

<p>Notes of the Joint Consultative Panel</p>

**13 September, 2012, at 11.00 am
at the Fire Service Headquarters, Birmingham**

Present: Members of the Authority

Councillor O'Neill (Chair);
Councillor Aston, Clinton, Douglas-Maul, and
Quinnen.

Employees Side

Fire Brigades Union (FBU)

P Cockburn and A Dennis.

Fire Officers Association (FOA)

A Tranter.

Unison

J. Robb.

Officers

D Johnson, W Browning-Sampson, Z Kirk and
H Parvin.

Apologies: V Mallabar and R Moore.

10/12 Declaration of Interest

Councillor O'Neill declared a non pecuniary interest as an out-of-trade member of the Fire Brigades' Union.

Councillors Aston and Clinton declared a non pecuniary interest as members of UNISON.

Employees indicated that they were in receipt of allowances and expenses.

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11/12 Notes

The notes of the meeting held on 5 March, 2012, were confirmed as a correct record.

It was confirmed that both the Fire Officers' Association and the Association of Principal Fire Officers would be represented by their regional representatives until such time that a local representative was appointed.

12/12 Disciplinary and Grievance Report

The Panel noted a report setting out the number, type and outcomes of disciplinary and grievance cases and employment tribunal activity for the period January to June 2012. The report also indicated a summary of lessons learned taking into account issues raised by representative bodies, line managers and human resources practitioners.

The Chair thanked the union representatives and representative bodies for their co-operation in working with management to try to resolve disciplinary and grievance matters at an early stage. It was noted that this report had recently been considered by the Scrutiny Committee, who had also paid tribute to the good relationships between the Service and the unions and representative bodies.

There was regular communication and collaborative working between management and the representative bodies, and guidance was provided through various policy documents. The Disciplinary and Grievance procedures were scheduled for review.

The views of the representative bodies had been sought on the content of this report and the issues raised had all been addressed. Relevant training continued to be provided for managers and representative bodies, and members were welcome to take part. Comparative data from previous reporting periods would be included in future reports.

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The employees' side asked for training to be rolled out for all levels of management to ensure that any issues were addressed as early in the process as possible. They also asked for action short of formal action arising out of investigations to continue to be recorded but it was emphasised that any such informal measures were not sanctions and should be managed appropriately.

13/12 Submission of a Failure to Agree from the Fire Brigades Union on Capping of Casual and Essential Car Mileage Payments at HMRC Approved Rates

The employers' side considered a failure to agree submitted by the Fire Brigades Union. The written case submitted by the Fire Brigades Union and management had been circulated previously.

A running order for consideration of this item was agreed.

The management representative presented an outline of the circumstances that had led to the submission of the failure to agree. In response to anticipated reductions in grant funding all areas of service activity had been reviewed with a view to achieving savings. The Authority had approved proposals for the review of allowances and expenses on 11 September 2011 and endorsed the commencement of consultation and where appropriate negotiation with the trades unions. A further report had been submitted to Authority on 16 April 2012 where specific recommendations for changes to allowances and expenses had been approved. Consultation resumed and the FBU tabled a formal failure to agree on 13 June 2012.

The issues raised by the FBU were with regard to the capping of travelling expenses at 45 p per mile; it was felt that this proposal would disproportionately impact on flexi duty officers, as would the proposal to cease home to work mileage payments. The management representative responded to each of the issues raised and also outlined the management view with regard to the proposals to cease payment of essential telephone allowances and to review the allocation of essential user allowances.

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The management representative indicated that in the light of the failure to agree it would not now be feasible to implement all of the Authority's proposals within the intended timescales. He indicated management's view on which of the proposals constituted implied contract terms, which were based on national/local conditions of service and which were based on Authority policy. He outlined the employment law as it affected changes to contracts and management's proposals to proceed to a statutory consultation process with a view to achieving changes by mutual agreement if possible, or by terminating/re-issuing contracts if necessary. On this basis it would be possible to implement the Authority's approved proposals by 1 April 2013. Individual employees had already been consulted on the proposals, in tandem with the trade union consultation process, and in line with legal advice, and the majority of employees affected had agreed to the proposed changes to the telephone allowance and the removal of the essential car user status.

The employees' side requested an adjournment to consider the management's case and proposals for a way forward.

The meeting adjourned at 12.10 pm and resumed 12.30 pm.

The FBU representative indicated that the management presentation had put the issues into a different arena and that he would be prepared to consider withdrawing the failure to agree as management had now suggested an appropriate mechanism for dealing with implied contract terms. He asked for clarification of management's proposals. Management confirmed that it was intended to proceed with a Section 188 consultation on the proposals relating to the capping of car mileage rates and the removal of home to work mileage with a view to implementing the proposals with effect from 1 April 2013.

The FBU representative indicated that on the basis of the clarification that the same Section 188 mechanism would be used in respect of the issues in dispute, he was prepared to withdraw the failure to agree.

The FOA and Unison indicated that they supported the FBU position.

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The FBU representative asked for further clarification on the cessation of essential telephone allowances with regard to employees who were unable to get a mobile telephone signal. Management indicated that each case would be looked at on its merits. The FBU representative requested that this provision should not be withdrawn until the appropriate investigations had been completed.

The meeting adjourned at 12.50 pm for the employers' side to consider their recommendation.

The meeting resumed at 12.55 pm.

The decision of the employers' side was announced as follows:

Resolved to recommend:

- (1) that the Authority approves the commencement of a statutory consultation process in order to bring about the implementation of the recommendations made at its 16 April 2012 meeting regarding the removal of:
 - payments for home to work/work to home mileage.
 - the capping of car mileage payments at the HMRC rate of 45 per mile;
- (2) that the Authority notes that the above recommendations may lead to the need to dismiss and re-engage those employees who do not consent to the variation of their contracts or where no agreement can be reached with the Trade Unions;
- (3) that the Authority approves the process of termination and re-engagement to bring about the full implementation of the cessation of essential telephone allowances;
- (4) that the Authority approves the process of termination and re-engagement (pending the outcome of the current review) to bring about the full implementation of the removal of essential car user status for specifically identified employees.

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(The meeting ended at 1.00 pm)

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