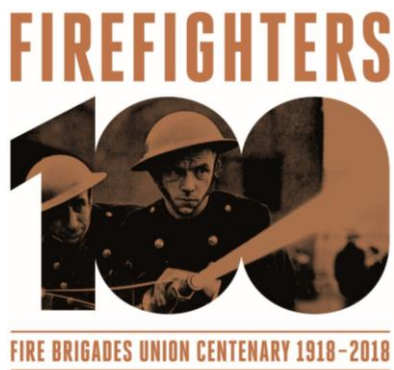




Matt Wrack General Secretary

Fire Brigades Union

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Our Ref: MW/sll

11 April 2018

Ms Karen Gowreesunker
Clerk to West Midlands Fire Authority
West Midlands Fire and Rescue Authority
West Midlands Fire Service Headquarters
99 Vauxhall Road
Birmingham
B7 4HW

Dear Ms Gowreesunker

TRADE DISPUTE: IMPOSITION OF NEW CONTRACTS WITHOUT AGREEMENT, ATTEMPTING TO IMPOSE NEW DUTIES ON CONTROL STAFF, INTERFERING WITH MEMBERS LEGITIMATE TRADE UNION ACTIVITIES, OFFERING INDUCEMENTS TO BYPASS NATIONAL AGREEMENTS AND DICTATORIAL MANAGEMENT IN WEST MIDLANDS

I refer to the contracts issued by management to those joining and returning to the service. Not only were these contracts not agreed in local negotiations but service managers sought to introduce them without even notifying FBU officials or keeping them informed.

The contracts are totally unacceptable and seek to bypass the Grey Book nationally agreed terms and conditions of employment. They include as the job description:

The main duties at your position are set out in the relevant role map which is a guide to the activities you will fulfil.... Your role map is not exhaustive and may be added to or varied from time to time by The Service based on the exigencies or needs of the Service and providing reasonable notice. Some examples of these activities may be: Falls response, non-medical emergency and hospital discharge activities. By signing this document you are specifically agreeing to accept changes and additions to your role, with reasonable notice, as may be required by current and future needs of the Service, including but not limited to undertaking additional/duties, carrying out alternative funding work, working to department and individual targets and working in close conjunction with other external organisations, on a full time, part time, temporary or permanent basis.

This is simply disgraceful. It is not a job description at all. It is a blank sheet of paper allowing management to dictate to members what they must do at any given time. It is completely in breach of the nationally agreed Grey Book which confirms that:

Fire and rescue authorities can require any reasonable activity to be carried out by an individual employee within his or her role map.

The Grey Book wording could not be clearer. An FRA can require activities within the role map. It follows that the contract is wrong to say the role map is not exhaustive, wrong to say the role map is merely a guide to the activities to be fulfilled, wrong to say the Service can add to or vary members' duties and wrong to include falls responses, non-medical emergencies etc which are the subject of nationally agreed terms and national negotiations.

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I do not begin to understand how the Fire Authority as a member of the National Joint Council considers it can behave in this way. There would be no point in having national negotiations if a local Fire and Rescue Authority such as the West Midlands can simply bypass that process when it wishes.

This is not the only problem with these contracts. On hours of work they provide that:

The Service reserves the right to require the employee to work different hours of work if the needs of the Service so dictate, whether temporarily or permanently.

This is a clear breach of the Grey Book which provides specified duty systems and a carefully balanced procedure of local collective discussions and national dispute resolution where any changes to those systems are proposed.

The contracts also allow management in discipline cases to suspend members with no provision for pay during the suspension whereas the Grey Book specifies that members will receive full pay when suspended.

There are numerous other unilateral changes such as a requirement to work at non-Service sites and an onerous new term on deductions from pay.

Management employed by the Authority have also refused to agree to a referral to the Joint Secretaries of the National Joint Council under the nationally agreed dispute resolution procedure and the matter had to be referred directly by the FBU.

These contracts must be withdrawn immediately – they expose what management will do when they feel they do not need to negotiate with representatives elected by our members in the West Midlands. These contracts also create a two tier workforce in that newer members and those returning to the service are on these unacceptable new contracts, leaving all other members on the established Grey Book contracts. This is an attempt to divide our members and create pressure that in the future could be used to drive all members down onto the new locally imposed terms and conditions.

It is also concerning that management employed by the Fire Authority appear to think that they can expand the role of control members simply by consulting on this issue such that they can impose new duties without agreement. On 6th March 2018 a consultation paper was issued which referenced the nationally agreed trials and included:

When the national trials ended... all WMFS staff, including Fire Control, had a choice around whether they would continue to support 'falls response' until pay negotiations and discussions were completed. Since the cessation of the national trials 'falls response' calls have continued to be managed within the Fire Control room by a cohort of control staff volunteers, supplemented by business continuity arrangements.

...this was not done so on the basis that the work did not fall within the Fire Control operator's role map.

During this time a legal position was sought around whether these activities are incorporated within the Fire Control operator's role map and ... WMFS is confident on the legal position it has received which states that this work is within the role map and is no different to dealing with the existing wide range of calls that the Service receives.

...WMFS will now commence consultation on plans to move to a 'business as usual' position for managing 'falls response' calls and associated mobilising.

Fire Control receive a myriad of different types of calls... all form part of the established roles of control room staff.

This is simply wrong. More than ten years ago the Court of Appeal confirmed that attempts to impose changes to the role of the firefighter beyond the role maps was unlawful and the same applies to firefighter (control) members. We will have to agree to disagree on the legal position as our legal advice is that, in the absence of negotiation and agreement, firefighter (control) members can only be required to mobilise firefighters to calls within the role maps of firefighters and that does not include falls response, emergency medical response etc.

It is disappointing that management employed by the Fire Authority are singling out control members for this attack. Again it is an attempt to divide our members and again we will not allow this.

I refer also to the conduct of management interfering with and deterring our members from legitimate trade union activities, for example by the unjustified use of management instructions. I am appalled to see this sort of anti-union behaviour from the management of a publicly funded Fire Authority. By way of example our brigade and health and safety representatives were concerned about equipment failures and consequential health and safety implications so they correctly surveyed members to find out more. Questions included: *Do you find the TomTom slow to get to work clicking various boxes before navigation begins? Do you find the TomTom slow to clear old addresses? and Have you had to use a personal Mobile phone with mapping to navigate to incidents after TomTom failure?*

I am astonished that in response to this clearly legitimate trade union activity designed to protect our members' health and safety, Service Management responded with a letter to FBU officials which said:

To create, process and store this type of information outside of WMFS systems and processes contravenes S/O 01/05... To process this type of information via personal e-mail accounts contravenes S/O 01/19...

Therefore, advising members to provide this type of information outside of recognised ways of working is deemed to be 'reckless' as defined in the Data Protection Act 1998...Please provide me with written confirmation that the data has not been shared or used and that all instances of the data have be destroyed appropriately by ...17:00 hours on 12th March 2018.

The legal position is clear that the suggestion of a breach of the Data Protection Act is simply wrong and indeed the only unlawful activity is that of management – as you will know subjecting a member or representative to a detriment in respect of his/her trade union activities is unlawful as is subjecting a union health and safety representative to a detriment for carrying out his/her duties in that role.

Despite this your Deputy Chief Fire Officer wrote to FBU officials saying:

The matter is a breach of our standing orders and as such my management instruction remains in place as set out on several occasions...

As you know, breach of a management instruction is a disciplinary matter so management were interfering in the legitimate trade union activities of our members and officials and issuing instructions to prevent them from carrying out those activities. This has to stop.

I am also surprised to hear that management employed by the Authority have engaged in the practice of offering inducements to members to bypass national agreements. Late last year management employed by the Fire Authority approached a number of members asking them to agree to undertake tasks outside of their role map such as falls response with the incentive of extra pay. This was outside of the nationally agreed trials and in the absence of any local or national agreement.

It is concerning both that this was done and that management appear to think that they have done nothing wrong, that it is acceptable to bypass national and local collective bargaining and instead engage in individual bargaining with members, isolating them from the union in the process. They should understand that this is not acceptable and this cannot continue. Despite referring this matter to ACAS, the matter remains unresolved.

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Finally I am concerned that despite previously raising the issue of dictatorial management, and our members taking industrial action in response at the time, senior managers have allowed these bad habits to return. By way of examples, without consultation, negotiation or agreement managers issued job descriptions for Technical Rescue Unit members which expanded their duties.

Also West Midlands' officials had to raise a collective dispute that management had failed to consult with FBU officials or our members in relation to 'Making Connections Walsall' commissioning work. The work commissioned is outside of the role map for our Control members and yet training on this initiative commenced without agreement and plans were put in place to divert the dedicated number and other referrals into Fire Control on evenings, weekends and overflow occasions.

In addition, when a serious health and safety incident occurred at Cleveland Tower, management failed to provide the required information to our health and safety representatives, gross misconduct discipline proceedings were commenced before the accident investigation had been concluded and its findings shared with the FBU, the FBU appointed Accident Investigator was refused access to interviews concerning FBU members during the gross misconduct investigation and the delay in providing information prevented him from accessing the scene to make a thorough investigation.

This is not acceptable to our West Midlands members who therefore require the following:

1. Immediate withdrawal of all contracts of employment which are outside of the Grey Book or which contain changes which have not been agreed with the FBU. Members issued with such contracts to be provided with new terms and conditions which are consistent with and subject to the Grey Book and national and local agreements with the FBU and no further such contracts to be issued to FBU members.

To be clear the contracts to be withdrawn and no longer issued include those which suggest the Grey Book role maps are not exhaustive, permit changes to working hours outside the Grey Book procedure, allow management in discipline cases to suspend members with no provision for pay during the suspension, require members to work at non-Service sites or which expand on the right of management to make deductions from members' pay.

2. Agreement that firefighter (control) members will only be required to handle calls within the role maps of firefighters. Specifically this means they will not be required to handle falls response calls, emergency medical response or other calls outside of those role maps.
3. Agreement that there will be no more attempts by management to interfere with members' legitimate trade union activities and an undertaking to enter discussions with FBU West Midlands officials with a view to agreeing a new joint protocol preventing further interference in trade union activities and providing specific safeguards where discipline is proposed against FBU officials or representatives.
4. Confirmation that, in the absence of local or national agreement with the FBU, there will be no more attempts to offer members inducements, financial or otherwise, to accept changes which are inconsistent with the Grey Book such as additional duties outside role maps.
5. An undertaking that the Fire Authority will address the problem of repeated and systematic dictatorial management by those they employ as senior managers. This will include entering into discussions with FBU West Midlands officials with a view to reaching a collective agreement on consultation, negotiation, openness, and on prioritising health and safety rather than focussing on finding fault by staff and rushing to discipline against our members in West Midlands.

Until all five assurances outlined above are confirmed, a trade dispute exists between the FBU members in West Midlands and the Authority. This dispute plainly relates to the terms and conditions of employment and/or working conditions of FBU members employed by the Fire Authority. Further, questions arise as to health and safety and the machinery for negotiation or consultation and other procedures relating to these matters.

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This dispute will be resolved if the Authority unconditionally confirms all five points specified in the terms set out.

I await this by 23rd April 2018 failing which I will commence a ballot of West Midlands' members for industrial action under the Trade Union and Labour Relations (Consolidation) Act 1992.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Wrack', with a stylized, cursive script.

Matt Wrack
General Secretary