

MINUTES OF THE MEETING OF THE COUNCIL AND EMPLOYEE JOINT CONSULTATIVE COMMITTEE HELD ON MONDAY, 7TH NOVEMBER, 2016

PRESENT:

Employer Side: Councillors Jason Arthur, Barbara Blake, Raj Sahota (Chair) and Elin Weston

Employee Side: Sean Fox, Andrea Holden, Gerard McGrath (Vice Chair) and Chris Taylor

37. APOLOGIES FOR ABSENCE

At the start of the meeting, the Committee observed a minute's silence in memory of Ursula Brown, a long-serving colleague who had provided invaluable support to many staff members throughout her employment with the Council, and had sadly passed away the previous day.

Apologies for absence were received from Cllr Goldberg and from Cllr Newton.

38. URGENT BUSINESS

There were no new items of urgent business.

39. DECLARATIONS OF INTEREST

There were no declarations of interest.

40. MINUTES

RESOLVED

That the minutes of the meeting held on 6 September 2016 be approved as a correct record and signed by the Chair.

41. MATTERS ARISING

Chris Taylor raised some points of clarification in respect of minute 34, Off Payroll Working:

- Paragraph 2: With regard to the question of what evidence there was regarding the existing use of tax avoidance arrangements in the Council, Mr Taylor advised that in addition to the points minuted, he was aware that several senior officers working for the Council on a full-time basis had personal service

companies registered with Companies House, which would suggest that these existed for the purposes of receiving income.

- Paragraph 3: Mr Taylor stated that there was no suggestion from the Employee Side that the Council actively investigate the financial arrangements of staff, they were merely asking for the Council to ensure that all employees were remunerated via a PAYE arrangement.
- Paragraph 3: Mr Taylor stated that there was no issue regarding the lawfulness of what the Employee Side was asking the Council to do, as they were merely asking for all employees to use a PAYE arrangement, which was in itself a lawful arrangement.

It was agreed that these points would be addressed under agenda item 9, Update on IR35.

42. CORPORATE HEALTH, SAFETY AND WELLBEING POLICY 2016

This item was withdrawn from the agenda.

43. STATUS OF CEJCC

The Committee considered a report on the status of the CEJCC, introduced by Michael Kay, Democratic Services Manager. The issue of the status of the Committee had arisen as part of a Governance Review, which sought to identify and resolve inconsistencies and irregularities relating to the Council's Constitution. A report on the Governance Review, recommending any necessary amendments to the Constitution, would be considered by Full Council in March 2017 after being considered by the Standards Committee.

It had been identified that the CEJCC's current status as a Sub-Committee of the Staffing and Remuneration Committee within the Constitution was at variance with how it operated in practice. In order to resolve this, the report recommended that the CEJCC be removed from the Constitution and formally constituted as a separate body.

The Employee Side advised that they had no dispute with the content of the report and recognised the need to resolve the current discrepancy between the way the Committee was constituted and the way it operated. They were happy to work with the Employer Side on developing an appropriate terms of reference for the Committee going forward.

The Committee noted that it was comfortable with the content and recommendation of the report as circulated, and agreed to receive a further update at its next meeting in January.

44. CAR PARKING CHARGES UPDATE

Victoria Tricarico, Head of People and Change, gave a verbal update to the Committee on Car Parking Charges, which had been discussed at the previous

meeting. It was reported that not all of the spaces had currently been allocated, and it was anticipated that this exercise would be completed in around a month's time. It was therefore proposed to bring a further update back to the next meeting in January, when a complete picture could be provided.

In response to a question from the Employee Side, it was confirmed that allocation of parking spaces was managed by the Assistant Director Commercial and Operations. Once all spaces were allocated, responsibility for enforcement of the use of parking spaces would come under Amey, but it was confirmed that it was understood that the responsibility for the allocation of spaces would remain with the Council.

The Employee Side advised that they would take up the issue of parking for Councillors separately, outside of the meeting.

Andrea Holden expressed concern that a delay in planned office moves, which may impact on some staff members' need for a parking space, meant that those staff may be disadvantaged as all spaces would have been allocated before the office moves took place. It was agreed that this would be looked into.

Action: Head of People and Change

The Committee noted the update and agreed to receive a further update at its meeting in January.

45. IR35 UPDATE

Victoria Tricarico gave a verbal update on IR35, and responded to the points raised in respect of this issue under matters arising earlier on the agenda. It was reported that work was taking place within the Council to get ready for complying with the new legislation, including discussions with Procurement regarding anticipating any issues regarding existing contractual obligations. It was noted that the Government's online employment status tool was still in beta form, and that there were various aspects relating to IR35 which were still being finalised by the Government. It was therefore difficult to implement the changes requested by the Employee Side prior to the legislation being formally introduced, when individuals working for the Council were operating lawfully in accordance with the existing legislation.

The Employee Side noted that while individuals may be operating within the current legislation in that the onus was currently on them to ensure that they were paying the requisite amount of tax, where those people were incorrectly claiming to be self-employed for tax purposes, this was not complying with current legislation. IR35 had been in force since 2000, and the Government made it clear that any organisation in receipt of public funds had a responsibility to ensure that people it engaged were paying the correct amount of tax. Given that the Council would be legally required to implement these measures from April, the Employee Side challenged the assertion that it would be difficult to start sooner.

The Employee Side asked what the issues were with regard to existing contractual obligations, as referred to above. The Head of People and Change advised that, until the legislation was introduced, while the Council could instruct the agencies it employed to ensure that staff were engaged on a PAYE basis the agencies

themselves were under no obligation to comply with such an instruction and this could put the Council in a difficult position.

The Employee Side advised that they had been told that agency staff who opted to work on a PAYE arrangement were being financially penalised by the agencies for doing so, and asked the Employer Side to look into whether this was the case. It was agreed that Chris Taylor would provide the Head of People and Change with some further details outside of the meeting, and that the Head of People and Change would then look into this matter with the agencies.

Action: Head of People and Change

The Assistant Director, Transformation and Resources, noted that the changes to the legislation would affect all agency staff, not just consultants and interims. Until further guidance was received from the Government and the introduction of the legislation in April 2017, it was felt that the Council's ability to act on implementing measures to require everyone engaged by the Council to use a PAYE arrangement was limited.

46. VR UPDATE

Victoria Tricarico provided a verbal update on the current VR campaign, which had commenced on 14 October 2016 and was open until 18 November 2016. The campaign had been communicated to staff via a letter with their pay slips, and the letter had made clear which posts would not be considered for VR, to ensure that expectations were managed appropriately. It was noted that the VR Panel usually had discretion to refuse VR requests where the ratio of the sum of redundancy costs exceeded 70% of the sum of the costs of retention, however for this campaign that ratio had been increased to 100%, and it was hoped that this would encourage more applications. A special VR Panel had been arranged for 6 December 2016, with decisions being confirmed shortly afterwards, in order for people to be advised in a timely manner whether their applications had been successful. It was reported that 65 applications had been received to date.

In response to a question from the Employee Side, it was confirmed that no applications would be considered by the VR Panel until the current VR campaign closed, in order to ensure that decisions were made on a consistent basis, and that people were not disadvantaged by having submitted their application later in the window. It was confirmed that there was no absolute deadline for those whose applications were successful to leave, and that where individual service demands required it, a phased release of staff would be undertaken.

The Committee noted the content of the report, and agreed that a further update would be provided at the January meeting of the Committee, including EQIA information regarding the applications received and those accepted.

47. SOCIAL CARE COMMISSIONING/ETHICAL CARE CHARTER

The Committee considered the report submitted by the Employee Side, introduced by Sean Fox.

Cllr Arthur, in responding to the report, advised that the Council was fully supportive of the aims of the Charter, but faced questions around how to deliver all of its aims, particularly Stage 3, and how quickly this could be implemented. It was noted that identifying resources in order to enable all homecare workers to be paid the London Living Wage was the most significant challenge. Cllr Arthur advised that, other than Croydon and Barking and Dagenham, all the other signatories to the Charter were inner London boroughs with higher funding levels, and that he was interested in finding out how the two outer London boroughs had identified the necessary funding. In line with the response that had been provided to the Employee Side when this had been circulated to all Members previously, Cllr Arthur advised that further discussions were needed with the Unions, partners and wider stakeholders around how to increase the stability of the homecare market and the role the Ethical Care Charter could play in this.

In relation to the request in the Employee Side for an implementation plan to deliver the core principles of the Charter in full over an 'agreed period', Cllr Arthur noted that such a period was necessarily indeterminable at the current time, and asked whether saying that the Council did wish to sign up to the Charter but was unable to agree a set period at this point would be an acceptable position for the Employee Side. Sean Fox confirmed that this would be an acceptable position, and that it had been a deliberate decision not to include a proposed deadline within the report. The Employee Side was fully aware of the issues around the underfunding of social care and that this was an issue the Unions were actively engaged in lobbying the Government about. Mr Fox advised that a further report on this topic had been issued by Unison that day, and that he would forward this on to Cllr Arthur outside the meeting. Cllr Arthur advised that he would welcome the opportunity to see the Unison report and would also be happy to be involved in any lobbying at a national level around these issues.

The Employee Side advised that ensuring providers were legally compliant with regards to paying the minimum wage, by paying staff for their travel time, and addressing the issue of zero hours contracts were more urgent priorities than the payment of the London Living Wage. It was recognised that zero-hours contracts had serious implications, including deterring people from whistle-blowing for fear that their hours would be reduced as a consequence. Cllr Arthur acknowledged the concerns being raised by the Employee Side and agreed that a conversation was needed, with a focus on addressing the issues arising from zero hours contracts at an early stage. It was hoped that the introduction of the Dynamic Purchasing System (DPS) would help to address the risk of unfair arrangements within the social care market. Charlotte Pomery, Assistant Director for Commissioning, confirmed that she was happy to discuss the issues raised with the Employee Side further, and noted that Haringey's commissioning levels had been very stable for a significant period; assertions by providers that unreliability of commissioning levels was what prevented them from being able to guarantee hours for their employees were therefore not felt to be valid. Especially in light of the recently published CQC Annual Report drawing attention to the current issues for the social care market nationally, it was felt that there needed to be a discussion involving all stakeholders around potential alternative models locally, and it was noted that an options appraisal was currently being developed.

With regards to legal compliance, Cllr Arthur advised that this was already required under existing contracts, and that the Council challenged providers where concerns were raised. The Committee asked how contracts were monitored; Charlotte Pomery advised that safeguarding and quality assurance officers undertook checks of service provision, timesheets were required to be submitted alongside invoices for verification, there was close liaison between officers, service users, the Safeguarding Adults Board and the CQC, regular audits of service provision were carried out and service improvement plans were developed and implemented. It was noted, however, that there was a capacity challenge in monitoring care contracts, given the number of hours of service provision. It was also reported that the Council was considering the introduction of electronic call monitoring, which should help with the process of contract monitoring, making it a more proactive process than at present.

The Committee noted the ongoing discussions around this issue, and that a meeting between Cllr Arthur and the Employee Side was to be scheduled shortly.

48. NEW ITEMS OF URGENT BUSINESS

The Chair proposed that future meetings of the CEJCC commence at 7pm, with any necessary pre-meetings happening before this start time.

RESOLVED

That the start time for future meetings of the CEJCC be set at 7pm.

49. DATE OF NEXT MEETING

The Committee noted that the date of the next meeting was 23 January 2017, 7pm.

The meeting closed at 8.40pm.

CHAIR: Councillor Raj Sahota

Signed by Chair

Date