

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00pm 13 JANUARY 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Mrs Norman (Chairman), **Error! No document variable supplied.**

Also in attendance: **Error! No document variable supplied.**

PART TWO

67. EQUAL PAY

- 67.1 The Committee considered a joint report of the Director of Strategy & Governance and the Interim Director of Finance & Resources, concerning proposals for how the council could implement all elements of the Single Status Agreement of 1997, including equal pay. The report detailed the history of the national agreement signed in 1997 and the work that commenced within the council to implement various elements of that agreement, such as the assimilation of manual workers to new pay spines on spot salaries from 1st April 1997. The report also detailed the various changes affecting single status over the years and outlined the key issues that needed to be taken into account, should the council agree to proceed with the recommendations.
- 67.2 The Director of Strategy & Governance introduced the report and explained that there were two significant elements that had to be taken into account. The first was the need to recognise and resolve the potential back pay liability for equal pay claims and the second was to ensure that future pay and allowances provisions were 'equal pay proof' from the next financial year.
- 67.3 The Director of Strategy & Governance stated that officers had been in negotiations with the trade unions and an initial offer to reach a settlement on back pay liability had been made in the summer of 2008. This offer had been based on a 'mean average comparator' but was rejected by the unions and following further negotiations an improved offer based on an 'actual comparator' was made in late December 2008. The offer is currently under consideration by the trade unions and equates to a 60% settlement of the potential full liability for staff concerned, which is estimated to be in the region of £33-35m.
- 67.4 He noted that a significant proportion of the potential back pay liability related to non-teaching staff employed in schools and that the size of the liability was likely to be too great for schools' budgets to bear either completely or in one year. It was intended to discuss with schools how this could be addressed at the Schools Forum.

- 67.5 It was hoped that the trade unions would be in a position to respond on the improved offer in the next two weeks. This would enable officers to update all Members when reporting recommendation 2.4 to the Council meeting on the 29th January. However, if the unions were to reject the offer, the council would write directly to each member of staff concerned offering a settlement, on individual terms, if they were to 'sign up' before the 31st March 2009. The need to pursue this course of action was based on the funding arrangements for the back pay liability which included the use of an Equal Pay Capitalisation Direction agreed by the Government, which would enable the council to borrow to pay for the cost over a set period of time. The flexibility to do so however, had to be used by the end of the current financial year.
- 67.6 The Director of Strategy & Governance noted that there were currently 80 outstanding Employment Tribunal claims for equal pay and it was likely that the number would rise sharply if a resolution was not reached.
- 67.7 The Chairman thanked the Director for his introduction and stated that she wished to acknowledge the huge amount of work that had been undertaken by officers and union representatives in seeking to reach the current position.
- 67.8 Councillor Mitchell noted the report and expressed her concern over the size of back pay liability and the lack of cross-party working over the issue. She noted that the response from the trade unions was awaited and queried how this would affect the decision being put to the Council on the 29th January. She also queried whether there would be an opportunity for Members to discuss matters prior to the council meeting.
- 67.9 The Director of Strategy & Governance stated that dependant on when a the trade unions' response was received; the issue may have to be discussed in Part 2 'closed' session at the council meeting or partly in 'open' session and partly 'closed' session.
- 67.10 The Interim Director of Finance & Resources stated that the Schools Forum was due to meet on the 26th January and it was hoped to discuss the matter of back pay liability at that meeting. He stated that it was going to be difficult for both the council and schools to meet the financial costs and until discussions had been held it would be difficult to indicate how schools may contribute to funding any potential settlement.
- 67.11 Councillor Taylor queried how the cost of the capitalisation of £14.05m would be met in future years and how much would fall to schools. He also queried why there was such a delay in addressing the issue and why greater provision had not been made to meet the costs of equal pay. He expressed concern over the level liability being offered and felt that there was an onus on the council to meet the 100% of any potential back pay liability. He could not support recommendations 2.4 and 2.5 and asked that each recommendation be put to the vote in due course.
- 67.12 The Interim Director of Finance & Resources stated that the capitalisation would have to be repaid over a period of time which would need to be approved. In terms of equal pay provision, £2.4m per annum had been set aside in previous budgets and as a result £3.5m had been achieved as a one-off contribution. The sum of £2.4m remained in the overall budget allocation as an on-going commitment. The contribution from schools could not be determined until discussions had been held.

He also noted that as further information became available this would be included in the Budget Report to Budget Council on the 26th February and any supplementary papers to that meeting.

- 67.13 Councillor Fallon-Khan noted that several other authorities faced significant costs in relation to equal pay and that the council was looking to reach a resolution that was fair for both the council as an employer and its employees.
- 67.14 Councillor Elgood stated that he broadly supported the proposals in the report, although he was concerned about the total cost. He suggested that consideration should be given to establishing a cross-party working group given the importance of the matter and the timeframe involved. He also queried whether the matter should be referred to the Overview & Scrutiny Commission in due course.
- 67.15 Councillor Oxley noted that the current report was a 'snap shot' of the detailed the position as it was currently and that it was seeking approval to a course of action that would enable officers to implement aspects to enable the council to meet the financial commitments identified. He noted that further information would be provided to Members in due course.
- 67.16 The Director of Strategy & Governance confirmed that because of the impact on the Budget Framework, there was a need to report to council and should council approve the proposals, the Head of Law confirmed that the council meeting on the 29th January 2009 was necessary to give sufficient authority to progress with attempting settlement, but that it would be Budget Council in February where detailed funding provisions would need to be identified.
- 67.17 The Chairman noted the various comments and stated that she would put each recommendation to the vote.

RESOLVED –

- (1) That the contents of the report and the current situation regarding equal pay and the compliance with the Single Status Agreement be noted;
- (2) That the attempts to achieve a negotiated settlement on potential back pay liability with the trade unions be endorsed and that in the event of such a settlement not being forthcoming, the council would need to go direct to its employees to seek to achieve settlement on an individual basis before the end of the current financial year;
- (3) That the ongoing dialogue required on the issue of future pay implementation and allowances be noted and officers be instructed to actively pursue this dialogue and report back on progress to the next meeting of this committee on the 10th March, 2009;
- (4) That the council be recommended to agree the anticipated cost of settling the back pay liability as set out in paragraph 3.19 and the financial implications paragraph on the terms set out in the report, (given that the size of that liability will exceed the currently approved budget framework and therefore needs the

specific sanction of Full Council), and agree that provision be made in the budget for 2009/10 to meet the anticipated expenditure;

- (5) That the Directors of Strategy & Governance and Finance & Resources and the Section 151 Officer be authorised to enter into settlement agreements and take all necessary or incidental actions to achieve or progress the outcomes in resolutions (1) to (3) above.

Note: Councillors Duncan and Taylor wished their names recorded as having voted against resolutions (4) and (5) above.

The meeting concluded at 6.10pm

Signed

Chair

Dated this

day of