a climate of fear. Those people may have gone but their legacy is here now and has not been redressed.

Working closely with the BCC executive management team – who are too far removed from the shop floor to have a real understanding of what is going on. Time after time BCC Executive and Senior managers fail to engage with the workers on the ground, who know what is going wrong, where the savings are and how to achieve them.

This is part of the reason why David Martin said at the previous meeting they use 24 different suppliers some to supply chemicals and equipment, some to make up shortfalls in staff and to provide services they no longer can provide themselves.

JW

Summary

There has been a collaborative approach to ensuring that the proposals offer both value for money and confidence in service delivery. At the same time the implemented processes have allowed for proper scrutiny and challenge to be made to ensure that the correct benchmarks and baselines are in place. This will enable any potential service delivery in the future can be monitored accordingly. Should Cabinet approve the proposal, there will be a further phase of scrutiny during the on-boarding process prior to any potential transfer on 31st April.

GMB

Why hasn't the time spent on this piece of work been spent looking for cost savings within BCC? Who will be carrying out the scrutiny? Given that initially BWC will be given a 4 year contract what penalties will be in place, as with other contractors, to ensure BWC have an interest ensuring benchmarks are reached.

DM

Terms and conditions of employment

I understand that many of you will have concerns about how the potential transfer might affect your terms and conditions of employment, so please let me repeat my assurances that these will remain unchanged on transfer and throughout the life of the contract. These protections extend to all of your contractual benefits, including annual leave and sick pay entitlements, LGPS membership and redundancy terms.

GMB

It seems David Martin and BWC, who accused me of not knowing the TUPE rules didn't know them themselves

<https://www.gov.uk/transfers-takeovers/transfers-of-employment-contracts>

After the transfer

The new employer can't change an employee's terms and conditions if the reason is the transfer itself.

The new employer can change an employee's terms and conditions if the reason is an 'economic, technical or organisational reason' (ETO) involving changes in the workforce or workplace, such as a result of redundancies or a move from a managerial to a non-managerial position. The employee needs to agree to this change.

'Economic' reasons are to do with how the company is performing.

'Technical' reasons are to do with the equipment or processes the company uses.

'Organisational' reasons are to do with the structure of the company.

Employers can make changes if the employee's existing contract allows for those changes. But the transfer itself can't be the reason for change.

Positive changes

Employers can improve employees' terms and conditions if they agree. For example, they might want to increase the amount of holiday so that it's the same for everyone.

An employer can't normally impose changes - they have to be agreed by the employees or their representatives.

Dismissals

Employers can dismiss employees for an ETO reason involving changes in the workforce, e.g. redundancies. The normal rules around fair dismissals will still apply.

Further thoughts

No conversations have been had with these services internal (BCC) customers to seek their views or support. What we do know is the Head of Housing Management, with the total support of the management team, is keen to discuss with David Martin the insourcing of cleaning staff into the Sites and Estates (caretaking team). We understand David has pushed this discussion into the long grass. This may be because of the potential loss of 360k may have in the transfer.

The Sites and Estates manager recognises the existing problems his team has managing existing contracts his team has with BWC, compounded by the lack of any written contract or penalty clauses.

The GMB has previously broached this possible transfer to BWC blue collar Management who were shocked as they feel they (white collar management) can't cope with the work they currently undertake.

Going back to my earlier comments around what other services could be in scope – BWC currently undertake grounds maintenance, added to the cleaning will be the Caretaking service. Also they are undertaking some IT work for BCC so this section may well be on the list.

Finally what influence do you have over the decisions made running of the teckals? An overview? Can you make changes to their Policies, term and conditions of employment? Don't we all agree that if they are companies who are wholly owned by BCC they should be bound by BCC Policies, subject to the same scrutiny, the staff have the same rights of appeal to yourselves?

And now finally as regards financial returns to BCC – when I asked Tony Lawless he sates they had returned about £1.75m a year each of the previous 2 years.

This money had come from the HWRC – Household waste recycling Centre which BCC transferred some 4 years ago so not exactly a financial gain. Added into this equation is the £2.84m that BCC is paying for the upgrading of these facilities so a net gain of 516k after 3 years.

Is the mayor's ultimate plan to put all non statutory services into various teckal's ready to sell them off when times get hard?

In conclusion far more time and effort has been spent has been spent looking at 'insourcing' these services than ever was spent improving them within BCC. Successive managers have allowed the services to be under resourced, not tendered for new business or to keep existing business when contracts where to be renewed. These services have been run into the ground by management in the past and now the existing management just want to wash their hands of them and let the staff suffer the consequences.

Jeff Sutton

GMB

Chair

Avon and Wessex Branch