



Belfast City Council

Report to:	Strategic Policy and Resources Committee
Subject:	Pay Request from BCC Trade Union Group
Date:	25 January 2013
Reporting Officer:	Ciaran Quigley, Assistant Chief Executive and Town Solicitor Jill Minne, Head of Human Resources
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Relevant Background Information
<p>Belfast City Council's Trade Union group asked the Council make a payment of £250 to employees earning less than £21,000 per year. This request was linked to a June 2010 budget statement which announced "<i>a two-year pay freeze for public sector workforces, except for workers earning less than £21,000 a year who will receive an increase of at least £250 per year in these years.</i>"</p> <p>The pay awards referred to in the June 2010 budget statement were not, however, made by local government, and the Government's proposals in this regard were set aside by the Employers' Side of the National Joint Council (NJC).</p> <p>This matter was considered by Committee in October 2012 and Members were advised at that time that while the decision whether or not to make one-off, additional payments of this kind is for individual councils, Belfast City Council's legal advice is that the fixing of wages and salaries is conducted through the joint negotiating machinery of the NJC. Wages are deemed to be the reasonable pecuniary equivalent of the service rendered and anything beyond that is an addition to wages and is a gratuity. The payment of gratuities to officers is <i>ultra vires</i> and therefore unlawful so that the suggested payments to employees would be considered unlawful.</p> <p>It was agreed by Committee that further consultations with the Trade Unions would take place and further information would be sought on the basis on which the Lisburn City Council made this payment.</p>

Key Issues
Update on TU Consultations
<p>TU BCC TU group has advised that on the basis of legal advice it recently received it would contend: :</p> <p><i>"The Council's legal advice... seems to say in summary: that local government pay rates are entirely set by NJC; that anything more than those rates is a gratuity; and that gratuities are</i></p>

forbidden by the governing legislation.

With regard to the setting of wages and salaries via the NJC negotiating body, the National Agreement does indeed prescribe the setting of basic pay... it does not preclude local agreement of premium payment rates or supplements to basic pay.

The payment requested is clearly not a gratuity. It is a local and temporary exception to an extended pay freeze. It is an exception to alleviate hardship for those on low rates of pay; an exception implemented generally in the public sector by Government policy but which it only permitted and did not impose in the local government sector - despite the pay freeze beginning a year earlier in this sector”.

In addition, BCC TU group has advised that it would wish to further engage with management on this, in particular any elaboration to its expressed legal advice.

Despite enquiries being made to establish the precise basis upon which the payment was authorised by Lisburn City Council, it has not been possible to establish the circumstances or the nature of the advice given to the Council.

There is clearly a legal issue as to whether a payment such as that proposed can properly be described as wages/remuneration. Given the differing views around the basis on which a locally agreed payment can be made, it is proposed that the Town Solicitor seeks Senior Counsel advice on this matter. The Head of HR will continue to engage with BCC TU group in the interim, with the matter being reported back to Committee next month.

Resource Implications

Senior Counsel’s opinion is likely to represent a modest expenditure as the issue is a narrow one. Given the nature of the decision and the extent of expenditure which would be incurred if a decision to approve the payment were given, it is recommended such opinion is obtained. Should the legal opinion received indicate that such payment could be made, all potential costs would be included in the report to Members for their full consideration in February.

Equality Implications

N/A

Recommendations

Members are asked to agree that the Town Solicitor seeks Senior Counsel advice on this matter; the Head of HR continues to engage with the TUs; and that a report will be brought to February’s Committee meeting on this issue.

Decision Tracking

Key to Abbreviations

NJC – National Joint Council for Local Government Services

Documents Attached