

Agenda Item 11

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Report

Subject : The Parishing of Salisbury – Staff and Trade Union Considerations
Report to : The Cabinet
Date : Wednesday 5 November 2008
Authors : Heads of People Organisational & Development and Programme Office
Cabinet Member for Resources: Councillor Tony Thorpe

1. Executive summary:

1.1 Initial meetings have taken place with staff and the trade union, as part of the consultation on the parishing of Salisbury. This report summarises the results of that consultation.

2. Recommendation:

2.1 Cabinet is asked to consider the issues raised by the trade union in relation to the parishing of Salisbury, summarised in paragraph 3.7.

3. Introduction and Background:

3.1 In September 2007, Cabinet agreed the review to establish a parish council for Salisbury and delegated this task to the City Area (Community) Committee and a steering group including Members from that Committee. Considerable work has been done since that time, overseen by the steering group and culminating in the report to the CACC meeting on the 21 October, which set out proposals for the services and assets proposed for transfer to the city council on the 1 April 2009.

3.2 Decision making in relation to the parish council now rests with the Implementation Executive (IE). The parishing report will be considered for agreement by the IE on the 29 October.

3.3 Meetings have been held recently with staff and the trade union to provide them with information about the process to date and the proposals being put forward. Further consultation and staff input will be sought following the IE decision.

3.4 There were no immediate or specific concerns raised by either staff or the trade union about the proposals, but both staff and the trade union did ask about the basis for any staff transfer.

3.5 The Staffing Regulations relating to Local Government Reorganisation provided for the staff transfers arising to be dealt with as if the Transfer of Undertakings – Protection of Employment (TUPE) Regulations (which protect employees' terms and conditions on transfer to another organisation) applied even though the TUPE Regulations themselves explicitly exclude TUPE transfers between public bodies.



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- 3.6 The Staffing Regulations did not, however, take into account the fact that any transfers arising from LGR but not directly part of those arrangements would also be excluded from the TUPE Regulations. This means that, as things stand, any staff transfers to the Salisbury City Parish would not be covered by the protections offered by the application of TUPE-like arrangements. This situation is currently being considered by DCLG with a view to providing for 'TUPE-like' arrangements to be applied to any transfer of staff to Salisbury City Council.
- 3.7 The trade union has since written to the Chief Executive setting out their views, as follows:
- a) that if the staff transfer to the city council cannot be undertaken within the TUPE provisions, the transfer should operate under the Cabinet Office Guidance on Transfers in the public sector and the transfer happen 'as if' TUPE applies ie the new Council commit to operating staff terms and conditions on the day after transfer as they were the day before and will not change them due to that transfer
 - b) that the new Council will continue to offer the Local Government Pension Scheme
 - c) that UNISON will be recognised and terms and conditions for transferees and new employees in the City Council will be those as transferred until or unless otherwise renegotiated
- 3.8 From an employee relations perspective, the application of Cabinet Office Guidance would provide employees who are likely to transfer to the new organisation with some confidence that their terms and conditions of employment will be protected and enables the council to demonstrate that it is concerned for its transferring employees.
- 3.9 Whilst the guidance does not specifically provide for the continuance of the Local Government Pension Scheme, it requires that, as a minimum, comparable benefits are provided. Again, from an employee relations perspective, providing assurance to staff who are likely to transfer to the new organisation that their pension rights would remain the same would minimise concerns associated with any transfer and help the new organisation to start its life with employees who were positive about their future and that of the new City Councils. There are, however, financial considerations attached to this decision.
- 3.10 Trade Union recognition transfers where TUPE-like conditions are applied. On this basis, if the guidance is adopted then recognition would transfer. There is a requirement within the guidance that the new organisation consults with any trades unions so recognised on terms and conditions for new recruits. This does not necessarily mean, however, that terms and conditions for new recruits to the new organisation have to be the same as for transferring employees. It would be for the new City Council to determine whether or not they are prepared to do this in consultation with the trades unions.

4. **Background Papers:** Parishing report to CACC – 21.1.08

5. **Implications:**

- Financial** : None directly related to this report
- Legal** : None directly related to this report
- Personnel** : Contained in the report
- Community Safety** : None directly related to this report
- Environmental** : None directly related to this report
- Human Rights** : None directly related to this report
- Climate Change** : None directly related to this report
- Ward(s) Affected** : All