

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

29TH NOVEMBER 2010

1. **JOINT CONSULTATIVE PANEL - FACILITIES TIME FOR UNISON AND THE IMPLICATIONS ON THE EMPLOYEE RELATIONS FRAMEWORK**

Report of the Chief Fire Officer and the Clerk.

RECOMMENDED that the Authority agree the recommendation made by the Employer's Side of the Joint Consultative Panel that providing Unison was prepared to pay 50% of the cost, Unison be allowed one full-time post for this financial year.

2. **PURPOSE OF REPORT**

This report is submitted to bring to Members' attention:

- A recommendation of the Joint Consultative Panel (JCP) to a matter referred to it from Joint Consultative Committee (JCC) (Note 13/10 on page 76 of the Authority agenda). This matter relates to facilities time for Unison in the current financial year and has implications for the application of the Employee Relations Framework.
- A letter received from Unison with regard to the outcome of the consideration of the above matter by the Joint Consultative Panel.

3. **BACKGROUND**

- 3.1 The Joint Consultative Panel at its meeting on 8th November, 2010, considered a matter referred to it by the Joint Consultative Committee with regard to facilities time for Unison. The Employer's Side gave careful consideration to the representations of Unison and recognised the regional and national contribution of the current Unison representative. In addition, the employer's side indicated that it needed to ensure that there was equitable treatment between the trades unions. The Employer's Side resolved to recommend to the Authority that provided Unison was prepared to pay 50% of the cost, Unison be allowed one full time post for this financial year.

- 3.2 In the meantime, Unison has submitted the attached letter which indicates that the union intends to write to all members of the Authority asking them to consider a number of points before acting on the recommendation.
- 3.3 The following points are made in response to Unison's letter:
- 3.3.1 This matter does not constitute an appeal. The Employee Relations Framework which has been agreed with the representative bodies for this financial year provides a process for management to agree facilities time for trades unions which was implemented and an allocation of hours granted. Unison was not satisfied with its allocation of hours under this process as a result of which the Director HR undertook to consider the union's verbal and written representations and made a decision to uphold the allocation of hours agreed by the HR Manager - Employee Relations. The process under the Employee Relations Framework has been exhausted.
- 3.3.2 This matter was then referred to the Joint Consultative Panel [JCP]. The Director HR agreed to the reference from the Joint Consultative Committee as Unison disagreed with allocation of facilities time and his subsequent review. In reaching this view he had taken into account the sensitivities around facilities time and also anticipated that a discussion of the issues of concern would also inform a new Employee Relations Framework, which it had already been agreed with the representative bodies would be subject to a review.
- 3.3.3 The Employer's Side of JCP on 8th November, 2010 was asked to consider if this matter fell within its remit as the process under the Employee Relations Framework had been exhausted. The Employer's Side indicated that in its view, the decision on facilities time was a matter for management under the Employee Relations Framework, but on this occasion it would consider Unison's case.
- 3.3.4 Unison has made representations that the Employer's Side decision was made in the light of advice given by the Director HR which they did not have the opportunity to respond to. As this matter was not an appeal but consideration of a matter referred from the Joint Consultative Committee the legal advice was that there was no legal or procedural reason why the Director HR should not retire with the Employer's Side. The Director HR is entitled to advise the Employer's Side on the implications for the service of any recommendation that they intend to make. The Director HR is

entitled to seek, and the Employer's Side is entitled to give, its view on the approach that should be taken on labour relations matters as a basis for future discussion with the representative bodies. At the meeting the Employer's Side also had the support of an independent solicitor provided by the Authority's Monitoring Officer in the light of the concerns previously expressed by Unison. This solicitor also retired with the Employer's Side. A representative of the Clerk was also present at the meeting and retired with the Panel in accordance with usual practice. The formal proceedings of the Panel are as set out in the notes of the meeting enclosed with the Authority agenda, and the Clerk's representative has no record of any remarks with regard to comparative evidence on facilities time forming part of the formal proceedings.

3.3.5 It must be emphasised again that the consideration of this matter by the Employer's Side is not an appeal and so the usual processes of disclosing information to both sides is not so rigorously applied. In the interests of fairness and good employee relations, however, Unison was given the opportunity to comment on the matters set out in the report to JCP and to submit additional material to support their representations. Consideration of the matter was also deferred to allow elected members time to read their material fully.

3.3.6 The previous Employee Relations Framework was agreed with the representative bodies and management decisions about the allocation of facilities time were made in accordance with the process set out in the Framework. As a result of representations from the trades unions, it has been agreed by management to revisit the Employee Relations Framework, and changes to the framework will be subject to the agreement with the representative bodies and discussion at the Joint Consultative Panel in due course.

4. **EQUALITY IMPACT ASSESSMENT**

A full Equality Impact Assessment was carried out in respect of the Employee Relations Framework and the terms of reference for the joint consultative machinery.

5. **LEGAL IMPLICATIONS**

The Trade Union Labour Relations Act 1992 sets out the legislative provisions for time off for trade union duties. The Advisory Conciliation and Arbitration Service provides practical guidance on the time off to be permitted by an employer.

6. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

BACKGROUND PAPERS

Letter from the Branch Chair of UNISON dated 18th November 2010.

VIJ RANDENIYA
CHIEF FIRE OFFICER

SUE PHELPS
CLERK

NEERAJ SHARMA
MONITORING
OFFICER