

CONSULTATION DOCUMENT – Creation of new legal entity within The Barnet Group
20 July 2015

CONSULTATION PAPER

Creation of a new legal entity within The Barnet Group with the development of new terms and conditions including a new pay and grading model, pension scheme and a flexible benefits solution. (Subject to Council approval in September 2015).

LEAD MANAGER: *Laura Awosile – Assistant Director of Resources*

PROJECT MANAGER: *James Yurky*

SENIOR HUMAN RESOURCES MANAGER : *Tony Spaul*

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1. BACKGROUND

1.1 This documents sets out the proposed change to create a new legal entity within The Barnet Group with new terms and conditions for new staff it employees, including a new pay and grading structure and a new pension scheme. The aim of the new entity and the changes planned for new employees, is to enable the Group to be best placed to achieve its corporate objectives and make the required efficiency savings to the Council.

Our strategic goals

- Provide support which enables our customers and service users to lead improved, and where possible, more independent lives.
- Deliver the value for money services which our customers and service users want.
- To Develop the Group to meet our strategic goals.

Our key drivers

The Barnet Group

- Embedding the Group structure, identifying and developing synergies between services to deliver benefits for service users and residents.
- Driving efficiencies and service improvements across the Group.
- Seeking and attracting new business into the Group.
- Strengthening relationships between the Group, the Council and other partners.
- Improving satisfaction with the services delivered by the Group.

Your Choice (Barnet) (YCB)

- Supporting choice and independence of our service users.
- Achieving high quality outcomes.
- Delivering efficiencies and providing greater value for money.

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- Maximising revenue and collection of revenue across schemes and individuals.
- Achieving growth and new business.

Barnet Homes (BH)

- Understanding our residents and their priorities.
- Delivering the right services at the right quality.
- Ensuring we have the right people in place to deliver these services in the most effective way.
- Offering financial value in all that we do, achieving efficiencies and attracting new business.
- Working with partner organisations and residents to make efficiency savings and long-term improvements to wider communities.

1.2 This proposal relates primarily to new employees and roles within the new company recruited to after the implementation date, which we hope will be around October/November 2015. Those staff currently employed in a role within YCB or BH will remain on their current terms and conditions working for YCB or BH as their employer in the normal way. However as roles in the current structure become vacant, they will be replaced with roles in the new company, so could potentially impact on existing staff as follows:-

- Where applying for new roles within The Barnet Group
- Existing staff involved in future restructures may be impacted in situations where roles are removed from current structure and new roles created in the new company

2. RATIONALE FOR PROPOSALS

2.1 Introduction

London Borough of Barnet is required to achieve 90 million in savings by 2020; The Barnet Group is tasked with delivering 2.8 million in efficiencies in the next five years. These savings are in addition to and on top of previous savings already delivered to the Council. London Borough of Barnet has recommended a 10 year management agreement starting 1 April 2016 and due to expire in 2026, with a 5 year break clause. Current services are all to remain with Barnet Homes with a target development programme of 500 homes over the next 5 years. London Borough of Barnet has also given approval to

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create a Registered Provider within the Group that can build and buy properties to own* and approval to expand Let2Barnet to operate a private lettings agency* as a new legal entity.

*Subject to board approval

We need to ensure a secure future for The Barnet Group and place ourselves in a position to expand and grow our services. We want to maintain excellent services and protect our customers and service users. The creation of the new company would allow the Group to be more competitive and attract more new business opportunities, whilst delivering the outstanding £2.6 million savings to the Council by 2019/20.

We want to avoid affecting existing employee terms and conditions as far as possible. With continued cost pressures, the Group needs to be more radical in its approach to offer attractive but affordable terms and conditions to employees. This is one of the many areas we are looking at to achieve these efficiency savings. These savings were not envisaged when the planned restructure to introduce previous pay changes within YCB was introduced

We believe that making savings at this point in time in the manner proposed is likely to avoid the need for compulsory redundancies in the short term in respect of these cost savings. Whilst reorganisations and associated redundancies are always possible and may be necessary to meet normal business needs, this remains unchanged. The current plan delivers some of the costs savings which the Group now need to make and should minimise job losses. We also believe that it will mean that the current, recently negotiated terms and conditions for YCB's existing employees would remain unaffected, safeguarding any direct changes for existing employees in both BH and YCB. However, we need to be in a position where we are competitive in the market place and are able to compete with companies in the private sector so we can be in a position to attract new business. This will enable the Group to trade commercially, ensure viability and generate income against savings delivered from our management fee income with the Council.

The new legal entity will be the employer for new employees and vacated roles, and will provide employee services to Your Choice (Barnet) and Barnet Homes via service level agreements with agreed costs.

There will be an initial investment and savings which we believe will be achieved from year 2, and year on year with a significant net saving over next 5 years of approximately £274,779.

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2.2 New terms and conditions

Unfortunately the current terms and conditions are unaffordable going forward and we need to look at options to make savings and we believe that employing new staff in a way that offers us a lower cost base, without any reduction in standards, but still providing attractive terms and conditions for staff that wish to work for the new company, is a good way of meeting our needs. We believe this approach offers us flexibility with effective return on investment whilst protecting existing terms and conditions for existing staff.

We appreciate it is important to attract good staff and we need to offer terms that are competitive in the current recruitment market - mid to upper quartile. One key consideration is the ongoing cost of the existing LGPS pension scheme arrangement being offered to all new starters, as this is prohibitive from a cost perspective, but equally cannot be modified without the risk of triggering the pension deficit debt. The cost of providing LGPS defined benefit scheme is significant. In an environment of funding cuts, combined with the implications of auto enrolment (50% of non-members joined the scheme in 2014), keeping LGPS open to all new starters in the Group will not be sustainable for the business going forward. There is no plan to move away from LGPS for existing members. We have reviewed current benefits, looked at statutory entitlements, benchmarked in the market whilst being aware of the position with LBB terms and conditions review. At the point in time, this proposal does not impact on existing staff terms and conditions, so we believe it offers a sensible approach and good option for both current employees who will not be affected whilst continuing in their current role, and for the company to be able to deliver its efficiency savings and grow.

New policies are being developed to reflect the terms and conditions of the new company.

The main differences between current terms and conditions in YCB and BH, and those within the new company are as follows:

- A new pay and grading structure underpinned by a job families model using Hay Group evaluation scheme
- A defined contribution pension scheme between 3 -10% matched scheme funding as opposed to a LGPS pension scheme
- 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

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- Overtime to be paid at flat rate (with the exception of Christmas day) and removal of enhancements
- Annual leave ranges between 23 - 25 days for non- managers and a maximum of 30 days for senior managers in addition to bank holidays
- Statutory Sick Pay 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. The current maximum sick pay for employees who qualify is 6 months full pay and 6 months half pay.
- 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.

A detailed comparison and proposal of terms and conditions is set out in **Appendix 1**.

We have worked with Hay Group to create a new reward system and new pay and grading model for the new company. The system is underpinned by job families. The new reward scheme will be more closely linked to performance and contribution with a mix of variable and non-variable pay. The model has been based on market median of the not for profit London market. Work is still being completed on the pay options and this will be shared with the unions once finalised. Not all salaries will be lower than the equivalents in YCB or BH, but overall there will be savings.

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2.3 Flexible Benefits

We have been working with AON to implement a flexible benefits solution for the new entity within The Barnet Group, which includes a pension scheme for the new company. The flexible benefits will be accessible by all new staff who are employed within the Group, or any existing staff who voluntarily opt into the new company's employment. AON are able to offer a Master Trust solution with NOW Pensions. Members will have access to online pension planning tools. The system will also handle opt-outs, leavers and new hires, as well as holding and managing records to assist with the record keeping requirements. A telephone helpline and email mailbox is also provided to answer any queries and provide support as and when required. The employer is not liable for the assets held within NOW Pensions. NOW will govern the assets and ensure the scheme complies with legislation however, as part of the package AON will also provide an independent governance report once a year. There is no total contribution limit applied however the usual annual allowance legislation would apply (£40,000).

The flexible benefits solution caps the maximum benefit on gross salary at 10% for managers, and 5% for non-managers. This means excluding national insurance contributions, the on costs for employing staff is a flex fund of 5% and 10% for non-managers and managers respectively. The flex fund percentage allocation includes funding for the employee pension scheme. It is recommended that all employees must utilise their flex fund allowance to purchase the benefits offered and there will not be the option to take the flex fund allowance as additional salary.

The following benefits will be introduced at go-live on,

- Pension
- Laptops
- Mobile Phones
- Dental Insurance
- Dining Card
- Holiday Trading

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- Medical Cash plan
- Childcare Vouchers

In addition to the 8 choices above, Discount Vouchers would be available at Go Live offering online cashback, voucher codes, shopping vouchers, reloadable cards, discounted cinema and discounted holidays. New additional benefits can then be added each year as part of the annual benefit election.

We believe that this more flexible benefits package offering a wide range of benefits which may appeal to some of our existing staff than the more traditional approach adopted by BH and YCB and hope it will be attractive and useful to new employees we recruit.

2.4 Governance

The new company will be a separate legal entity that sits under The Barnet Group. It will be a private company limited by shares and will be incorporated, all subject to Council approval in September. We will need to carry out relevant company searches on the name for the company and are preparing to register the company trademark. Articles for the new company will be prepared by Trowers and Hamlins and will be based on The Barnet Group's articles. An intercompany agreement is also being drafted by Trowers and Hamlins which will include intercompany service level agreements.

3.0 IMPLICATIONS OF THE PROPOSAL FOR EXISTING STAFF

3.1 Continuity of Employment

Having considered the situation carefully, including taking legal advice, we believe that the Redundancy Payments (Continuity of Employment in Local Government, etc.)(Modification) Order 1999 (the Order) would not apply to the new company.

However The Barnet Group and the new company will be “associated employers” which means that any employees electing to take a role in the new company, because they voluntarily wished to do so or because they applied for a different role, would transfer to the new entity whilst retaining their continuity of service for the purpose of statutory redundancy, unfair dismissal, and other rights such as maternity, parental rights and any other right that requires a qualification of a certain length of service, will be preserved.

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3.2 Recruitment

All new appointments will be made in the new company on the new terms and conditions. Opportunities will be open to existing staff to apply for roles in the new company. If an internal member of staff chose to apply for a post in the new company, this would be offered on new terms and conditions in the new company however if an existing employee elected to remain an employee of Barnet Homes / Your Choice Barnet they would retain LGPS pension and Annual Leave entitlements but would move to new pay structure. The existing member of staff can voluntarily elect to be employed by the new company if they choose, whilst maintaining their continuity of service, LGPS, annual leave and will be able to access flexible benefits.

3.3 Restructures

Inevitably it is sometimes necessary to make further efficiencies as needs arise, or to align the staffing with the needs of the business. It is impossible to predict exactly what would be required in terms of this in the future, or to make any commitments that would limit the business' ability to reorganise or make redundancies.

Should the need arise; in YCB, BH or the new company, we would deal with it accordingly at the time. As the companies are part of a Group, we would always consider alternative roles that are available within the other companies for employees facing redundancy. These would be on the terms that exist in the relevant companies at that time. We would not preserve existing terms in a redundancy situation if the alternative jobs available are in a different company.

We would have to look at the nature of any restructuring and decide what was best in the circumstances at that time. We would undertake any required consultation in the normal way. We will follow normal process and take into account those things that an employer is obligated to do in such a situation, including the need for the restructure, and whether there are ways of avoiding compulsory redundancies.

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3.4 Union recognition

We very much value the support that GMB and Unison give to our current staff and intend to continue to work with the unions. Being a new company, with new staff who may not belong to any union initially, we would want to follow a balanced approach that ensured both union members and non-members have a say on important matters. So we envisage having a works council that allows a staff voice and includes both new employee staff representatives and union representatives.

3.5 Mitigating the impact of these proposals

We have sought legal advice on creation of new company and do believe that this proposal offers a good option both for existing staff and for the provision of the services in a competitive and cost effective way in the future, whilst delivering agreed savings to the Council.

An equality impact assessment based on the information available has been undertaken to ensure there are no negative equality or discrimination implications arising from the proposals. No significant impacts have been identified however there will need to be a robust performance management system in place with moderation to ensure no unlawful discrimination occurs. On-going monitoring of recruitment and retention will also be required in the normal way. The reduction in provision of sick pay could potentially adversely affect an individual with a disability, however as the new terms and conditions still offer a significant enhancement over and above the statutory sick pay regime, we do not believe this is in any way discriminatory. We will monitor its impact together with the application of management discretion to enhance pay in exceptional circumstance, to ensure a level of consistency is achieved.

4. TIMESCALE FOR IMPLEMENTATION

Consultation timescales: We would envisage that the consultation period would be no more than a month, however will be open to shorter or longer time scales depending on the process.

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Trade union consultation – GMB, UNISON

Key Date(s)	
30th March 2015	Governance and Remuneration Committee gave approval for the creation of the new company.
2nd July 2015 8th July 2015	Initial meeting with Unison Initial Meeting with GMB
13th July 2015	Staff Conference - The purpose of the event will be to look at the future of The Barnet Group, where we will cover the Barnet Homes and Your Choice contracts and our future challenges which will include how we plan to meet the savings target of £2.8 million that the Council has set Barnet Homes.
20th July 2015	Issuing of formal consultation document
5th August	Consultation Meeting UNISON& GMB
12th August	Consultation Meeting UNISON &GMB
18th August 2015	LBB SCB
2 September 2015	LBB Policy and Resources Committee
Go Live Date	TBC

Timescales

This document provides the basis for consultation with the unions which the Group is undertaking. Whilst the proposed changes will largely not affect existing staff, , staff seeking a different role in the short and long term may be impacted through applying for new roles and restructures. As such we feel it is appropriate to consult with view of the joint agreement between the Group and the Unions.

APPENDICES

Appendix 1 New Company Terms and Conditions