

MINUTE

of

JOINT CONSULTATIVE COMMITTEE (FIRST TIER)

Minute of Meeting held at 2.00pm in the Council Chamber, Council Headquarters, Giffnock on 21 May 2015.

Present:

Councillor Jim Fletcher
Councillor Ian McAlpine

Councillor Gordon McCaskill
Councillor Ralph Robertson

Union Representatives:

Mr Steven Larkin (UNISON)
Mr Gordon Lees (UNISON)
Mr Joe Lynch (UNISON)

Mr Alan Munro (EIS)
Ms Fiona Shannon (EIS)

Councillor Fletcher in the Chair

Attending:

Mhairi Shaw, Director of Education; Ken McKinlay, Head of Education Services (Culture, Sport and Continuing Education); Barbara Clark, Chief Accountant; Sharon Beattie, Human Resources Manager; Hugh Friel, Senior HR Officer; Steve Murray, Principal Health and Safety Adviser; and Linda Hutchison, Senior Committee Services Officer.

Apology:

Mr Alan Cameron (UNITE).

MINUTE OF PREVIOUS MEETING

1. The committee considered and approved as a correct record the Minute of the meeting held on 22 January 2015.

TRANSFER TO EAST RENFREWSHIRE CULTURE AND LEISURE TRUST

2. Mr Lynch commented on progress regarding the establishment of the Culture and Leisure Trust, including the work of the associated project team and related consultation with the Trade Unions which had been welcomed. On behalf of the Trade Unions, he referred to a specific concern they held on the long-term potential for employees within the Trust to be employed on different terms and conditions from Council employees. Mr Lynch clarified that the Unions were seeking the inclusion within appropriate transfer documentation of reference to Section 52 of the Local Government (Scotland) Act 1983 to provide long-term protection to staff transferring to the Trust as well as new employees engaged by it, and that they did not favour Trust staff being governed by different employment arrangements and human resources (HR) policies than Council employees for doing the same job. He added

that the project team had acknowledged and expressed some sympathy regarding the issues raised but not agreed to include the suggested provisions in the documentation. Consequently the Trade Unions now considered it appropriate to raise their concerns directly with elected Members through this committee.

Whilst acknowledging the issues and concerns raised, Councillor Fletcher clarified that the legal advice sought by and provided to the Council, including by its external legal advisers, was that pursuing inclusion of Section 52 provisions as suggested could put at risk the charitable status of the Trust and also therefore the Council securing the related benefits sought in the first place. He emphasised that every effort was being made to establish the Trust based on best practice elsewhere, referred to the composition of the Trust Board the membership of which included a UNISON representative, and commented that he was not aware of any move by elected Members serving on the Board to pursue or support a reduction in the terms and conditions of those employed by the Trust. He added that his understanding was that the Trust employees would have access to Strathclyde Pension Fund arrangements as Council employees did, expressing hope that all of the efforts being made regarding the establishment of the Trust would alleviate the Trade Union's concerns.

Mr Lynch stated that he was reassured by Councillor Fletcher's comments which he said also reflected those of the project team, following which he reiterated a previous request made for a copy of the legal advice provided to the Council by its legal advisers and clarification on what the advisers had been asked to provide advice on to allow him to discuss this further with his colleagues. Whilst giving an undertaking to provide anything further that it was appropriate to provide, Councillor Fletcher, supported by the HR Manager, explained why detailed legal feedback would not be provided, referring to the private nature of the legal advice provided to the Council. However he confirmed that feedback already provided to the Trade Unions from the Council did reflect the views of its legal advisers on Section 52 of the Local Government (Scotland) Act 1983. In response to Councillor McCaskill who asked if further scope existed to reflect the spirit of Section 52 within appropriate Trust documentation, Councillor Fletcher reiterated the Trust's responsibilities for its employees and that, if the Trust did not operate as planned, its charitable status could be compromised. He added that he would not wish salaries to be cut and referred to the wish for the Trust to deliver service improvements.

Having heard Mr Lynch refer to his experience of the establishment of Trusts by some other local authorities, in response to Councillor Robertson, he explained that the concerns he had raised took account of legal advice the Trade Unions had commissioned and received. He undertook to report back to his organisation on the comments made by Councillor Fletcher and related clarification provided. In reply to Mr Munro who asked if it was possible to approach the Office of the Scottish Charity Regulator (OSCR) for their view on the specific issues raised by the Trade Unions, Mr Lynch said this remained a possibility. He added that the aim was not to impede the establishment of the Trust but rather protect employees' interests. Councillor Fletcher stated he did not know what scope existed to approach OSCR, but that he would not object to that.

In response to Mr Lees who sought further clarification if the legal advice sought by both parties was based on the same questions, the HR Manager confirmed that this was the case with both parties having sought clarification if Section 52 provisions could be included within documentation pertaining to the establishment of the Trust. Councillor McAlpine expressed his support for comments made by Councillor Fletcher and reiterated the benefits of the Trust's charitable status in the face of austerity. He concurred with Councillor Fletcher that aims of establishing the Trust included seeking savings and innovation and that the two tier system commented on by Mr Lynch was not what was envisaged.

The committee noted:-

- (a) that Mr Lynch would provide feedback to his Trade Union colleagues on the views expressed at the meeting pertaining to the transfer of employees to the Trust, including the comments made on the related legal advice provided to the Council; and
- (b) otherwise, the position and views expressed by both parties.

COUNCIL HEALTH AND SAFETY COMMITTEE

3. There was submitted and noted the Minute of the Council's Health and Safety Committee held on 28 January 2015.

DATE OF NEXT MEETING

4. The committee noted that the next meeting would take place on 24 September 2015.