



**Policy and Resources Committee**

**Setting up of New Legal Entities within the Barnet Group**

Barnet UNISON

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## **Recommendations**

- 1) To oppose the decision to create The Barnet Group Terms and Conditions Trading Company (TBG TCTC) on the basis that this is about undermining the Local Government Pension Scheme. This is a further race to the bottom on workers' terms and conditions.
- 2) If councillors do not oppose the decision to create TBG TCTC outright – then to at least delay the decision making until many of the basic questions have been resolved in negotiation with the trade unions.
- 3) With respect to the creation of a Registered Provider, UNISON can only reiterate its position of opposing the creation of ALMOs and being in favour of Council owning and managing its own stock. Housing is the most critical issue faced by any local authority and any resident. It is particularly sharp in the South East. It is having a profoundly negative effect on the ability of any employer (including Barnet) to recruit and retain staff and run critical public service provisions such as the emergency services and education. Quite why any local authority is not robustly lobbying for finances to secure the ability to build Council housing on a massive scale which is not rented at near market rents, speaks volumes about the priorities of local politicians. The first 2 proposals in the report presented to the Council reflect the fact that the ALMO is tying itself in bureaucratic knots trying to do the right thing, creating layers of unnecessary managers and arrangements to do what would have been straightforward if run in-house. UNISON believes we do not have to be in this position in the first place.

## **Summary**

The Barnet Group, London Borough of Barnet's Local Authority Trading Company – incorporating Barnet Homes [the wholly Council owned Arm's Length Management Organisation] which manages Barnet Council housing stock and Your Choice Barnet [the wholly Council owned care provider which offers support to adults with a range of physical and learning disabilities] is in consultation with Barnet UNISON in regard to proposals to set up two New Legal Entities within the Barnet Group.

1. To establish a New Legal Entity as a Registered Provider [Housing Developer] within the Barnet Group.
2. To establish a New Legal Entity which will be used as the sole future employer within the Barnet Group. All vacancies will be recruited to the New

Legal Entity on reduced pay [TBC] and terms and conditions to existing staff within the Group. - TBG TCTC.

Future new employees of TBG TCTC, whose sole shareholder will be the London Borough of Barnet, will not be able to join the Local Government Pension Scheme.

There is confusion as to what the position is if current employees of the Barnet Group seek promotion or are restructured – whether they will still be employed by Barnet Homes/ Your Choice Barnet or whether they will be employed via TBG TCTC on the lower pay scale and with reduced Terms & Conditions including longer working hours, reduced sick pay entitlement.

The proposals to set up the New Legal Entities are scheduled to go forward to the Policy & Resources Committee on the 14th of October.

The principle reason for setting up this new company is to enable, over time, the Barnet Group to leave the Local Government Pension Scheme.

### **Background**

UNISON has tried to engage in discussions with the Barnet Group regarding its new level of savings to be made since January 2015. Only during the Summer 2015 were we invited to formal consultation. UNISON welcomes the fact that the consultation period has been extended and there is a commitment to continue with negotiations about setting up the new company but we are opposed to the creation of this new company per se.

The report states the savings target for the creation of this new company is £143,000 out of £2.8million. We note the current new TBG CEO job is advertised at ca. £130,000 (without on-costs).

There is a 20% staffing vacancy rate in Barnet Homes and a 16% staffing vacancy rate in Your Choice Barnet.

The Barnet Group – Barnet Homes currently has difficulty in retaining staff. We believe there are 87 full time equivalent posts currently filled on a monthly basis by agency workers.

The Barnet Group - Your Choice Barnet is still incapable of providing reliable agency data despite repeated questions on this and the Task and Finish Group naming this as a priority in its report 2012.

UNISON has yet to gain a full understanding as to how the new terms and conditions quoted will deliver this level of savings. The current vacancy rate would suggest that

the current more generous terms and conditions are not attracting and retaining staff in either of the two groups as it stands. Over-shooting the savings target but unable to retain a stable workforce will not be conducive to delivering a good, consistent business.

The central attraction in setting up TBG TCTC is in order to avoid the Local Government Pension Scheme. As stated in 2.3.2:

“Being restrained by offering the same benefits as the Council is considerably more expensive for the business, **especially the cost of the LGPS.**”

And 2.3.7:

“A **further benefit** in establishing a separate Trading Company is that it will **limit the risk of the pension deficit**. This means there will be no risk of it increasing further and therefore the liability to the Council will not increase over time.”

**However, what is not discussed is the impact on the LGPS over time of fewer and fewer people paying in.**

Going ahead with setting up this company will cause great unease amongst the current workforce in terms of the future of the pension scheme which could exacerbate the retention situation for both groups.

We were quite perplexed to read at 2.3.14:

“Whilst there is **no statutory requirement to consult the unions**, as existing staff will not be affected, TBG believes it is good practice to do so and have actively engaged in communications with both Unison and GMB. Employees have also been consulted directly.”

Particularly as at 2.3.11 there are clear implications for existing staff:

“TBG do not propose to make any changes to the terms and conditions of employment of existing staff, who transferred from LBB to TBG under TUPE, **unless their situation changes. For example, through an individual’s application for a different role or promotion to management grade**. In these circumstances there would be a change to some of their benefits package, but not to their holiday entitlement or LGPS pension membership if applicable, under their current terms and conditions of employment.”

Therefore consulting with the Trade Unions is not just a question of good practice but is actually required.

We have also tried to clarify the position for employees involved in restructures. We are still awaiting a response to that question (see appendix of all questions raised and to which we are waiting for a response).

The following is the list of proposed changes in terms and conditions:

## **Proposed Changes to Pay and Terms and Conditions for new starters in the Barnet Group**

- A new pay and grading structure underpinned by a job families model using Hay Group evaluation scheme
- No access to the Local Government Pension Scheme [LGPS]
- An increase from 36 to 37.5 hours working week with the flexibility to consider a 7 day working week and annualised hours in some areas of the business in the future, for example the Contact Centre and Assist Services
- Overtime to be paid at flat rate (with the exception of Christmas day) and removal of enhancements
- A reduction in Annual leave ranges from 22 – 31 days [present] for non- managers to between 23 - 25 days [proposed] for non- managers and a maximum of 30 days [proposed] for senior managers– A reduction for of 2 days from 32 [present] in addition to bank holidays
- A reduction in sick pay - The current maximum sick pay for employees who qualify is 6 months full pay and 6 months half pay. Proposed changes – No Sick Pay for the first 3 days of sickness then Statutory Sick Pay [to a maximum of £84.45 a week] for the first year of service followed by a maximum of up to 2 months full pay, thereafter statutory sick pay with an option to extend in exception circumstances at senior managers discretion.
- Statutory Redundancy pay capped at statutory maximum (currently £464 per week). Existing staff employed by YCB or BH receive redundancy based on weekly salary in both companies based on actual weekly salary.
- Statutory Maternity pay
- Removal of salary protection for redeployment
- Compassionate/Bereavement leave capped at 5 days per year with an option for additional unpaid leave. Currently the terms and conditions have no annual cap for compassionate or bereavement leave.
- Removal of flexi time scheme with the introduction of flexible working. Currently, staff earning below a certain scale point are entitled to one day flexi leave a month.

- No Continuation of Service

### **Impact on current Barnet Group Staff**

The introduction of a two tier workforce on inferior Terms and Conditions will undoubtedly have a detrimental impact on staff morale. This is highlighted as an intention in 2.3.8 that the new company will become the dominant employer:

**“the new Trading Company would employ the majority of all staff across TBG and charge costs back to each individual organisation within the Group.”**

### **Pay and Grading and Equal Pay challenges**

The Barnet Group has yet to share any information on future grading other than it will be job evaluated using Hay model. The unwillingness to engage fully with the Trade Unions around this, involving them at every stage leaves the Barnet Group exposed to Equal Pay risks.

### **Recruitment and Retention Risks**

Barnet UNISON is concerned that there will be further difficulties in retaining existing staff if they apply for promotion due to the reduced Terms and Conditions in TBG TCTC.

As TBG TCTC will not offer continuation of Local Government service this will impact greatly on the Group’s ability to attract trained staff from other Local Government employers and on the retention of newly recruited staff after they have been trained.

### **Other Risks**

- 1) We believe the future and viability of the LGPS is at risk if this company goes ahead.
- 2) We believe there are myriad of ways in which Equal Pay challenges or potential other discrimination issues become more likely when having groups of workers in the same job but subjected to different terms and conditions. This creates a bureaucratic minefield, is unnecessary and if a challenge is successful could end up costing a lot more than the £143,000 this company was trying to save in the first place.

## Barnet Group / TBG Terms and Conditions Trading Company

### Questions from UNISON

1. Arising from the Consultation with Trade Unions, UNISON has been asking numerous questions with respect to the effect of the TBG TCTC on existing staff either through restructure/ redeployment or through successful promotion. We have been promised a table outlining various scenarios which will make the question clear. E.g. Who will be my new employer if I, as a result of a restructure, am assimilated into a new role? **We have yet to be supplied with this table.**
2. We have also asked for information with respect to staff who may have a part-time job in one company (YCB) and then have a part-time job in the new company under which policy and procedure they will be measured against e.g. which sickness absence policy is applicable? **Awaiting a response.**
3. We need to agree which policies need to be revised to be fit for purpose in the new company. **Awaiting a response.**
4. Governance - Cost of setting up and administration of new companies. **Awaiting a response.**
5. Local Government Pension Scheme – TBG TCTC set up specifically to ‘opt out of LGPS’ so how can current Barnet Group staff who, through redeployment or promotion, retain LGPS can and be employed by TBG TCTC? **Awaiting a response.**
6. Pay - The TU’s requested that Job evaluation and moderation panels between management and TU are set up to go over the jobs which have been evaluated under Hay and any future JE’s in order to protect against Equal Pay challenge. **Awaiting a response.**
7. Will the TBG TCTC be part of the National Joint Council pay awards scheme? **Awaiting a response.**
8. Hay Grading – Information not shared - Unclear as to the role of Trade Unions in agreeing Job descriptions. - awaiting response.
9. Reduction of Sick Leave to 2 months – TU’s have asked for figures/cost relating to current take up of Sick Leave over the proposed 2 month cut off. **Awaiting a response.**
10. Equalities Impact Assessment – TU’s have requested. **Awaiting a response.**
11. Restructure of staff – Redundancy - option for any staff not wishing to take up employment in TBG TCTC due to new poor Terms and Conditions. May prove to be costly exercise. **Awaiting confirmation we have understood this correctly.**
12. What are current review and restructures taking place in the Barnet Group? A commitment that those identified during consultation period will continue being conducted under existing Barnet Group Terms and Conditions/Pay scale. **Awaiting a response.**
13. Continuity of Service – TU’s informed that there would be no loss of continuity of service for colleagues in TBG TCTC. This is a discreet company and so service is presumably not transferable anyway. The proposals do not appear



to outline opportunities for accruing benefits with continuity of service?

**Awaiting confirmation of a position from TBG.**

14. The TU's have requested a breakdown of current Barnet Homes staffing costs [47% of overall expenditure] and Your Choice Barnet [74% of overall expenditure]. **Awaiting a response.**
15. TU Recognition within TBG TCTC – The TU's to be given full collective bargaining rights within TBG TCTC as currently agreed with in the Barnet Group. – **Verbally agreed, awaiting written confirmation.**
16. Barnet Group Full Time Equivalent posts 411.52 [492 headcount which includes zero hour contract employees] – How many posts in Barnet Homes? How many posts in YCB? **Awaiting a response.**
17. How many FTE posts covered by agency in BH and YCB respectively? **Awaiting a response.**
18. Ongoing cost of extra payroll runs and HR support etc. for new businesses. **Awaiting a response.**
19. Requested information on who will operate the new pension scheme and how it will be administered. **Awaiting a response.**
20. Requested a comparison on the respective benefits of the LGPS versus the new pension scheme. **Awaiting a response.**
21. Requested that Stand-by rates should be paid at the minimum wage rate and for TBG to confirm the minimum wage rate. **Awaiting a response.**
22. Requested training for HAY. **Agreed.**
23. If there is a restructure of current Barnet Group staff and aforesaid staff are reemployed by TBG TCTC, which, as you have stated, does not offer continuous service as a Local Government employer. Would staff receive a redundancy payment for the number of years' service in TBG before commencing employment with TBG TCTC? **Awaiting a response.**