

EXTERNALISATION, PROCUREMENT AND THE WORKFORCE

An Agreement Between Wiltshire Council

And

The Council's Recognised Trades Unions (UNISON, GMB, UNITE)

November 2010

1. General Principles

- a. Wiltshire Council, its employees and the trade unions are committed to providing high quality services that meet the needs of local communities.
- b. Wiltshire Council recognises that trade union involvement is important for facilitating change, protecting the workforce, encouraging positive staff engagement, and raising service standards.
- c. It is inevitable that the council's business needs and/or service reviews will indicate, in some cases, that there is a need to consider transferring services and staff to other employers.
- d. Where this occurs, Wiltshire Council recognises that the successful transfer of staff is dependent upon staff and Trade Unions;
 - i. being consulted throughout the process
 - ii. having sufficient relevant information in order that consultations can be meaningful
 - iii. being satisfied that the staff and Trade Union views emerging from the consultation are considered by the council in the award of contract
 - iv. being prepared to work with the council and the successful contractor between the award of the contract and staff being transferred.
- e. It is, therefore, vital that unions are consulted at the service review/option appraisal stage and, where there is a decision to out source, they should be involved at the selection stage and throughout the process in such a way as to ensure that their views may be taken into account whenever the council needs to make key decisions. The parties will agree structures and timetables that enable this to happen.
- f. Wiltshire Council believes that the recruitment and motivation of high quality staff to work on its contracts post transfer should be a key criterion when assessing which contractors should supply services. To this end, it will require the contractor to demonstrate its support for these principles when

tendering for contracts.

- g. Any proposed reorganisation of services will be equality impact assessed, including the impact on staff and on equal pay in line with the statutory public sector equality duties and Wiltshire Council's Equalities scheme(s).
- h. To ensure that these principles are enshrined in practice, this agreement sets out how Wiltshire Council will involve and consult with the trade unions in the key stages of the service review, service transformation and/or procurement process.
- i. The agreement will be reviewed at least bi-annually or as necessary in the light of any statutory or significant business changes.

2. **Service Review and Options Appraisal**

- a. Wiltshire Council will engage with the trade unions when it can reasonably foresee that potential staff transfer issues may occur.
- b. The assessment and evaluation of all proposals will take into account the costs, loss of direct management control and any risks to service provision from out-sourcing services.

3.

The Procurement Process

Wiltshire Council will:

- a. Apply the Code of Practice on Workforce Matters in Local Authority Service Contracts and will, in particular, require all contractors providing on its behalf to abide by the Code of Practice on Workforce Matters:-
 - i. Draw the requirements of the Code to the attention of potential contractors,
 - ii. Comply with all statutory requirements relating to the transfer of staff.
- b. Notify the Trade Unions of the evaluation criteria and the scoring mechanism which will apply in the award of the contract.
- c. Invite the Trade Unions to attend open days arranged for contractors and offer the Trade Unions the same opportunity as contractors to comment on issues such as the specification and the process to be followed in the particular externalisation.
- d. Where the Council is legally able to it will facilitate meetings between the trade unions and potential service providers and short listed bidders at key stages of process to ensure staffing matters are considered appropriately.

- e. Invite the trades unions to comment on the procurement selection process.
- f. Upon the award of the contract, the Council will provide the Trade Unions with detailed information relating to staff to be transferred or otherwise directly affected by the transfer as soon as it is possible to do so.
- g. Encourage the chosen provider to have discussions with trades unions early following the award of a contract.

4. **Access to Information**

Wiltshire Council will:

- a. Where information is commercially confidential the union will be informed that the information is being withheld and the reasons.
- b. Encourage all bidders to provide trade unions with appropriate and timely access to all relevant information. It will be a matter for individual contractors to determine the extent to which they wish to engage in discussion with the Trade Unions at that stage.

5. **Workforce Issues**

a. **General**

- i. Staff transferred to a private sector employer will do so subject to the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) unless there is a mutual agreement between Wiltshire Council and the trade unions that other transfer arrangements (such as secondment) should apply.
- ii. Wiltshire Council will comply with its statutory responsibility under the TUPE regulations.

b. **Pension Provision**

- i. Where employees transfer from Wiltshire Council to another employer, Wiltshire Council's preference will be that the service provider applies for Admitted Body status with the Local Government Pension Scheme through Wiltshire Pension Fund. This ensures continuity within the Local Government Pension Fund for TUPE-transferred staff.
- ii. As a minimum, contractors will be required to provide pension rights to transferring employees that are the same as, or broadly comparable (as assessed by a suitably qualified actuary), to the previous pensions arrangements.

- iii. Contractors will be encouraged to consider whether or not they could offer new employees, employed wholly or mostly to work on the contract, access to the Local Government Pension Scheme.

c. Trade Union Recognition and Facilities

Trade union recognition will continue for any group of employees transferred from Wiltshire Council to a new employer and TU representatives will continue to be able to have reasonable access to facilities within the new employer's organisation which enable them to carry out their trade union responsibilities, including use of e-mail, internal post and telephones.

d. Learning and Development

- i. Wiltshire Council is committed to workforce development and will encourage contractors to make learning and development opportunities accessible to all transferred staff and staff recruited to work wholly or mostly on the contract.
- ii. Wiltshire Council will encourage contractors to recognise the positive role of trade unions and union learning representatives in workforce development.

e. Monitoring and Enforcement

- i. Wiltshire Council will support its own compliance with statutory public sector equality duties and its own Equalities Scheme(s) by including specific requirements for, and monitoring of, contractors to improve equality for the workforce providing public services.
- ii. Wiltshire Council will ensure that contractors understand their statutory responsibility to comply with the general equality duties.