

Meeting:	Cabinet
Date:	16 th February 2006
Subject:	Extending Formal Collective Consultation and Trade Union Recognition Arrangements
Responsible Officer:	Jill Rothwell, Executive Director of Business Development
Contact Officer:	Jon Turner, Acting Director, Human Resources
Portfolio Holder:	Portfolio Holder for Communications, Partnership and Human Resources
Key Decision:	No
Status:	Part I

Section 1: Summary

This report considers the Council's current collective bargaining and consultation arrangements for non-teaching staff and proposes:

- developing a protocol to respond to requests for formal recognition by independent trade unions
- entering into negotiations to formally recognise the General Municipal and Boilermakers (GMB) Union
- amending accordingly, the Council's formal consultative and negotiating arrangements and reviewing the arrangements for trade union facilities.

1.1 Decision Required

That Cabinet agree to extend the Council's current consultation arrangements to include the GMB and that the constitution and terms of reference of the Employees Consultative Forum, Corporate Joint Committee and other relevant consultative and negotiating forums be amended accordingly.

That Cabinet instruct officers to:

- Draft a protocol to respond to requests for formal recognition by independent trade unions in accordance with the Information and Consultation Regulations.
- Commence negotiations with GMB with a view to entering into a formal recognition agreement, including the arrangements for trade union facilities.
- Report the outcome of the negotiations to a future Cabinet, including any financial implications of funding trade union facilities.

1.2 Reason for report

The Council currently has in place arrangements whereby for non-teaching staff only UNISON is recognised for collective bargaining and consultation purposes.

GMB membership numbers at Harrow have increased significantly in recent years¹ and they have requested that the Council formally recognise them for collective bargaining and consultation purposes.

GMB are represented on the National and Regional Joint Council's for Local Authorities² and have formal facilities arrangements with 23 London Boroughs³

The 2005 Health and Safety Executive Inspection recommended that the Council should extend its consultation arrangements wider than UNISON and specifically identified that they should include the GMB.

Requests for recognition have also been received from other trade unions including Community and Youth Workers Union, Association of Educational Psychologists and National Association of Educational Inspectors, Advisers and Consultants.

¹ Source – DoCaS numbers, January 2006

² Note – the Greater London Provincial Council remains suspended as a result of the London Weighting Dispute

³ Source – ALG Survey, June 2005

1.3 Benefits

Developing a protocol for TU recognition will clearly define the basis of responding to requests for recognition by independent trade unions and facilitate compliance with the I&C Reg's.

Recognising GMB will:

- Give a greater proportion of staff a 'voice' in the Council's collective bargaining arrangements.
- Be in accordance with the principles and objectives of the I&C Reg's.
- Assist the Council meet the HSE inspectors' recommendations by extending consultation arrangements.

This will support the Council in achieving its corporate objectives of being a more business like organization and a genuine learning organization.

1.4 Cost of Proposals

The Council's corporate non-teaching trade union facility budget is £160,240 in the current year. This budget is currently spent entirely on providing facilities for UNISON. These facilities include secondment of up to 5 full time equivalents and use of 2 large offices at the Central Depot. UNISON also has had the use of 2 offices on the Ground floor at the Civic Centre though, by agreement, these have currently been given up to support the accommodation changes at the Civic Centre.

Extending the existing recognition arrangements to include GMB will require a review of the current trade union facilities and budget, which will either have to be shared, or additional resources provided.

There is no provision for additional funding within the MTBS and members will be aware of the pressures on the Council's accommodation.

Note – The People First Directorate have a separate facility budget of £38,000 for teaching trade unions, who also have use of a room at the Teachers Centre.

1.5 Risks

By extending recognition arrangements to GMB there is the potential for:

- Deterioration in local relationships with UNISON
- More complicated / less efficient consultation and negotiation at departmental and corporate levels
- Inter union rivalries and issues arising where one union is in agreement and the other not

- Further pressure to increase spending on trade union facilities

1.6 Implications if recommendations rejected

The Council will not have clear protocols to deal with recognition requests from trade unions.

The Council will be at risk of challenge under the I&C regulations

Employees who are not members of GMB will not have a voice in the Council's collective bargaining arrangements.

The Council will not be complying with the HSE inspectors' recommendations on consultation.

Section 2: Report

The 2005 Health and Safety Inspection

2.1 In 2005 the Health and Safety Executive (HSE) undertook an inspection of the Council's arrangements for managing health and safety, which included the Council's arrangements for consultation with staff. Their findings were presented to officers in May 2005 and include a recommendation that the Council should extend its arrangements for consultation with staff and specifically identified that this should include the GMB.

2.2 The HSE will take into account the Council's actions in response to their findings in future inspections.

The legislative framework

2.3 In addition to the requirements under Health and Safety legislation, there is a wider requirement under the Employee Relations Act, Trade Union and Labour Relations Act and other employment legislation to inform and consult with employees on a range of employment issues e.g. redundancies and staff transfers.

2.4 Most recently, in April 2005 the Information and Consultation Regulations came in to effect, which place specific requirements on employers in terms of their arrangements for informing and consulting with employees (see 2.15 - 2.20 below).

2.5 The Council's Employee Relations Policies (Section 4 of Harrow Scheme for Pay and conditions of Service) also requires the Council to consult on proposals, which have a direct impact on employees, e.g. reorganisations and new working arrangements.

2.6 Consultation means employees have the chance to express an opinion and employers genuinely and conscientiously consider and respond to their views. Informing and consulting can take place through employee representatives, directly with the employees, or through a combination of both methods. However, informing and consulting is different to negotiation, collective bargaining or joint decision-making. Decisions remain the responsibility of management.

Negotiation and collective bargaining

2.7 The Council supports the process of collective bargaining to achieve collective agreements through negotiation between the employer and recognized trade unions.

2.8 The Council is bound by collective agreements negotiated at national level by the Joint National Councils and at a regional level by the Greater London Provincial Council. The Council's local collective agreements are negotiated through the Corporate and Departmental Joint Committees.

2.9 National, Regional and many local collective agreements are expressly incorporated into the contracts of employment of all Council employees and are therefore legally enforceable.

Current trade union arrangements

2.10 The Council currently has in place arrangements whereby, for non-teaching staff, only UNISON is recognised for collective bargaining purposes. The Council's framework for collective bargaining is also the principal method by which the Council informs and consults with staff representatives i.e. UNISON for non-teaching staff, including matters relating to health and safety.

2.11 Therefore, although the Council recognises representatives of other independent trade unions, including GMB, for the purposes of individual representation e.g. in grievance or disciplinary cases, they are not formally involved in the Council's information, consultation or negotiation arrangements.

2.12 Recognition of GMB will require the constitutions and terms of reference of the Council's Employees' Consultative Forum and other consultative and negotiating fora to be amended to formally incorporate GMB.

2.13 The Council's Employees' Consultative Forum has resolved: That the [Council's Trade Union] facilities agreement be reviewed and that review has resulted in the drafting of a revised recognition agreement with UNISON.

2.14 Extending the existing recognition arrangements to include GMB will require a review of the current trade union facilities and budget, which will either have to be shared, or additional resources provided.

The Information & Consultation Regulations

2.15 The I&C Reg's implement the EU Information and Consultation Directive in the UK. The Government supports the Directive, which must be implemented in all Member States, and the principle behind it – that effective employee involvement is good both for individual employees and the business they work for.

2.16 The Government's approach to implementation is to encourage employers and employees to think of this not just as a piece of legislation to comply with, but as an opportunity to review and revamp communication strategies within their organisations as part of the wider aim of maximising the potential of their workforce.

2.17 The legislation applies to “undertakings”. These are defined in the Directive and the Regulations as “a public or private undertaking carrying out an economic activity, whether or not operating for gain”. The general view is that the legislation will apply to Central & Local Government, however a Statement of Practice is being drafted for Central Government which is expected to set similar standards and be applicable to local authorities

What do the I&C Reg's require?

2.18 The employer must normally make arrangements to allow the workforce to elect or appoint representatives to negotiate an Information and Consultation agreement with the employer. However, where there is a valid pre-existing agreement in place the pre-existing agreement may continue.

2.19 To be valid, a pre-existing agreement must be in writing, state how employees or their representatives will be informed and consulted, cover all the employees in the undertaking, and be approved by the employees or their representatives.

2.20 Even if there is a valid pre-existing agreement in place, employees may make a request for new arrangements and the employer may be required to ballot the workforce.

What are the options for extending consultation arrangements with trade unions at Harrow?

2.21 The Council is aware that there are staff who are members of trade unions other than UNISON, either from those trade unions having actively sought formal recognition agreements i.e. GMB, Community and Youth Workers Union, Association of Educational Psychologists and National Association of Educational Inspectors, Advisers and Consultants, or those who have notified us of members who may be called on to take part in industrial action i.e. GMB and Amicus.

2.22 With the exception of GMB the indicated membership of these trade unions by Harrow employees is extremely low in number. However, the indications are that levels of representation in specific work groups is high e.g. Community and Youth Workers Union amongst Youth and Community workers.

2.23 The Council's only internal source of data on trade union membership is through the numbers of employees who pay their subscriptions through DoCaS (Deductions of Contributions at Source) arrangements, but this is not a wholly reliable measure as employees may use a number of alternative payment methods.

The case for recognising the GMB

2.24 The GMB are represented on the National and Regional Joint Council's for Local Authorities and have formal facilities arrangements with 23 London Boroughs.

2.25 From the available data, the GMB has the second largest number of members among non-teaching staff and they have recently seen a significant increase in membership in Harrow. Although their membership remains small compared to UNISON, formal recognition will potentially increase their numbers.

2.26 There are sections of the Council where the employees are mainly or wholly GMB members. Consequently, the Council has in some cases had to undertake 'informal' consultation/negotiations with the GMB in order to resolve local collective issues.

2.27 The findings of the recent Health and Safety Executive Inspection specifically identified that the Council should extend its consultation arrangements to include the GMB.

Consultation

2.28 A copy of the report has been sent to UNISON but comments have not been received in time for publication.

Finance Implications

2.29 The financial implications are set out in the report.

Legal Implications

2.30 The terms of any recognition agreement should ensure compliance with the requirements of the Information and Consultation Regulations.

Results of Equalities Impact Assessment

2.31 Extending the Council's trade union recognition arrangements will enable more non-teaching staff to engage in the Council's consultation and negotiating processes and will minimize the potential for any adverse impact on minority groups in the workforce.

2.32 Nationally both UNISON and GMB are committed to working towards achieving equality and we would require them to monitor and report on any adverse impact as part of any recognition agreement

Section 17 Crime and Disorder Act 1998 Considerations

N/a

Section 3: Supporting Information/Background Documents

3.1 2005 ALG Trade Union Membership and Facility Time Survey

The following data has been extracted from a survey of London Boroughs carried out by ALG in June 2005

	HARROW	RANKING
Non-teaching employees	4626	20th
Trade Union density	38.4%	23rd
TU Members per FTE Secondment (All TUs)	356	6th

Harrow is one of 8 London Boroughs who do not have any GMB secondments and one of 5 who only offer secondment facilities to UNISON.

- 3.2 The I&C Regulations 2004 can be viewed at:
<http://www.opsi.gov.uk/si/si2004/20043426.htm>
- 3.2 Copies of the recommendations from the 2005 HSE Inspection can be obtained from Health & Safety Services – Ext 2362