

# **WEST MIDLANDS FIRE SERVICE**

## **0203 EMPLOYEE RELATIONS FRAMEWORK**

### **Overview of amendments**

Amended and updated as part of scheduled 3-year review, incorporating relevant outcomes of the Trade Dispute in 2018 and organisational Core Values.

The framework should be read in full, paying particular attention to appendices which include the addition of Appendix 6 - Cause for Concern.

The framework has been restructured and re-organised, specifically around Trade Union/Representative Bodies (section 4.3), with further clarity now provided.

## **1. STRATEGY**

The West Midlands Fire Service (WMFS) wholeheartedly supports working arrangements that promote joint solution seeking. The timely and effective co-operation and consultation between the employer, employees and Trade Unions/Representative Bodies which help the successful delivery of the Service and the management of change. The procedures outlined in this framework continue to support positive working relationships and interactions that develop joint solutions to resolve differences to achieve the delivery of our strategic plan.

WMFS recognises all parties' legitimate interests, responsibilities and commitment to working together on: -

- the success of the Service (reward and recognition)
- quality of working life (wellbeing, behaviour) including workplace facilities
- working in a transparent manner to develop a 'no surprises' culture
- continuously improving employee relations (monitoring, capturing the right information and taking the appropriate action)
- agreement within appropriate timescales
- ongoing dialogue

This approach will benefit the Service, its employees and local communities.

Trade Union/Representative Body representatives have considerable knowledge and experience and can make positive and effective contributions to any changes being proposed. Therefore, WMFS will ensure that: -

- employees and Trade Union/Representative Body representatives will be involved early in consultation and negotiation in accordance with the National Joint Council Protocol on issues which have workforce implications. See Appendix 1 (a, b, c) Industrial Relations Procedures Collective Agreement and National Joint Council Protocol.
- appropriate and timely information will be shared with the Trade Unions/ Representative Bodies and employees, so that effective consultation or negotiation can take place
- feedback is given on how employee and Trade Unions/Representative Bodies views are taken on board and how they influenced management's subsequent position
- reasonable Trade Union facilities are put in place, in accordance with statutory requirements and The Advisory, Conciliation and Arbitration Service (ACAS) good practice guidelines. The principles outlined above are applied to Representative Bodies.
- All stakeholders including, Fire Authority Elected members (referred to as elected members), Brigade managers, Senior managers and employee representatives, will lead by example in their approach to Employee Relations. Elected members, Brigade managers and Trade Union/Representative Body Officials will collectively and individually be proactive in both developing positive relationships and encouraging all managers and Trade Union/Representative Body representatives in the Service, to do the same.

It has been jointly agreed and will govern the relationship between WMFS and its recognised Trade Unions/Representative Bodies. It is not legally binding but relies on all parties to work with a spirit of co-operation.

The information contained within this document should be considered against any relevant collective agreements. See appendix 1.

## 2. SCOPE

This framework has been based on the Joint Protocol published by the National Joint Council (NJC), the model procedure in the Grey Book and guidelines produced by ACAS. The Service, as a good employer applies the Joint Protocol equally to its Green and Grey Book employees.

### 3. DEFINITIONS

Employees and employers need to exchange information, views and ideas, discuss problems, consider solutions and look at future developments, but there are differences in the ways this is done, differences between communications, consultation and negotiation through collective bargaining.

**Communications** is the giving and receiving of information through discussion and instructions. It includes the information, the channels and the ways it is passed along (see 5.2).

**Consultation** goes beyond communication and involves managers actively seeking, and then taking account of, the views of employees' representatives before making a decision. Consultation does not remove the right of the employer to manage and make the final decision. However, it obliges them to seek acceptable solutions to problems through a genuine exchange of views and information. The responsibility for decisions remains at all times with the employer (see 5.3.1).

**Negotiation** is the process by which employers and Trade Union Representatives seek to reach agreement through collective bargaining (see 5.3.2).

**Collective bargaining** is the process by which the Service and recognised Trade Unions/Representative Bodies seek to reach agreement on issues such as pay and terms and conditions of employment (see 5.3.5).

In consultation, the responsibility for decision making remains with the Service, however, the employer will give genuine and thoughtful consideration to the Trade Unions/Representative Bodies when considering consultation. In collective bargaining, both the employer and Trade Unions/ Representative Bodies take responsibility for fulfilling the bargain (see 5.3.5).

Managers must be aware of the need to consult and negotiate and this should be undertaken in a timely manner, providing appropriate information for the purpose. Trade Union/Representative Body Representatives must be aware of the need to respond in a timely manner, providing relevant information to support their response.

This principle also applies when Trade Unions/Representative Bodies bring forward for matters of negotiation/consultation.

### 4. RESPONSIBILITY

#### 4.1 All - Importance of communications and consultation

The way to involve employees in an organisation, is through communications and consultation. It is important that these communications reflect the organisations Core Values. Effective communication is in the public interest because good employee communications and consultation can: -

- improve organisational performance

- improve management performance and decision making
- improve employees' performance and commitment
- develop greater trust
- increase job satisfaction

### WMFS Core Values

## 4.2 Parties involved

WMFS recognises the Fire Brigades' Union (FBU), Fire Officers' Association (FOA) and UNISON for the purpose of collective bargaining in accordance with the Trade Union and Labour Relations (Consolidation) Act 1992.

The Fire Leaders Association (FLA), (formerly Association of Principal Fire Officers (APFO) is known in the West Midlands Fire Service as a Representative Body.

WMFS recognises appointed officials of these organisations for consultation and negotiation purposes. FLA is afforded the same opportunity for facility arrangements set out under the ACAS guidance and the Employee Relations Framework.

The Service will only negotiate with Trade Unions/Representative Bodies who are recognised by the Service, or representative of the constituent workforce affected, however the Trades Union/Representative Body collective, agree that all recognised Trade Union/Representative Body representatives of non-affected trade unions will be invited to attend meetings where such matters are discussed.

The Service may engage with Regional Trade Union/Representative Body representatives where there is a vacancy at local level and no local representative has been appointed (with the agreement of the Trade Union/Representative Body).

### 4.2.1 Fire Authority Members (elected members)

The Fire Authority (FA) members are elected members from WMFS constituent councils and therefore from the local communities we serve. The FA members will select representatives to attend the Joint Consultative Panel (JCP). The JCP provides a forum for the Authority as the employers and the Trade Unions/Representative Bodies to discuss employment issues affecting the whole workforce. Many of the issues discussed relate to creating a culture that both recognises and values the diversity of individual employees in delivering an inclusive service to the community. In addition, the panel endeavours to ensure all employees, irrespective of the roles they undertake, are treated with respect and dignity to enable them to reach their full potential. The facility of an effective JCP will contribute to the Authority's corporate aims.

It is important Fire Authority members are aware of their responsibilities in relation to Employee Relations and follow appropriate Local Government Association Guidance.

The responsibilities for employee relations applicable to all elected members are detailed in appendix 4 and also within appendix 3 - Joint Consultative Panel Terms of Reference.

### 4.2.2 Strategic Enabling Team (SET)

The Strategic Enabling Team (SET) are committed to the principles outlined in this framework and relevant collective agreements, they take a positive lead in the development and implementation of successful employee communications and consultation. They have nominated the Strategic Enabler - People as the senior manager responsible for ensuring the framework is put into practice, appropriately maintained, regularly reviewed and chains of communication and methods of consultation are clearly understood.

Individually and collectively, SET may meet with the Trade Unions/Representative Bodies where appropriate, to promote, develop and sustain productive and transparent employee relations. However, all Strategic Enablers will ensure they develop an understanding of the agreed consultation and negotiation process and that this is followed by all concerned.

It is important SET members understand their responsibilities to employee relations as defined within this framework and any queries are raised with their People Support Services (PSS) Business Partner or the PSS Manager - Employee Relations.

### 4.2.3 Managers

Managers play a key role in communications. They are responsible for receiving and passing information on accurately and in a timely manner, facilitating employee's access to information, as well as acting on and issuing instructions and receiving feedback. Ineffective communication by managers can cause inefficiency and disaffection. It is essential line managers and supervisors are not by-passed when information is given to employees. Sometimes it is important Brigade/Strategic managers communicate directly with employees, but they must also keep any middle and line managers informed. It is best to keep chains of communication as short as possible. It is the managers' responsibility to ensure they undertake appropriate training to enable them to lead on consultation and negotiation.

It is important managers understand their responsibilities to Employee Relations as defined within this framework and any queries are raised with their PSS Business Partner who may refer to the Strategic Enabler - People or the PSS Manager - Employee Relations.

### 4.2.4 People Support Services (PSS)

The Service has a substantial interest in giving information to employees, particularly on terms and conditions of employment. PSS is well placed to identify needs, advise on framework, consider relevant collective agreements and monitor arrangements. The role of the PSS Team is to support and provide guidance to managers on legislation, policy and best practice but it is the managers' responsibility to lead on

the consultation and negotiation process. PSS provides the forum and framework for consultation and negotiation and facilitates the Joint Consultative Committee (JCC) and supports the JCP.

### 4.3 Trade Union/Representative Body Officials

Trade Union/Representative Body officials represent and are accountable to their membership. They have a responsibility to convey factual information to members and management. Trade Union/Representative Body officials also have responsibilities to communicate with their members and make sure their members' views and opinions are conveyed effectively to management.

Trade Union/Representative Body officials need information to bargain effectively and recognised Trade Unions/Representative Bodies have certain legal rights to information for collective bargaining purposes (see 5.1.3).

Trade Union/Representative Body officials and Representatives also need time off and facilities to enable good communication with their members (see 5.5.3). All methods of communication should be delivered in line with the organisational [Core Values](#).

All Trade Union/Representative Bodies will ensure they develop an understanding of the agreed consultation and negotiation process and that this is followed by all concerned.

### 4.4 Employees

Employees have a responsibility to make sure their views and opinions reach management through the appropriate channels. This can include one to one's, team /section meetings, meetings with their Trade Union/Representative Body Representative, or other regular or occasional opportunities for employee communication and consultation. Information is a two-way process, flowing between employees and managers. Employees are encouraged to join a recognised Trade Union/Representative Body.

## 5. PROCEDURES

### 5.1 Information communication

It may be appropriate at times to send out agreed joint communications.

#### 5.1.1 General information

Managers should give employees information about: -

- **terms and conditions of employment** – includes all contractual details, such as pay, hours of work, holidays, period of notice, disciplinary rules

- **their job and its performance** – includes the workplace, objectives, operating and technical instructions, health and safety, supervision, training and development, equal opportunities, Trade Union/ Representative Body representation
- **the Service's performance, progress and prospects** – includes objectives and policies, financial performance, management and employee changes, developments in technology, return on investment
- **changes** to any of the above

The Service, when requested, should consider providing or making available, information to the Trade Unions/Representative Bodies that would be disclosed under Freedom of Information requests.

Information is shared with Trade Unions/Representative Bodies in line with data protection, which means some information may have personal details removed, although much of the general information is available on MESH and through the Annual Report and The Plan (see 5.3.3).

The Service and PSS provide policy information updates on MESH and social media, together with regular communications to individuals and teams.

Trade Union/Representative Body officials also need information about: -

- time off for Trade Union/Representative Body duties and activities (see 5.5.3)
- access to management, members, potential members
- access for Trade Unions/Representative Bodies to new entrants in works time, on the first day of employment
- collection of Union dues or subscriptions

However, any release of information will be in line with the organisational [Management of Information policy](#) and current data protection regulations.

## 5.1.2 Information for consultation

The Information and Consultation of Employees Regulations 2004, subject to certain conditions, gives employees the right to be: -

- informed about the Service's economic situation
- informed and consulted about the Service's employment prospects
- informed and consulted about decisions likely to lead to substantial changes in work organisation or contractual relations, including redundancies and transfers

It also states that employers have a legal responsibility to consult with employees, with a view to reaching agreement, on:

- health and safety
- redundancies - if it is proposed to dismiss 20 or more employees at one establishment over a period of 90 days or less, including discussion on avoiding



or reducing redundancies. For information on redundancies see 'Reorganisation, Redeployment and Redundancy policy 2/6

- business transfers - transfer of a business under The Transfer of Undertakings (Protection of Employment) Regulations (TUPE)
- works councils - or equivalent procedure to provide information and consultation for the entire workforce
- occupational pensions - providing employees with information and communication on financial participation and economic awareness about pension schemes and consulting on a regular basis.

More information on the Firefighters Pension Schemes Regulation and Guidance can be found [here](#).

More information about the Local Government Pension Scheme can be found [here](#).

### 5.1.3 Information for collective bargaining (negotiation or consultation)

The Trade Union and Labour Relations (Consolidation) Act 1992, Sections 181 and 182, imposes a duty on employers who recognise a Trade Union to disclose information requested by a Union Representative for the purposes of collective bargaining. There is no legal obligation for an employer to disclose any specific piece of information but there is a general duty to disclose information in harmony with good employee relations practice. However, the Service will commit to providing information for justified and legitimate requests.

The information must be in the employer's possession and the Trade Union should state as precisely as possible, the information they require and confirm their request in writing. The employer does not have to produce original documents, or information that would contravene security, confidentiality or cause injury, nor does the employer have to go to unreasonable expense. Any refusal to provide information will be clearly explained by the employer. The principles outlined above also apply to Representative Bodies.

Generally, when requested and to facilitate the consultation/negotiation processes, the Service will provide or make available, information to the Trade Unions/Representative Bodies that would be disclosed under Freedom of Information requests.

Providing relevant information helps the process of constructive negotiation and the employer will endeavour to be as open and helpful as possible in giving Trade Unions/Representative Bodies the information they need. Trade Unions/ Representative Bodies should try to co-ordinate requests wherever possible.

If a Trade Union thinks the employer has failed in its duty to provide information, it can complain to the Central Arbitration Committee (CAC). The CAC is an independent body, adjudicating on applications relating to the recognition and de-recognition of Trade Unions.



The types of information for collective bargaining, depend on the subject matter and the issues raised, but some examples are: -

- pay and benefits
- conditions of service
- pensions arrangements
- workforce planning
- number of employees and future recruitment plans
- organisation of work in the workplace
- performance
- Finance

## 5.2 How we communicate

To be effective, communications between the employer, employees and Trade Unions/Representative Bodies must be: -

- clear, concise, understandable
- objective
- in a manageable form
- regular
- relevant, local and timely
- open to questioning

It is important to remember information needs to be shared and understood. Therefore, it is reasonable for discussions and questioning to take place between managers and employees to ensure understanding.

For more information on communication methods within WMFS, see [Corporate Communications policy](#).

Managers and Trade Union/Representative Body representatives will take responsibility for ensuring necessary and appropriate discussion, consultation or negotiation takes place to foster positive employee relations.

## 5.3 How we consult and negotiate

Managers will contact a member of the PSS team prior to commencing consultation or negotiations with Trade Unions/Representative Bodies and employees, who will provide the necessary advice and guidance to ensure consistency of approach in line with this framework.

### 5.3.1 Consultation

The purpose of consultation between the employer, the employees and Trade Union/Representative Body representatives is to reach agreement in a respectful, transparent and timely manner, with recognition of our common interests.

Consultation is an integral part of day-to-day management. It can be through informal discussions with individual employees, to more formalised group meetings or seminars. It should take place at the appropriate level of the Service. For example, if the issue is a corporate matter, it is dealt with at a corporate level.

Consultation starts at the earliest opportunity, involving employees and /Representative Body representatives in the development of new projects or policies, or in the consideration of changes, and before any final decision is made. The employer endeavours to consult widely but at times may only be able to consult with Trade Union/Representative Body representatives because of timescales and the nature of the issue or change.

Consultation is a two-way process and the employer will consider proposals put forward by the Trade Unions/Representative Bodies or employee representative. If there are times when the employer is unable to agree, the reasons will be clearly stated. Both parties shall work jointly to resolve issues identified through the course of consultation. However, in consultation the employer has the right to implement the notified changes, even if agreement from one or more of the Trade Unions/Representative Bodies has not been reached. All consultation responses must be responded to and all reasonable dialogue between the parties and consideration of any referral to external assistance exhausted.

As part of an ongoing stakeholder strategy, building the capacity of our minority stakeholder groups - Inspire (BAME), BEAM, Affinity, FireOut (LGBT+) and Asian Fire Service Association (AFSA), we are looking to give a representative from each stakeholder group the opportunity to attend relevant meetings, or be engaged for consultation purposes as appropriate. The aim of this is to give under-represented groups a voice and greater involvement in the organisation, giving diversity a higher profile, as well as helping stakeholder groups to influence and shape change, ensuring they can have a positive impact.

### 5.3.2 Negotiation

Negotiation should be used for matters subject to collective agreement between the Fire Service and recognised Trade Unions/Representative Bodies. The objective is to resolve issues jointly. As an outcome of negotiated agreements, individual issues will be dealt with through the grievance procedure. See Grievance Procedure policy 02/02

Issues should be dealt with at the appropriate level, but issues of a corporate nature should be dealt with at corporate level in the first instance (see 5.3.5 and 5.4.3).

### 5.3.3 Confidentiality

The employer provides all relevant, non-confidential information to Trade Union/Representative Body representatives, so that constructive and meaningful consultation or negotiation can take place. Sometimes confidential, sensitive and non-personal information may be given to Trade Union/Representative Body representatives and

managers to aid consultation or negotiation. Members of the consultation or negotiation group should respect the confidential nature of this information and not share it outside the meeting.

The Service shall apply the same provisions in respect of information provided to WMFS by the Trade Union/Representative Bodies.

All parties recognise current provisions for data protection. Protecting the confidentiality and accuracy of any records in respect of private information is not a barrier to appropriate exchange of information for the purposes of conducting legitimate business activity.

### 5.3.4 Timescales

All negotiations and consultation will have an appropriate timescale agreed at the beginning and which all parties agree to adhere to. This timescale will only be amended with the agreement of all parties. Requests to amend the timescale should be evidence based, but not unreasonably refused.

Negotiation (see 5.3.2) or consultation (see 5.3.1) will end when there is agreement (negotiation), or when issues not agreed have been reasonably discussed (consultation), working towards reaching an agreement, within the agreed timescale, with joint commitment to resolve from both parties. On safety critical issues, consultation may occur after implementation but the need and rationale for this will be shared.

### 5.3.5 Collective bargaining

Collective bargaining is the process by which employers and recognised Trade Unions/Representative Bodies seek to reach agreement on issues under negotiation such as pay and terms and conditions of employment. In consultation, the responsibility for decision making remains with the employer, however, the employer will give genuine and meaningful consideration to the views of Trade Unions/Representative Bodies when considering consultation and seek to reach agreement. In collective bargaining both the employer and the Trade Unions/Representative Bodies take responsibility for fulfilling the bargain.

Each party will ensure the other has the requisite information required to address any issue. Additionally, each party will give early notification to the other that an issue has arisen and an extension to a previously agreed timescale may be mutually agreed. Continuous informal dialogue and exchange of information on the relevant issues would be maintained. Whilst a difference remains, and reasonable discussions/resolutions are ongoing and/or third-party assistance is being sought, neither side will seek to take industrial action or introduce change.

WMFS is committed to collective bargaining and understands its responsibilities under Section 145(B) of TULRCA 1992. The Service will not offer inducements, financial or otherwise, to accept changes which are inconsistent with the Grey or Green Book.

## 5.3.6 Dispute Resolution

Should there be disagreements or concerns, Trade Unions/Representative Bodies wish to raise, these broadly fit into three areas.

### 5.3.6i Cause for Concern

A Cause for Concern may be raised by the Trade Union/Representative Body should they believe a new or current practice or procedure is not fit for purpose and may have Health and Safety or Equality concerns attached to it.

A Cause for Concern cannot be progressed to JCC before going through the process. To raise a Cause for Concern, see Appendix 6

#### **Progressing to JCC**

The Cause for Concern template (available from the JCC Meeting Manager) should be completed in full and forwarded to the PSS Manager - Employee Relations and JCC Meeting Manager to be included at the next JCC meeting.

### 5.3.6ii Failure to Consult

As identified within the ERF, consultation (see 5.3.1) is an integral part of day to day management and a two-way process. Managers must ensure they undertake meaningful consultation as appropriate. PSS Business Partners can support with this.

If the Trade Union/Representative Body believe appropriate consultation has not taken place, or was not completed, the matter may ultimately be referred to JCP.

However, the consultation process needs to have concluded prior to the referral and the Trade Union/Representative Bodies must clearly demonstrate how they have worked with the Service to try and resolve the dispute prior to the referral. For the process to raise a Failure to Consult, see Appendix 7

#### **Progressing to JCC**

The Failure to Consult template (available from the JCC Meeting Manager) should be completed in full and forwarded to the PSS Manager - Employee Relations and JCC Meeting Manager to be included at the next JCC meeting.

### 5.3.6iii Failure to Agree

As identified within the ERF, negotiation (see 5.3.2) will be used for matters subject to collective bargaining. The Service will therefore, negotiate on matters subject to collective agreement with the recognised local Trade Unions/Representative Bodies.

In the case of negotiation, items may ultimately be referred to the JCP if the JCC or other consultative forums have failed to reach an agreement. However, in doing so,

the Trade Unions/Representative Bodies must clearly demonstrate how they have worked with the Service to try to resolve the dispute, prior to referral to the JCP. For the process to raise a Failure to Agree, see Appendix 8.

## **Progressing to JCC**

The Failure to Agree template (available from the JCC Meeting Manager) should be completed in full and forwarded to the People Support Services Manager - Employee Relations and JCC Meeting Manager to be included at the next JCC meeting.

### **5.3.7 External Assistance**

If one party wishes to bring in external help, such as ACAS, a regional officer of the Trade Union/Representative Body, National Joint Council Joint Secretaries, it must seek the agreement of the other parties, but neither party should unreasonably refuse such a request. Prior to referral to external assistance, internal processes should be fully explored and completed. However, if both/all parties believe the engagement of external assistance would assist to reach a resolution, this should be considered.

## **5.4 Joint Working**

### **5.4.1 Joint Working Parties (JWP)**

Joint working parties (JWP) are ad hoc arrangements, set up to consider specific issues and identify appropriate actions to resolve, for example, attendance rates. These meetings support the Service in its engagement through communication, discussion and consultation. The emphasis is on managers and Trade Union/Representative Body representatives working together, to understand issues and overcome common problems in a non-confrontational way. However, they are not decision-making forums. Once the issue has been considered, recommendations can be made to the JCC.

The size and makeup of the JWP depends on the subject to be discussed but it is important to keep the meetings small. This enables everyone to be fully involved in the discussions and have a representative cross section of the groups directly concerned with the issue, reflecting the Services core values. Sometimes an independent facilitator may be invited to attend, to help the parties work together more productively.

Meetings are usually held more frequently to keep momentum going, so meetings can be held weekly or fortnightly to facilitate progress on the issue.

JWP may include the Trade Unions/Representative Bodies and will form part of the consultation or negotiation processes.

## 5.4.2 Stakeholder meetings

Stakeholder meetings can be set up as a discussion forum for specific issues, or to encourage the sharing of ideas on Brigade - wide issues. These are not decision-making forums and will not form part of the consultation/negotiation process.

## 5.4.3 Informal meetings

These can be held between employee representatives and managers, or between employees and Trade Union/Representative Body representatives to discuss local issues as they arise. An informal meeting, which will be recorded as part of the Service consultation process, can take place as and when needed at section or station level so that employee representatives have a facility to raise matters. Managers or employees with knowledge of particular issues may be invited to attend if necessary. It is important the issues from these meetings, though informal, are followed through and communicated to the necessary bodies, and referred to the JCC.

## 5.4.4 Joint Consultative Committee (JCC)

The JCC is the formal consultative meeting in the Service. It is where new initiatives or amendments to current practices are consulted on and outcomes shared and formally recorded. The role of the JCC is to provide a platform for the sharing of information as part of the consultative process and to sign off information and decisions that have been discussed previously within the Service's consultative mechanisms.

The Committee is made up of representatives of SET, a member of the PSS team as the advisor to the Chair/Committee, Trade Union/Representative Body representatives and advisors called as and when necessary. The Committee meets formally every month. The constitution, which has been negotiated, with a view to reaching an agreement with the Trade Unions/Representative Bodies, lays down the rules and procedures that govern the Committee.

Any new initiative or proposed change to current practice should be consulted through this forum and the business case must include appropriate Equality Impact Assessment, Health and Safety Risk Assessment (HS06) and Privacy Impact Assessment. It is recognised that appropriate matters discussed at the monthly Brigade Health Safety and Wellbeing (BHSW) and JCC need to be reported to the other respective committee.

Once a matter has been formally discussed at JCC and a decision reached to progress, the HS06 may be referred to the BHSW. The BHSW Chair will be responsible for ensuring the specific activity is reviewed, considerations addressed and relayed to a future JCC meeting.

This will be undertaken within a reasonable and jointly agreed pre-determined timescale, ensuring the HS06 remains current and fit for purpose.

The BHSW will consider the health and safety considerations to be addressed, prior to returning to JCC.

If the Trade Union/Representative Body are dissatisfied with issues within the Service, they must raise it with the appropriate line manager. If they do not receive a response, or a solution is not reached, they must then raise the issue through JCC providing the appropriate information (see 5.3.6 i/ii/iii). Only then can issues be referred to JCP, see Appendix 3.

A referral to JCP will be in the format of a joint report, with the business case for both the Trade Union/Representative Body and the Service.

Terms of Reference for JCC can be reviewed at Appendix 5.

### 5.4.5 Joint Consultative Panel (JCP)

The Joint Consultative Panel (JCP) is the highest consultative body within the Service.

The elected member group of JCP acts as the review body for matters referred to it from the JCC and considers and makes recommendations to the Fire Authority or Service on these matters.

The Terms of Reference for JCP can be reviewed at Appendix 3 or within the Constitution of the West Midlands Fire and Rescue Authority.

### 5.4.6 Management briefings

These are intended as information giving sessions to the Services managers by SET. Trade Unions/Representative Bodies have an open invite to all management briefings.

### 5.4.7 Trade Union/Representative Body meetings

Trade Unions/Representative Bodies may arrange meetings with Trade Union/Representative Body members to share information to support and enhance the consultation and negotiation process. The Service will assist in ensuring these meetings can take place. From time to time, managers may request to attend or be invited to attend these meetings in an observer capacity, or to answer any direct questions.

## 5.5 Trade Union and Representative Bodies facilities

The Service and its recognised Trade Unions/Representative Bodies understand the value of the Service's employees being Trade Union/Representative Body members and the positive role of trade union activities which make membership of a trade union meaningful.



All parties recognise the minimum arrangements afforded by the relevant legislation and guidance in respect of time off for trade union duties and activities and specifically the necessity for trade union engagement in matters of negotiation and consultation.

All parties recognise the importance of trade union duties and activities. WMFS commits to ensure there are sufficient personnel available to allow the release of Trade Union/Representative Body officials and representatives to carry out trade union duties and reasonable release with prior agreement for trade union activities.

The Service's provision for time off to its recognised Trade Union/Representative Bodies is as identified in the Trade Union and Labour Relations (Consolidation) Act 1992. Trade Union officials have a statutory right to reasonable paid time off to carry out trade union duties and to undertake trade union training. They also have a statutory right to reasonable unpaid time off when taking part in trade union activities. As detailed in 5.3 the principles outlined above, also relate to the Representative Bodies.

Trade Union/Representative Body duties must relate to matters covered by collective bargaining agreements between employees and Trade Unions/Representative Bodies and relate to the representative's own employer.

Under the Employment Act 2002, union learning representatives also have the statutory right to take paid time off during working hours to carry out their duties and attend relevant training.

This agreement is in accordance with the ACAS Code of Practice 'Time off for Trade Union Duties and Activities'.

Under the Local Government Transparency Code 2014, the Service is required to publish details relating to trade union facility time on the WMFS web site.

### 5.5.1 Officials/Representatives

At a Fire Service level, the Trade Unions/Representative Bodies will have officials and representatives who have been elected or appointed in accordance with the rules of the Union.

Officials will be defined as Secretary, Chair and where appropriate Organiser. Representatives will be defined as representatives who sit on the local Trade Union/Representative Body committee.

### 5.5.2 Misconduct of Officials/Representatives

Disciplinary action against a Trade Union Official or representative can lead to a serious dispute if it is seen as an attack on the union's functions. Normal standards apply but, if disciplinary action is considered, the case should be discussed (after obtaining the employee's agreement) with a senior trade union representative or permanent union official, before any management decisions are made.

This approach is in line with, ACAS: Disciplinary and Grievances Procedure Code of Practice 1, current data protection legislation and relevant conditions of employment.

### 5.5.3 Officials\* and Representatives - Time off provision

\* For the purpose of this section (5.5.3), the term 'Officials' refers to Officials and Representatives, in line with the ACAS Code of Practice: Time off for Trade Union Duties and Activities.

A provision for a minimum amount of time off for Trade Unions/Representative Body officials will be considered on an annual basis in line with Appendix 10. Additional facilities time provision for trade union duties will be considered and approved as appropriate, as detailed below.

Where there is no allocation of facilities time awarded to an individual official of the Trade Union/Representative Body, time off for duties will not be unreasonably refused. Responsibilities of both roles should always be considered.

Elected Trade Union Officials are entitled to reasonable time off with pay for undertaking trade union duties and reasonable time during their working hours to conduct recognised trade union activities. The Trade Union Official should request time off, giving a minimum of 7 days' notice, unless exceptional circumstances apply, using the process outlined below. Maintenance of competence in role is a pre-requisite for granting time off. Line managers will consider the request for approval. All time off will be at the exigencies of the Service and operational commitment will always take precedence. Time off will not be made available if it results in critical operational cover being compromised.

The Facilities Request Form is available to Trade Union/Representative Body Officials. Once completed by the individual, the relevant Trade Union/Representative Body and line manager will need to confirm their support. The request will then be considered for endorsement by the PSS Manager - Employee Relations.

Agreed time off for Trade Union/Representative Body duties or activities will be recorded by the SMART team on the organisational Time and Attendance system. Paid time off for carrying out Trade Union/Representative Body activities must be by expressed agreement of the PSS Manager - Employee Relations and will not be unreasonably refused.

### 5.5.4 Time off for Trade Union/Representative Body duties

Trade Union/Representative Body duties are those related to consultation, negotiations or the performance of functions. An example would be, preparing for negotiations, informing members of progress, explaining outcomes to members, preparing for meetings with the employer, see 5.5.6.

It is recognised that Trade Union/Representative Body officials need to consult with their members before and after meetings with management. Trade Union/Representative Body officials can take reasonable paid time off for duties dealing with negotiations, or for other duties connected with the Service, such as: -

- terms and conditions of employment or physical work conditions, for example, pay, working hours, training needs, equality and diversity
- engagement or non-engagement, the termination or suspension of employment or duties, of one or more workers, for example, redundancy
- allocation of work or duties, for example, job evaluation, flexible working
- discipline or grievance matters, for example, representing members at hearings, acting as a witness
- Trade Union/Representative Body membership, for example, induction of new workers
- negotiation and consultation procedures, for example, joint consultation, communicating with members or other Trade Union/Representative Body officials, collective bargaining
- attendance at meetings arranged by management, for example, Joint Consultative Committee, working parties, Brigade Health Safety and Wellbeing Meeting
- attendance on committees, or meetings agreed by employer and Trade Unions/Representative Bodies. These may include meetings that are outside of the Service
- consultation on facilities for Trade Unions/Representative Bodies and specifically accommodation, equipment and names of new employees to the organisation but excludes consultation on facilities for time off for Trade Union/Representative Body Officials

The process for requesting an annual minimum amount of time is outlined in Appendix 10. Ad hoc facilities time arrangements are outlined in 5.5.3.

This is not an exhaustive list please refer to the PSS Business Partner Team or PSS Manager - Employee Relations.

### 5.5.5 Time off for Trade Union/Representative Body training

Employees who are Trade Union/Representative Body officials are given paid time off to attend training necessary for their Trade Union/Representative Body duties and role. Examples of the type of training that may be required are: -

- employment relations
- collective bargaining
- representation and negotiation skills
- equality and diversity and legislative change

This is not an exhaustive list.

The training must be approved by the Trades Union Congress (TUC) or the Representative Body of which the employee is an official and have the local official's approval to attend, in line with 5.5.3.

There is no statutory requirement to pay for time off where training is taken at a time when the official would not otherwise have been at work. Employees who work part time and undertake training on their days off, may, following a discussion with their line manager, receive either the appropriate paid overtime or time off in lieu.

It is important Trade Union/Representative Bodies officials maintain a good understanding of the Services approach to employee relations, as defined within this document. Any queries should be raised with the PSS Manager - Employee Relations in the first instance.

### 5.5.6 Time off for Trade Union/Representative Body activities

The Service will consider and support reasonable release, with prior notice, for trade union activities. The activities of Trade Union/Representative Body members may be, for example: -

- attending workplace meetings to discuss and vote on the outcome of negotiations with the employer
- meeting Trade Union/Representative Body officials to discuss issues relevant to the workplace including those at a regional and national level
- voting in Trade Union/Representative Body elections
- having access to services provided by a Union Learning Representative

Where the member is acting as a representative of a recognised Trade Union/ Representative Body, activities they are taking part in can be: -

- branch, area or regional meetings of the Trade Union/Representative Body where the business of the Trade Union/Representative Body is under discussion
- meeting of official policy making bodies such as the executive committee or annual conference
- meeting with regional officers or local officials to discuss issues relevant to the workplace

Reasonable unpaid time off will be given for Trade Union/Representative Body Officials and members taking part in Trade Union/Representative Body activities in relation to which the employee is acting as a representative of the Trade Union/ Representative Body. This time will be unpaid, however, in exceptional circumstances payment may be considered, see 5.5.3.

There is no right to time off for Trade Union/Representative Body Officials, Representatives and members for trade union activities which themselves consist of industrial action.

### 5.5.7 Union Learning Representatives (ULR)

Union Learning Representatives (ULR's) are entitled to reasonable time off to carry out the following duties: -

- analysing learning or training needs
- providing information and advice about learning or training matters
- arranging learning or training
- promoting the value of learning or training
- consulting management about undertaking such activities
- preparation to carry out the activities
- undergoing relevant training

ULR's must be sufficiently trained in order to qualify for paid time off. Training should commence when the Trade Union/Representative Body gives notice in writing to management they are to become a learning representative. Training should be completed within six months of that date. The Trade Union/Representative Body should give details of completed training; any previous training will be taken into account.

Reasonable time off is considered for further training to help ULR's develop their skills and competencies. The principles outlined above also apply to Representative Bodies, see 5.5.3.

### 5.5.8 Health and Safety Representatives

The Service will provide reasonable time off, with pay, to Health and Safety Representatives undertaking health and safety duties in accordance with the Safety Representatives and Safety Committees Regulations and provide necessary facilities and assistance in undertaking their duties. Time off must be requested as outlined 5.5.3. Training of Trade Union/Representative Body Health and Safety Representatives must be approved by the Trades Union Congress or the Trade Union/Representative Body.

The PSS Manager - Employee Relations and the Safety, Health and Environment (SHE) Team must be informed in writing of any such appointment.

It is recognised by the Service that Health and Safety representatives will, from time to time, conduct duties on their days off. In this case, the Health and Safety Representative will receive either the appropriate paid overtime, or time off in lieu.

For further information, please refer to the [Health and Safety Framework](#).

### 5.5.9 Disciplinary and grievance hearings

Trade Union/Representative Body officials are statutorily entitled to take a reasonable amount of paid time off to prepare and accompany an employee at a disciplinary or grievance hearing, as long as they have been authorised by their Trade Union/Representative Body as being capable of acting as an employee's companion.

The right to time off extends to the employee's representative whether they belong to a recognised Trade Union/Representative Body or not. However, the worker being accompanied must be employed by the Service. Occasionally, Service, regional or

sectional officials have a duty to represent people in other Fire Authorities. The Service recognises this is a reciprocal arrangement with other Services and will give consideration to appropriate arrangements for these occasions, see 5.5.2.

### 5.5.10 Payment for Time off

An employer who permits union representatives time off for trade union duties, relevant representative training and learning representative training must pay them for this time. There is no statutory requirement to pay time off where duty or training is carried out at a time when the union representative would not otherwise have been at work. Employees who work part time will be entitled to be paid if employees who work full time would be entitled to be paid. In all cases the amount of time off must be reasonable.

There is no statutory requirement that union members or representatives be paid for time off taken on union activities.

### 5.5.11 Notification of officials

Unless there are exceptional circumstances, within 7 days of a change, a senior official of the Trade Union/Representative Body must inform the PSS Manager – Employee Relations in writing, as soon as possible of appointments or resignations of Trade Union/Representative Body officials.

They should also give details of any special duties the official undertakes, which includes national, regional, sectional, Brigade, borough and branch duties and others as required, such as environmental.

Trade Unions/Representative Bodies should make sure officials are aware of their role, responsibilities and duties and they hold the correct written credentials and receive necessary training promptly.

It is the role of the unions to inform PSS and managers when their employees become elected officials, so they know that time off should be considered when requested.

### 5.5.12 Physical facilities

It is important that facilities are available to Trade Union/Representative Body representatives to help them carry out their duties and deal with local issues. The Service endeavour to provide the facilities necessary for officials to perform their duties efficiently and communicate effectively.

Where resources permit, these facilities will include: -

- office accommodation for full time official
- access to and reasonable use of a telephone and other office equipment

- the use of notice boards
- reasonable use of e-mail and intranet
- reasonable accommodation to hold consultation meetings with members

The Trade Union/Representative Body can provide their own communications and copying facilities where requested, this must be compatible with current technical systems in place.

The Service reserves the right to monitor levels of usage and will review annually to determine if any changes need to be proposed.

### 5.5.13 Commitment of officials

Trade Union/Representative Body officials should carry out duties for the benefit of, and within, the Service only. However, it is recognised that on occasions, they will be required to attend area, regional, national, sectional or organisational meetings. Requests to attend such meetings will be duly considered with a view to acceding to all reasonable requests.

The Service will identify a relevant manager for full time Trade Union/Representative Body officials who will be responsible for - sickness reporting, annual leave requests, continuous professional development, appraisal and competency training for their respective roles. Records of planned or actual duties and training should be submitted to the representative's line manager.

Facilities time afforded to a full-time/part time official will be subject to annual review. The Service will determine the criteria for what constitutes a full-time official. Once full-time official's duties have ceased, the employee will be redeployed following appropriate discussions with the individual and in line with [Reorganisation, Redeployment and Redundancy policy](#) or [Managing Vacancies policy](#).

### 5.5.14 Communication between Trade Unions/Representative Bodies and their members

The ACAS Code of Practice: Time off for Trade Union Duties and Activities, Sections 46 - 49, outlines the general considerations regarding the responsibilities of the employer and Trade Unions/Representative Bodies specifically relating to facilities and communications.

### 5.5.15 Members of Trade Unions/Representative Bodies

A Trade Union/Representative Body member is an employee who subscribes to a recognised Trade Union/Representative Body.

## 6. Monitoring and review



It is important to make sure employee communications and consultation policies and procedures are working and to see if there are ways in which they can be improved. Therefore, they should be regularly monitored, particularly to make sure that: -

- those communicating, and consulting know their roles and are aware of the Framework and the NJC protocol on industrial relations
- employees are regularly consulted on matters of interest to them
- information is appropriate and reaches the required audience
- information is accepted and understood
- the policies and procedures bring the desired result
- practice matches policy
- incorporate any changes in legislation

Monitoring and review should also involve employee representatives. A Joint Working Party (JWP) can carry out an audit on communications and consultation.

An audit should consider: -

- how engaged employees are
- level of involvement by members of SET, Brigade managers, elected members and employee representatives
- quality of decision making by managers
- disagreement or disputes and the dialogue undertaken to resolve the issues
- work produced jointly
- lessons learnt
- attendance and turnover levels
- cost effectiveness and Value for Money for all parties involved

## 7 CROSS REFERENCES

[0105 Management of Information](#)

[0135 Corporate Communications](#)

[0202 Grievance Procedure](#)

[0205 Managing Vacancies](#)

[0224 Re-organisation Redeployment and Redundancy Policy](#)

[1901 Health and Safety Framework](#)

[Freedom of Information Act 2000](#)

[ACAS Code of Practice: Time off for Trade Union Duties and Activities](#)

[The Scheme of Conditions of Service Sixth Edition \(updated 2009\)](#)

[Information and Consultation of Employees Regulations 2004](#)

[NJC CIRCULAR 08/07 – Joint Protocol for Good Industrial Relations in the Fire and Rescue Service](#)

Trade Union and Labour Relations (Consolidation) Act 1992

Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

## 8. KEY STAKEHOLDERS

Fire Brigades' Union (FBU)

UNISON

Fire Officers' Association (FOA)

Fire Leaders Association (FLA)

Joint Consultative Committee (JCC)

Strategic Enabling Team (SET)

## 9. EQUALITY IMPACT ASSESSMENT

An Initial Equality Impact Assessment has been carried out which found no adverse impact would be created by the implementation of this framework.

## 10. RESPONSIBILITY AND REVIEW

### 10.1 RESPONSIBLE STRATEGIC ENABLING TEAM MEMBER

Strategic Enabler, People

### 10.2 CREATED/FULLY REVIEWED/AMENDED

Reviewed by PSS Manager - Employee Relations in conjunction with Trade Unions/Representative Bodies February 2019. This framework will be noted at JCP/Authority.

Previous revisions: July 2015

Amended: February 2012

This framework was created by the PSS Manager - Employee Relations in August 2009.



## **Appendix 1**

# **COLLECTIVE AGREEMENT BETWEEN WEST MIDLANDS FIRE SERVICE AND THE FIRE BRIGADES UNION: INDUS- TRIAL RELATIONS PROCEDURES**

This document is a collective agreement between West Midlands Fire Service / West Midlands Fire Authority and the Fire Brigades Union.

While this agreement resolves one of the key issues in the trade dispute registered on 11 April 2018 it is recognised that there are some issues still outstanding, and therefore this agreement does not resolve the trade dispute in its entirety. It is recognised as a significant contribution to an overall resolution.

The elements of this agreement may be incorporated into WMFS policy documents. In any event, in cases of conflict between this agreement and any Service or Authority policy the elements of this agreement will have primacy.

## **1. CORE PRINCIPLES**

### **Object and scope**

The object of this framework is to establish procedures for negotiation and joint consultation between WMFRA and the trade union representatives of those employees covered by the National Joint Council for Local Authority Fire and Rescue Services (NJC) in order to establish relationships and interactions that seek joint solutions and resolve differences. All such employees are covered by the collective agreements reached in accordance with these procedures.

WMFS recognises and encourages trade union membership, both for collective bargaining and to ensure that employees have access to assistance should they encounter difficulties. Accordingly, WMFS will facilitate access for the Fire Brigades Union to new entrants in works time on the first day of employment.

WMFS recognises that as an independent trade union the role and function of the FBU is to enhance and promote the terms and conditions of its members and promote and enhance the service delivery to the public, including and centred upon firefighter and public safety. WMFS recognises that the FBU approach to industrial relations is to seek joint or common interest but where that is not possible that its role is

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not to promote or support the objectives of WMFS, notably its IRMP or other strategic plans.

## **Principles**

The principles for Industrial Relations in West Midlands will follow those agreed by the National Joint Council for Local Authority Fire and Rescue Services and provided as appendices 1 (a, b, c) and 2.

## **2. DEFINITIONS**

Employees and employers need to exchange information, views and ideas, discuss problems, consider solutions and look at future developments, but there are differences in the ways this is done, differences between communications, consultation and negotiation through collective bargaining.

**Communications** is the giving and receiving of information through discussion and instructions. It includes all the information, the channels and the ways it is passed along.

**Consultation** goes beyond communication and involves managers actively seeking and then taking account of, the views of the employees' representatives before making a decision. Consultation does not remove the right of the employer to manage and make the final decision. However, it obliges them to seek acceptable solutions to problems through a genuine exchange of views and information.

**Negotiation** is the process by which employers and Trade Unions representatives seek to reach agreement through collective bargaining. The simplest explanation of the difference between consultation and negotiation is that anything which is contractual and therefore lawfully needs the agreement of the individual employee, or their trade union on their behalf, is negotiation. Everything else is consultation.

**Collective bargaining** is the process by which the Service and recognised Trade Union seek to reach agreement on issues such as pay and terms and conditions of employment.

In consultation the responsibility for decision making remains with the Service, however, the employer will give genuine and thoughtful consideration to the FBU's views when consulting and will give clear feedback on those decisions and the rationale behind them.

In collective bargaining both the employer and the FBU take responsibility for fulfilling the bargain.

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Managers are aware of the need to consult and negotiate and this will be undertaken in a timely way providing appropriate information for the purpose. FBU representatives are aware of the need to respond in a timely way and provide relevant information to support their response.

### **3. PARTIES INVOLVED**

WMFS will negotiate or consult with the Fire Brigades Union on all matters which affect its members.

WMFS will discuss with the Fire Brigades Union on all matters which relate to those managerial grades/ roles which its members can be reasonably expected to aspire to hold.

WMFS will not negotiate on matters with trade unions or representative bodies who are not recognised by the Service or are not representatives of the constituent workforce affected. Representatives of non-affected trade union will not be invited or otherwise attend meetings where such matters are under discussion unless the invite is agreed by all parties.

As a normal managerial function, the FBU recognise that WMFS managers will engage with staff on various matters.

However, WMFS will not consult or negotiate directly with the workforce, other than where:

- it is required to do so e.g. in cases of TUPE/redundancy
- it is jointly agreed as appropriate for specific issues

The FBU recognises that WMFS may consult with whomsoever it chooses. In turn WMFS recognises that consultation and negotiation in the context of industrial relations is a matter between independent trade unions and an employer. Accordingly, no other parties or interest groups will be invited by either party into meetings or forums where the main or sole business is for the purpose of conducting industrial relations without prior agreement of the other party.

The Service will engage with Regional FBU representatives where there is a vacancy at local level and no local representative has been appointed (with the agreement of the FBU).

#### **3.1 Fire Authority Members**

The Fire Authority (FA) members are elected members from WMFS constituent councils and therefore from the local communities we serve. The FA members will select representatives to attend The Joint Consultative Panel (JCP). The JCP provides a forum for

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the Authority, as the employers, and the FBU to discuss issues. Many of the issues discussed relate to creating a culture that both recognises and values the diversity of individual employees in delivering an inclusive service to the community. In addition, the panel endeavours to ensure that all employees, irrespective of the roles they undertake, are treated with respect and dignity to enable them to reach their full potential.

### **3.2 WMFS**

WMFS will ensure that managers are committed to the principles outlined in this Collective Agreement and take a positive lead on the implementation of this Industrial Relations agreement. The lead manager is responsible for making sure that the Employee Relations Framework is put into practice, properly maintained, regularly reviewed and that the chains of communication and methods of consultation are clearly understood. The lead manager or their delegated representative will therefore chair the Joint WMFS/FBU forum.

Where appropriate and where previously notified to the FBU, WMFS may delegate to authorised management representatives who individually and collectively may meet with the FBU to promote, develop and sustain productive and transparent policies and activities related to specific delegated issues. Such management representatives will ensure that the agreed consultation and negotiation process is followed by all concerned.

WMFS will ensure that such management representatives understand their responsibilities in respect of the Industrial Relations agreement and ensure that any queries or uncertainty is raised with the lead manager or their delegated representative.

### **3.3 FBU Officials/Representatives**

WMFS fully recognises that FBU officials need information to bargain effectively and that the FBU as a recognised trade union of the Service has legal rights to information for collective bargaining purposes. WMFS also recognise that FBU officials/representatives also need time off and facilities to enable good communication with their members.

At fire service level, the FBU has officials and representatives. For the purposes of this agreement, FBU officials are defined as Brigade Secretary, Brigade Chair and Brigade Organiser. FBU representatives are defined as the other representatives on the brigade committee.



## **4. INFORMATION AND COMMUNICATION**

### **4.1 Information for collective bargaining (negotiation or consultation)**

The Trade Union and Labour Relations (Consolidation) Act 1992, Sections 181 and 182, imposes a duty on WMFS, as an employer which recognises a trade union, to disclose information requested by a Trade Union representative for the purposes of collective bargaining.

As part of information to support collective bargaining, WMFS will commit to providing information for justified and legitimate requests.

The types of information for collective bargaining depend on the subject matter and the issues raised. Information to be provided will be that requested or required by the FBU supplemented by any information identified by WMFS as being relevant or helpful. The type of matter which shall form the basis of collective bargaining between WMFS and the FBU shall include:

- pay and benefits;
- attending formal meetings in connection with the occupational pension scheme(s)
- conditions of service;
- workforce planning;
- the number of employees and future recruitment plans;
- organisation of work in the workplace;
- performance;
- finance.

It is recognised that if the FBU believes that WMFS has failed in its duty to provide information, it can complain to the Central Arbitration Committee (CAC). The CAC is an independent body adjudicating on applications relating to the recognition and de-recognition of Trade Unions.

### **4.2 Consultation and negotiation**

FBU welcomes WMFS assurance that it will ensure managers are trained and will jointly participate in training and awareness of responsibilities.

WMFS will ensure that managers are aware of their responsibilities and will receive training in relation to consultation and negotiation.

Managers will contact a member of the People Support Services team prior to commencing consultation or negotiations with the FBU, to provide the necessary advice and guidance to ensure consistency of approach in line with this agreement.

#### **4.2.1 Consultation**

The purpose of consultation between WMFS and the FBU is to reach agreement in a respectful, transparent and timely manner with recognition of common interests.

Consultation will start at the earliest opportunity, involving FBU representatives

in the development of new projects or policies or in the consideration of changes, and before any final decision is made.

Consultation is a two-way process and the WMFS will consider proposals that have been put forward by FBU representatives, in a timely way. If there are times when the WMFS is unable to agree, the reasons will be clearly stated. Both parties shall work jointly to resolve issues identified through the course of consultation. However, in consultation WMFS can lawfully implement the notified changes even if agreement from the FBU has not been reached but all consultation responses must be responded to and all reasonable dialogue between the parties, and consideration of any referral to external assistance should be exhausted.

Both sides recognise that consultation is a dialogue. It is not simply a process of a proposal being made, views being sought, and those views being responded to. It is the responsibility of both sides for this dialogue to be constructive.

#### **4.2.2 Negotiation**

Negotiation should be used for matters subject to collective agreement between the WMFS and the FBU. The objective is to resolve issues jointly. Purely individual issues will be dealt with through the grievance procedure

#### **4.2.3 Confidentiality**

Members of the consultation or negotiation group will respect the confidential aspects of this information and will not share it inappropriately. The same provisions shall apply in respect of information provided to WMFS by the FBU.

Both parties recognise the current provisions of the Data Protection Act 2018 and future amendments as appropriate, as protecting the confidentiality and accuracy of any records in respect of private information and that it is not a barrier to appropriate exchange of information for the purposes of conducting legitimate business activity.

#### **4.2.4 Timescales**

All consultations and negotiations will have an appropriate timescale agreed at the beginning and to which all parties agree to adhere. This time line will only be amended by the agreement of all parties. Requests to amend the timeline should be evidence based, but not unreasonably refused. Consultation or negotiations will end

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when there is agreement or when the issues not agreed have been reasonably discussed, working towards reaching an agreement, within the agreed timeframe, with joint commitment to resolve from both parties.

#### **4.2.5 Collective bargaining**

Collective bargaining is the process by which WMFS and the FBU seek to reach agreement on issues under negotiation. In consultation the responsibility for decision making remains with the employer, however, WMFS will give genuine and meaningful consideration to the views of the FBU when considering consultation and will seek to reach agreement. In collective bargaining both the employer and the FBU take responsibility for fulfilling the bargain.

WMFS and the FBU will ensure that the other has the requisite information they need to address any issue. Additionally, each party will give early notification to the other party that an issue has arisen, and extensions to the time frame may be required. Both parties will continue to maintain a continuous informal dialogue and exchange of information on the relevant issues. Whilst a difference remains, and reasonable discussions/resolutions are ongoing and/or third-party assistance is being sought, neither side will seek to take industrial action, nor introduce change.

WMFS is committed to collective bargaining and understands its responsibilities under Section 145(B) of TULRCA 1992.

#### **4.2.6 External Assistance**

In accordance with the NJC agreements if one party wishes to seek third party assistance it must seek the agreement of the other parties, but no party should unreasonably refuse such a request. Prior to referral to external assistance internal processes should be fully explored and completed. However, if both/all parties believe the engagement of external assistance would assist to reach a resolution this should be considered.

#### **4.2.7 Joint working parties (JWP)**

Joint working parties (JWP) are ad hoc arrangements, set up to consider specific issues and identify appropriate actions to resolve, for example, attendance rates. These meetings support the Service in its engagement through communication, discussion and consultation. The emphasis is on managers and FBU representatives working together to understand issues and overcome common problems in a non-confrontational way. However, they are not decision-making forums. Once the issue has been considered recommendations can be made to the joint WMFS/FBU forum.

The size and make-up of the JWP depends on the subject to be discussed, but it is important to keep the meetings small, so that everyone can be fully involved in the discussions and have a representative cross section of the groups directly con-

cerned with the issue, reflecting the Services core values. Sometimes an independent facilitator may be invited to attend to help the parties work together more productively.

#### **4.2.8 Stakeholder meetings**

On certain matters both sides can jointly agree that there is value in stakeholder meetings. Stakeholder meetings can be set up as a discussion forum to discuss specific issues or to encourage the sharing of ideas on Service-wide issues. These are not decision-making forums and will not be a substitute for the consultation/negotiation processes.

#### **4.2.9 Informal meetings**

These can be held between managers and FBU representatives, to discuss local issues as they arise. An informal meeting can take place as and when needed at section or station level so that FBU representatives have a facility to raise matters. Managers or employees with knowledge of particular issues may be invited to attend if necessary. It is important that the issues from these meetings, though informal, are followed through and communicated to the necessary bodies, and referred to the joint WMFS/FBU forum.

#### **4.2.10 Joint WMFS/FBU forum**

The joint WMFS/FBU forum is the formal consultative and negotiating meeting in the Service for matters involving industrial relations. It is where new initiatives or amendments to current practices are consulted on and outcomes shared and formally recorded. The role of the joint WMFS/FBU forum is to sign off information and decisions that have been discussed previously within the Service's consultative mechanisms.

It is recognised that appropriate matters discussed at the JHSC and the WMFS/FBU Forum need to be reported to the other respective committee.

Prior to a matter being formally agreed at the WMFS/FBU forum the Risk Impact Assessment should be completed and shared with the FBU for information. A negotiable matter which is not agreed, or a consultative matter which is the subject of disagreement at the WMFS/FBU forum will not be pursued via the health and safety committee unless jointly agreed with the FBU.

#### **Relationship between the WMFS/FBU forum and the JHSC**

Once a matter has been formally agreed at the joint WMFS/FBU forum, it will be reviewed at the Health and Safety Committee within an appropriate, reasonable and jointly agreed pre-determined schedule for full consultation including ensuring that the RIA remains current, up to date and fit for purpose. The Health and Safety Committee Chair will be responsible for ensuring that activities are reviewed, and considerations addressed. It should then be passed to the JHSC for health and safety con-

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siderations to be addressed. Any new initiative or proposed change to current practice must be consulted through this forum and the business case must include Equality Impact Assessment and Risk Impact Assessment. The WMFS/FBU Forum is chaired by the lead manager or nominated representative and the management side is made up of representatives of SET and a member of the People Support Services team to act as the IR advisor to the Chair/Forum. FBU representatives, may seek agreement from the Forum and may invite advisors as and when necessary to support the consultative machinery. The forum shall meet formally every month. The constitution, which has been negotiated with a view to reaching an agreement with the FBU, lays down the rules and procedures that govern the forum.

#### **4.2.11 Failure to Agree**

Both parties agree that the current locally agreed arrangements will continue to apply.

#### **4.2.12 Joint Consultative Panel (JCP)**

The Joint Consultative Panel (JCP) is the highest consultative body within the Service. The elected member group of JCP acts as the review body for matters referred to it from the joint WMFS/FBU forum and considers and makes recommendations to the Authority or Service on these matters. The Terms of Reference for this meeting can be reviewed at Appendix 3 of this document.

In the event of the JCP being unable to conclude an agreement within this framework, any party may propose that it be referred for conciliation, mediation or arbitration.

If one party wishes to seek third party assistance, in accordance with the NJC agreements, it must seek the agreement of the other parties, but no party should unreasonably refuse such as request. Prior to referral to external assistance internal processes should be fully explored and completed. All parties agree not to unreasonably refuse a request from another party to the question for third party conciliation.

#### **4.2.13 Management briefings**

These are intended as information giving sessions to the Service's managers by SET. The FBU has an open invite to all management briefings.

#### **4.2.14 FBU meetings**

The FBU may arrange meetings with its members to share information to support and enhance the consultation and negotiation process. Aligned to this WMFS shall assist in ensuring that these meetings can take place.

## **5. FACILITIES FOR FBU REPRESENTATIVES**

Both parties recognise the value of the Service's employees being trade union members and the positive role of trade union activities which make membership of a trade union meaningful. Both parties acknowledge the impact of a duty system and that the nature of the work of the Service is such that its employees are not released from work whilst on duty for their meal and other breaks.

Both parties recognise the minimum arrangements afforded by the relevant legislation and guidance in respect of time off for trade union duties and activities. Both parties recognise the necessity for trade union engagement in matters of negotiation and consultation.

Both parties recognise the importance of trade union duties and activities. WMFS commits to ensure that there are sufficient personnel available to allow the release of FBU officials and representatives to carry out trade union duties and reasonable release with prior agreement for trade union activities.

The FBU will jointly participate in an assessment of forecasted facilities time based on, but not confined to, the list below:

- Time for on-duty FBU members to attend FBU meetings at their workplace; and
- Reasonable paid time off for
- FBU representatives to meet with FBU members at their workplace
- FBU representatives to attend meetings at local, regional and national level
- FBU representatives to attend FBU national conferences
- FBU representatives to attend FBU training events
- FBU representatives to meet with regional and/or national FBU officials

This shall be in addition to paid time off to carry out trade union duties.

## **6. OFFICIALS**

### **6.1 Misconduct of Officials**

If disciplinary action is considered against FBU representatives, the case should be discussed, after obtaining the employee's agreement, with a senior trade union representative or permanent union official at the earliest opportunity and before any management decisions are made.

### **6.2 Time off for FBU duties**

FBU duties are those related to consultation, negotiations or the performance of functions, for example, to prepare for negotiations, inform members of progress, explain outcomes to members, to prepare for meetings with WMFS.



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It is recognised that FBU officials need to consult with their members before and after meetings with management.

FBU officials can take reasonable paid time off for duties dealing with negotiations, or for other duties connected with the Service, such as:

- terms and conditions of employment or physical work conditions, for example, pay, working hours, training needs, equality and diversity;
- engagement or non-engagement, the termination or suspension of employment or duties, of one or more workers, for example, redundancy;
- allocation of work or duties, for example, job evaluation, flexible working;
- discipline or grievance matters, for example, representing members at hearings, acting as a witness;
- FBU membership, for example, induction of new workers;
- negotiation and consultation procedures, for example, joint consultation, communicating with members or other FBU officials, collective bargaining;
- attendance at meetings arranged by management, for example, joint WMFS/FBU forum, working parties, Brigade Health Safety and Wellbeing Meeting including side meetings;
- attend committees, or meetings agreed by employer and the FBU. These may include meetings that are outside of the Service; and
- 
- Consultation on facilities for the FBU and specifically accommodation, equipment and names of new employees to the organisation but excludes consultation on facilities for time off for FBU Officials.

### **6.3 Time off for FBU training**

FBU officials will be given, paid time off to attend training that is necessary for their FBU duties and role as union officials. Examples of the type of training that may be required are: employment relations; collective bargaining; representation and negotiation skills; equality and diversity and legislative change (this is not an exhaustive list). The training must be approved by the Trades Union Congress (TUC) or the FBU.

### **6.4 Facilities and time off for FBU members**

The activities of an FBU member can be, for example:

- attending workplace meetings to discuss and vote on the outcome of negotiations with the employer;
- meeting FBU officials to discuss issues relevant to the workplace;
- voting in FBU elections; and
- Having access to services provided by a Union Learning representative.



## **6.5 Union learning representatives**

Union learning representatives are entitled to reasonable time off to carry out the following duties:

- analysing learning or training needs;
- providing information and advice about learning or training matters;
- arranging learning or training;
- promoting the value of learning or training;
- consulting management about undertaking such activities;
- preparation to carry out the activities; and
- undergoing relevant training.

Union learning representatives must be sufficiently trained in order to qualify for paid time off. Training should commence when the FBU gives notice in writing to management that they are to become a learning representative. Other than where there are extenuating circumstances, training should be completed within six months of that date. The FBU shall provide appropriate details of completed training; any previous training will be taken into account.

Reasonable time off is considered for further training to help Union learning representatives develop their skills and competencies.

## **6.6 Health and safety representatives**

The Service will provide reasonable time off that is necessary with pay to health and safety representatives undertaking health and safety duties in accordance with the safety representatives and Safety Committees Regulations and provide necessary facilities and assistance in undertaking their duties. Time off must be requested by the relevant FBU official via line management. Training of FBU safety representatives must be approved by the Trades Union Congress or the FBU.

It is recognised by the Service that health and safety representatives will, from time to time, conduct duties on their days off. In this case, the health and safety representative will receive either the appropriate paid overtime or time off in lieu.

These matters will be expanded upon in the Collective Agreement in respect of Health and Safety arrangements.

## **6.7 Disciplinary and grievance process and hearings**

FBU officials are statutorily entitled to take a reasonable amount of paid time off to prepare and accompany an employee at a disciplinary or grievance hearing, as long as they have been authorised by the FBU as being capable of acting as an employee's companion.

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The right to time off extends to the employee's representative whether they belong to the FBU or not. However, the worker being accompanied should normally be employed by the Service. Occasionally, Service, regional or sectional officials have a duty to represent people in other Fire Authorities. The Service recognises that this is a reciprocal arrangement with other Services and will give consideration to appropriate arrangements for these occasions.

### **6.8 Notification of officials**

Unless there are exceptional circumstances, within 7 days of the change, a senior official from the FBU (from within the Service or the FBU region or national union) will inform the People Support Services Manager, in writing, as soon as possible of appointments or resignations of FBU officials. They should also give details of any special duties that the official undertakes, which includes national, regional, sectional, Brigade, borough and branch duties and others as required, such as environmental.

The FBU should make sure that officials are aware of their role, responsibilities and duties, that they hold the correct written credentials and receive necessary training promptly.

It is the role of the unions to inform People Support Services and managers when their employees become elected officials, so they know that time off should be considered when requested.

### **6.9 Physical facilities**

It is important that facilities are available to FBU representatives to help them carry out their duties and deal with local issues. The Service endeavour to provide the facilities necessary for officials to perform their duties efficiently and communicate effectively. Where resources permit, these facilities will include:

- office accommodation for full time officials;
- access to and reasonable use of a telephone and other office equipment;
- the use of notice boards; and
- reasonable use of e-mail and intranet
- reasonable accommodation to hold consultation meetings with members

The FBU can provide their own communications and copying facilities where requested, this has to be compatible with current technical systems in place.

The Service reserves the right to monitor levels of usage and will review annually to determine if any changes need to be proposed.

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## **6.10 Commitments of officials**

It is recognised that, on occasions, FBU officials will be required to attend area, regional, national, sectional or organisational meetings. Requests to attend such meetings will be duly considered with a view to acceding to all reasonable requests.

WMFS will identify the representative's relevant manager responsible for the day to day line management of full-time officials for example sickness reporting, annual leave requests, continuous professional development, appraisal and competency training for their respective jobs.

Facilities time afforded to a full time/part time official will be subject to review. Once full time Officials duties have ceased the employee will be redeployed following appropriate discussion with the individual.

Signed:

	
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<b>Name</b>	Phil Loach	<b>Name</b>	Andy Dark
<b>Role</b>	Chief Fire Officer	<b>Role</b>	Assistant General Secretary
<b>Organisation</b>	West Midlands Fire Service	<b>Organisation</b>	Fire Brigades Union
<b>Date</b>	21/9/18	<b>Date</b>	21/9/18

## **Appendix 1a**

### **A JOINT PROTOCOL FOR GOOD INDUSTRIAL RELATIONS IN THE FIRE AND RESCUE SERVICE**

The National Joint Council (NJC) recognises that Fire and Rescue Service managers and trade union representatives must work together for the benefit of the service, its employees, and local communities. To this end the principles below will apply both at national and local level.

#### **Principles**

- Joint commitment to the success of the Organisation
- Joint recognition of each other's legitimate interests and responsibilities
- Joint focus on the quality of working life
- Joint commitment to operating in a transparent manner
- Joint commitment to continuously improve industrial relations
- Joint commitment to reaching agreement within appropriate timescales
- Joint commitment to ongoing dialogue and exchange of views including face-to-face meetings
- Joint commitment to a 'no surprises' culture

In support of the above principle's employer representatives will:

- Engage trade union representatives early in consultation/negotiation (as appropriate) on issues which have workforce implications
- Share full and appropriate, and timely information e.g. on finance and employment matters to trade union representatives in order to enable effective consultation or negotiation to take place
- Take on board trade union views, providing full and frank feedback on how that process has influenced their subsequent position
- Put in place reasonable trade union facilities in accordance with statutory requirements and ACAS good practice guidance in order to support this inclusive approach

Trade union representatives will:

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- Take an active and constructive part in discussion at an early stage to facilitate reaching agreement within the appropriate timescale
- Provide a considered response to proposals, including alternative options, in accordance with a locally developed timescale or those contained in the national model procedures, as appropriate
- Share with managers relevant and appropriate information to assist discussions

All parties:

- Recognise their common interests and joint purpose in furthering the aims and objectives of the Organisation and in achieving reasonable solutions
- Will behave respectfully towards each other at all times
- Accept the need for joint consultation or negotiation in securing their objectives
- Will identify at the outset the appropriate timescale for discussion
- Respect the confidential nature of the, at times, sensitive information exchanged
- Actively work together to build trust and a mutual respect for each other's roles and responsibilities
- Ensure openness, honesty and transparency in communications
- Provide top level commitment to the principles outlined in this protocol
- Take a positive and constructive approach to industrial relations
- Commit to early discussion of emerging issues and to maintaining dialogue in order to ensure a 'no surprises' culture
- Commit to ensuring high quality outcomes
- Where appropriate, seek to agree public positions

### **Consultation and Negotiation**

To assist all parties at local level, the NJC has already agreed model consultation and negotiation procedures which are contained in the Scheme of Conditions of Service (Grey Book) that promote joint solution seeking. Both procedures contain principles which all parties have agreed to adhere to. In the case of the consultation procedure parties at local level have agreed to identify and work within an appropriate timescale. In the case of the negotiation procedure timescales are set out which

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should be adhered to in order to ensure timely resolution. This is equally the case where alternative timescales have been jointly agreed at local level.

Both model procedures contain definitions of the circumstances in which they are to be used. In the case of consultation, matters shall be those that do not require collective agreement. In the case of negotiation, matters shall be those that do.

The simplest explanation of the difference between consultation and negotiation is that anything which is contractual and therefore needs the agreement of the individual employee or their trade union on their behalf is negotiation. Everything else is consultation.

The standard issues referred to in a person's contract are matters which require agreement to change and are therefore negotiable. Basically, this covers remuneration, hours of work, leave entitlements and any other conditions of service. It may also cover local policies and procedures not specified within the Scheme of Conditions of Service (Grey Book), or NJC circulars, where they are within the individual's contract and the contract does not provide that the employer has the right to amend them from time to time without agreement. It may also include local practices that are not contained within an individual's contract but may be implied contractual terms. Everything else is consultation.

Both processes should be conducted with a view to reaching agreement and therefore should include an opportunity to consider alternative approaches to an issue. Where agreement cannot be reached both parties will consider further options but in doing so commit to taking unilateral action only as a means of last resort i.e. industrial action or imposition of change.

Both processes allow for joint agreement to external assistance should that prove necessary. Local parties are reminded of the benefit of such assistance and the joint commitment in the Grey Book to not unreasonably refuse such assistance. Such involvement must also be carried out in a timely manner with both parties committed to ensuring this is the case.

### **NJC assistance to local parties**

The NJC Joint Secretaries clearly have a role in assisting dispute resolution at local level. Such issues need to be jointly referred, in writing, and the parties locally will need to demonstrate that consultation or negotiation processes have been exhausted at local level. The joint letter shall:

- Be agreed and signed by both local parties
- Contain a joint summary of the issue on which agreement has not been reached, evidence of discussion to date including the original proposal and any amendment made as a result of joint discussion at local level.

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- Contain a concise statement from each party summarising their respective position (this does not preclude each party subsequently providing unilateral briefings to their own Joint Secretary). When requested to assist the Joint Secretaries will expect their respective parties to:
- Commit fully and with good intent to the process, maintaining an open mind, and whenever possible both parties present should have the authority to reach agreement.
- Ensure they are available for meetings, if and when required
- Respect the confidential nature of matters under discussion through the Joint Secretaries process

The NJC can also provide specific assistance in the form of the Technical Advisory Panel and the Resolution Advisory Panel, as appropriate. Both processes are contained in the Scheme of Conditions of Service (Grey Book). Where a matter is referred through either process all parties shall commit fully and with good intent to the process, ensuring they maintain an open mind, are available for meetings, and whenever possible both parties present should have the authority to reach an agreement.

## **Conclusion**

All of the principles and commitments above are intended to encourage and support a joint approach to maintaining and improving upon good industrial relations within the fire and rescue service as a whole.

It is recognised that all parties have their part to play in ensuring that outcome is achieved.

## **Appendix 1b**

### **C - LOCAL CONSULTATION AND NEGOTIATION MODEL CONSULTATION AND NEGOTIATION PROCEDURES**

#### Context

These procedures are intended to establish relationships and interactions that promote joint solution seeking to resolve differences between management and recognised trade unions that may arise from time to time.

#### CONSULTATION PROCEDURE

1. This procedure shall be used for matters that do not require collective agreement and should cover at least those issues described in the European Union Information and Consultation Directive and the arrangements for consultation should as a minimum follow the United Kingdom Regulations fall-back provisions.

#### Commencement

2. Consultation shall commence at the earliest opportunity and shall take place prior to final decisions having been taken. As far as practicable, all relevant, non-confidential, information will be made available to the recognised trade unions to enable meaningful consultation to take place.

3. Consultation will take place at the level in the organisation affected by the issues in question. Matters of a corporate nature will be dealt with corporately.

#### Purpose

4. Consultation between the fire and rescue authority and recognised trade unions shall be conducted with a view to reaching agreement. To this end the authority shall give consideration to all issues raised with them and will give reasons when it is unable to agree to any proposals put forward by the recognised trade unions.

5. The parties shall work jointly to resolve issues identified in the course of consultation and ensure that consultation is carried out effectively.

#### Conclusion

6. Consultation will be concluded at the point either when there is agreement or when the issues not agreed have been fully responded to. All parties agree to adhere to any prearranged timetable for completion of discussions.

#### Third party assistance



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7. Where one party considers that external assistance may be beneficial it may seek the agreement of all other parties to this approach. No party would unreasonably refuse a request.

NEGOTIATION PROCEDURE 1. This procedure shall be used for all matters that are the subject of collective negotiation and agreement between the fire and rescue authority and recognised trade unions. The objective of the procedure is to resolve issues jointly. Individual issues should be dealt with through the grievance procedure.

#### Application

2. Issues shall be dealt with at the appropriate level, but issues of a corporate nature should be dealt with at the corporate level in the first instance.

3. Any issue should be able to be pursued to a corporate level for resolution.

4. All parties should have the requisite information needed to deal with any issue.

5. All parties will use their best endeavours to ensure compliance with the timetables set out in the procedure unless otherwise jointly agreed.

6. Notwithstanding these formal procedures each party should give early notification to the other party that an issue has arisen and maintain a continuous informal dialogue and exchange of information on relevant issues.

7. External assistance may be used to facilitate the negotiating process where the parties agree that this would be helpful. Stage 1

8. Other than for issues that arise initially at corporate level, the fire authority and/or recognised trade unions shall notify the other party of an issue that has arisen which falls within the purview of this procedure.

9. Where requested a meeting shall be arranged within ten working days to deal with the issue(s). As far as practicable any supporting information will be made available to all parties prior to the meeting taking place.

10. If no solution is found within ten working days the parties shall decide whether or not to continue discussion at this stage, refer to the next stage or end the discussion. Any party may refer the matter under negotiation to the next stage.

#### Stage 2

11. The fire and rescue authority and/or recognised trade unions shall notify the other parties of an issue of a corporate nature which comes within the purview of this procedure or which has been referred from a previous stage in this procedure.

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12. Where requested, a negotiating meeting at a level appropriate to the issue shall be arranged within ten working days to deal with the issue(s) raised. As far as practicable all parties will be provided with relevant information prior to the meeting taking place.

13. If no solution is found within ten working days of the meeting the parties shall decide whether or not to continue or conclude the discussion.

14. Where one party considers that external assistance may assist in resolving an issue at corporate level it may request the agreement of the other parties to this approach, and no party will unreasonably withhold agreement to such a request. Such a request shall be made within five working days of completion of discussion at the corporate stage.

15. In such circumstances the parties may jointly agree to refer the issue to:

(1) the NJC Joint Secretaries; and/or

(2) ACAS; and/or

(3) the NJC Resolution Advisory Panel (which shall comprise an Independent Chair and the Joint Secretaries

to assist the parties further with their negotiations.

16. The above should be completed within twenty working days of the request for external assistance being made.

#### Arbitration

17. If a difference remains unresolved, subject to agreement of the parties and agreed terms of reference, an issue may be referred to ACAS (in Northern Ireland, the Labour Relations Agency) for settlement by arbitration.

#### General

18. While an issue is subject to discussion/resolution under this negotiating procedure neither side will seek to take any collective action or introduce change.

19. Any difference over the application of paragraph 18 will be resolved by reference to the Independent Chair of the Resolution Advisory Panel. Submissions and the decision will be by correspondence and will be completed within ten working days of the reference being made.

## **Appendix 1c**

### **West Midlands Joint Consultative Panel Terms of Reference**

The Panel shall be called the 'West Midlands Fire Service Joint Consultative Panel' (JCP)

#### **1. REPRESENTATION**

The Panel shall comprise of elected members of the West Midlands Fire and Rescue Authority and recognised elected officials of the Trade Unions/Representative Bodies as follows:

##### **JCP**

5 employers and

5 on the employee side

As the largest representative trade union by far, the FBU contingent shall form the majority party on the employees' side.

All elected (fire authority) members shall retire annually and shall be eligible for reappointment.

The attendance of additional persons by invitation in an advisory capacity only shall be permitted provided that prior agreement is obtained from both sides represented on the Panel.

If a member of the Panel ceases to be a member or an employee of the Service, he or she shall immediately cease to be a member of the Panel. Any vacancy amongst the employers shall be filled by the Authority. Any vacancy amongst the employees shall be filled by the employee organisation concerned.

#### **2. MEETINGS OF THE PANEL**

The Clerk or their representative shall act as secretary to the Panel and be responsible for issuing the calling notices for all meetings and the minutes.

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The Clerk shall liaise with the representative from People Support Services on the compilation of the agenda. The People Support Services Manager will consult with the Employees representatives or their representative with regard to the business to be raised.

**3. CHAIR**

The Chair and Vice Chair of the JCP meeting will be appointed by the Authority. In the absence of the Chair and Vice Chair, a Chair for the Meeting shall be elected by the Employers from amongst the elected members.

**4. OFFICERS**

The Clerk, Treasurer and Chief Fire Officer shall be entitled to attend all meetings of the Panel and shall be allowed to nominate any officers to attend as may be appropriate to the business to be discussed.

**5. FUNCTIONS**

The functions of the Panel shall be:

To establish regular methods of consultation between the Authority and its employees and to consider and make recommendations to the Authority or the Chief Fire Officer as appropriate on any problems which may arise.

To consider, and elected members of the panel to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on any relevant matter referred to it by the Service or by the relevant employee organisations.

To consider, and elected members of the panel to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on the application of the terms and conditions of service for employees.

To consider, and elected members of the panel to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on matters referred to it by the Joint Consultative Committee, including failure to consult and failure to agree as defined in the constitution of the joint WMFS/FBU committee for industrial relations.

To discharge such other functions as are specifically assigned to it.

In appropriate circumstances, to refer any question coming before it to the National Joint Council for consideration and advice where such action is deemed advisable; to inform the National Joint Council or any other appropriate body concerned of any recommendations of the Panel which appear to be of more

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than local interest provided that any such action shall be by way of a recommendation to the Authority or the Chief Fire Officer, as appropriate, Prior to its submission.

The panel shall operate within approved Authority policy and in accordance with the overall aims and objectives of the Authority, including the Employee Relations Framework, NJC Protocol for good industrial relations and elected members code of conduct. The Panel shall not take any action inconsistent with the decisions of any national or regional negotiating body or committee dealing with conditions or service of employees of the Authority.

## **6. RULES AND REGULATIONS**

That the Joint Consultative Panel (JCP) agenda items are reviewed by the Chair of the Joint Consultative Panel in consultation with the SET Member, People or their representative prior to finalising the agenda.

That the Elected Member group of the Joint Consultative Panel (JCP), after due consideration, make recommendations back to the Service or the Fire Authority as appropriate.

Provision for four Panel meetings per year shall be made by the Authority. Special meetings shall only be called with the prior approval of the Chair and Vice-Chair and the lead representative of the employee organisation(s) involved.

The matters to be discussed at any meeting of the Panel shall be included in the agenda for the meeting. No other matters shall be raised.

The quorum of the Panel shall be one third of the total number of representatives appointed by each side subject to each Trade Union/Representative Body, that has locally appointed representatives, being represented, however, where the Panel is considering business relating specifically to one Trade Union/Representative Body, the quorum of the employees' side shall be one third of the total number of representatives appointed by each side, with no requirement for each Trade Union/ Representative Body to be represented, provided that the relevant Trade Union/ Representative Body is represented.

In the event of:

- (a) The Panel being unable to arrive at an agreement; or
- (b) The Authority or the Chief Fire Officer, as appropriate, disagreeing with the recommendations of the Panel;

The matters in dispute shall be referred to:

- (a) The National Joint Council Joint Secretaries and/or

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- (b) ACAS and/or
- (c) The National Joint Council Technical Advisory Panel

The panel is a discussion forum with a view to reaching a consensus. It will support and govern the principles set down in the 'Working Together' A Joint Protocol for Good Industrial Relations in the Fire and Rescue Service document.

All sides to the Panel accept that agreements, reached by them shall be binding in honour only, all parties expressly agreeing that joint decisions as to recommendations are not intended to constitute legally enforceable agreements between them until such recommendations are approved by the Authority or Chief Fire Officer as appropriate.

All parties agree, nevertheless, to use their best endeavours to ensure that the spirit and intention of the agreements on recommendations reached at meetings of the Panel are honoured at all times.

The notes of the Panel shall be submitted to the Authority.

## Appendix 2

### **NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES WORKING TOGETHER.' A JOINT PROTOCOL FOR GOOD INDUSTRIAL RELATIONS IN THE FIRE AND RESCUE SERVICE**

The National Joint Council (NJC) recognises that Fire and Rescue Service managers and Trade Union representatives must work together for the benefit of the service, its employees, and local communities. To this end the principles below will apply both at national and local level.

#### **Principles**

- Joint commitment to the success of the Organisation<sup>[1]</sup>
- Joint recognition of each other's legitimate interests and responsibilities
- Joint focus on the quality of working life
- Joint commitment to operating in a transparent manner
- Joint commitment to continuously improve industrial relations
- Joint commitment to reaching agreement within appropriate timescales
- Joint commitment to ongoing dialogue and exchange of views including face-to-face meetings
- Joint commitment to a 'no surprises' culture

In support of the above principle's employer representatives<sup>[2]</sup> will: -

- engage Trade Union representatives early in consultation/negotiation (as appropriate) on issues which have workforce implications
- share full and appropriate, and timely information, e.g. on finance and employment matters to Trade Union representatives in order to enable effective consultation or negotiation to take place
- take on board Trade Union views, providing full and frank feedback on how that process has influenced their subsequent position
- put in place reasonable Trade Union facilities in accordance with statutory requirements and ACAS good practice guidance in order to support this inclusive approach

Trade Union representatives will: -

- take an active and constructive part in discussion at an early stage to facilitate reaching agreement within the appropriate timescale
- provide a considered response to proposals, including alternative options, in accordance with a locally developed timescale or those contained in the national model procedures, as appropriate



- share with managers relevant and appropriate information to assist discussions

All parties: -

- recognise their common interests and joint purpose in furthering the aims and objectives of the Organisation and in achieving reasonable solutions;
- will always behave respectfully towards each other
- accept the need for joint consultation or negotiation in securing their objectives
- will identify at the outset the appropriate timescale for discussion
- respect the confidential nature of the, at times, sensitive information exchanged
- actively work together to build trust and a mutual respect for each other's roles and responsibilities
- ensure openness, honesty and transparency in communications
- provide top level commitment to the principles outlined in this protocol
- take a positive and constructive approach to industrial relations
- commit to early discussion of emerging issues and to maintaining dialogue in order to ensure a 'no surprises' culture
- commit to ensuring high quality outcomes
- where appropriate, seek to agree public positions.

## **Consultation and Negotiation**

To assist all parties at local level the NJC has already agreed model consultation and negotiation procedures which are contained in the Scheme of Conditions of Service (Grey Book) that promote joint solution seeking. Both procedures contain principles which all parties have agreed to adhere to. In the case of the consultation procedure parties at local level have agreed to identify and work within an appropriate timescale. In the case of the negotiation procedure timescales are set out which should be adhered to in order to ensure timely resolution. This is equally the case where alternative timescales have been jointly agreed at local level.

Both model procedures contain definitions of the circumstances in which they are to be used. In the case of consultation, matters shall be those that do not require collective agreement. In the case of negotiation, matters shall be those that do.

The simplest explanation of the difference between consultation and negotiation is that anything which is contractual and therefore needs the agreement of the individual employee or their Trade Union on their behalf is negotiation. Everything else is consultation.

The standard issues referred to in a person's contract are matters which require agreement to change and are therefore negotiable. Basically, this covers remuneration, hours of work, leave entitlements and any other conditions of service. It may also cover local policies and procedures not specified within the Scheme of Conditions of Service (Grey Book), or NJC circulars, where they are within the individual's contract and the contract does not provide that the employer has the right to amend

them from time to time without agreement. It may also include local practices that are not contained within an individual's contract but may be implied contractual terms. Everything else is consultation.

Both processes should be conducted with a view to reaching agreement and therefore should include an opportunity to consider alternative approaches to an issue. Where agreement cannot be reached both parties will consider further options but in doing so commit to taking unilateral action only as a means of last resort, i.e. industrial action or imposition of change.

Both processes allow for joint agreement to external assistance should that prove necessary. Local parties are reminded of the benefit of such assistance and the joint commitment in the Grey Book to not unreasonably refuse such assistance. Such involvement must also be carried out in a timely manner with both parties committed to ensuring this is the case.

### **NJC assistance to local parties**

The NJC Joint Secretaries clearly have a role in assisting dispute resolution at local level. Such issues need to be jointly referred, in writing, and the parties locally will need to demonstrate that consultation or negotiation processes have been exhausted at local level.

The joint letter shall: -

- be agreed and signed by both local parties
- contain a joint summary of the issue on which agreement has not been reached, evidence of discussion to date including the original proposal and any amendment made as a result of joint discussion at local level
- contain a concise statement from each party summarising their respective position

\*This does not preclude each party subsequently providing unilateral briefings to their own Joint Secretary.

When requested to assist the Joint Secretaries will expect their respective parties to:

- commit fully and with good intent to the process, maintaining an open mind, and whenever possible both parties present should have the authority to reach agreement
- ensure they are available for meetings, if required
- respect the confidential nature of matters under discussion through the Joint Secretaries process.
- 

The NJC can also provide specific assistance in the form of the Technical Advisory Panel and the Resolution Advisory Panel, as appropriate. Both processes are contained in the Scheme of Conditions of Service (Grey Book). Where a matter is referred through either process all parties shall commit fully and with good intent to the process, ensuring they maintain an open mind, are available for meetings, and

whenever possible both parties present should have the authority to reach an agreement.

## **Conclusion**

All of the principles and commitments above are intended to encourage and support a joint approach to maintaining and improving upon good industrial relations within the fire and rescue service as a whole.

It is recognised that all parties have their part to play in ensuring that outcome is achieved.

## Appendix 3

### **West Midlands Fire Service Joint Consultative Panel Terms of Reference**

#### **1. TITLE**

The Panel shall be called the 'West Midlands Fire Service Joint Consultative Panel' (JCP).

#### **2. REPRESENTATION**

The JCP comprises of elected members of the West Midlands Fire and Rescue Authority (WMFRA) and recognised elected officials of the Trade Unions/Representative Bodies of West Midlands Fire Service as follows:

##### JCP

5 employers and

5 employee side\*

3 Fire Brigades' Union

1 Fire Officers' Association

1 UNISON

Fire Leaders Association by invitation as appropriate\* subject to having a locally appointed/elected representative

All Elected Members of the JCP shall retire annually and shall be eligible for re-appointment.

The attendance of additional persons by invitation in an advisory capacity only shall be permitted provided that prior agreement is obtained from both sides represented on the JCP.

If a member of the JCP ceases to be an Elected Member of WMFRA or an employee of the Service, he or she shall immediately cease to be a member of the JCP. Any vacancy amongst the employers shall be filled by the Authority. Any vacancy amongst the employees shall be filled by the employee organisations concerned.

#### **3. MEETINGS OF THE PANEL**

The Clerk or their representative shall act as secretary to the JCP and be responsible for issuing the calling notices for all meetings and the minutes.

The Clerk shall liaise with the representative from PSS on the compilation of the agenda. The PSS Manager will consult with the employee's representatives or their representative with regard to the business to be raised.

#### **4. CHAIR**

The Chair and Vice Chair of the JCP meeting will be appointed by the Authority. In the absence of the Chair and Vice Chair, a Chair for the Meeting shall be elected by the Employers from amongst the elected members of the JCP.

#### **5. OFFICERS**

The Clerk, Monitoring Officer, Treasurer and Chief Fire Officer shall be entitled to attend all meetings of the JCP and shall be allowed to nominate any officers to attend as may be appropriate to the business to be discussed.

#### **6. FUNCTIONS**

The functions of the JCP shall be: -

- To establish regular methods of consultation between the Authority and its employees and to consider and make recommendations to the Authority or the Chief Fire Officer as appropriate on any problems which may arise
- To consider, and elected members of the JCP to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on any relevant matter referred to it by the Service or by the relevant employee organisations
- To consider, and elected members of the panel to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on the application of the terms and conditions of service for employees
- To consider, and elected members of the JCP to make, recommendations to the Authority or the Chief Fire Officer, as appropriate, on matters referred to it by the Joint Consultative Committee, including failure to consult and failure to agree as defined in Paragraph 8 E and F of the constitution of the Joint Consultative Committee
- To discharge such other functions as are specifically assigned to it
- In appropriate circumstances, to refer any question coming before it to the National Joint Council for consideration and advice where such action is deemed advisable; to inform the National Joint Council or any other appropriate body concerned of any recommendations of the JCP which appear to be of more than local interest provided that any such action shall be by way of a recommendation to the Authority or the Chief Fire Officer, as appropriate, prior to its submission

The panel shall operate within approved Authority policy and in accordance with the overall aims and objectives of the Authority, including the Employee Relations

Framework, NJC Protocol for good industrial relations and elected members code of conduct. The Panel shall not take any action inconsistent with the decisions of any national or regional negotiating body or committee dealing with conditions or service of employees of the Authority.

## **7. RULES AND REGULATIONS**

- That the JCP agenda items are reviewed by the Chair of the JCP in consultation with the SET Member- People or their representative prior to finalising the agenda
- That the Elected Member group of the JCP, after due consideration, make recommendations back to the Service or the Fire Authority as appropriate
- Provision for four JCP meetings per year shall be made by the Authority. Special meetings shall only be called with the prior approval of the Chair and Vice-Chair and the lead representative of the employee organisation(s) involved
- The matters to be discussed at any meeting of the JCP shall be included in the agenda for the meeting. No other matters shall be raised
- The quorum of the JCP shall be one third of the total number of representatives appointed by each side subject to each Trade Union/Representative Body that has locally appointed representatives, being represented. However, where the JCP is considering business relating specifically to one Trade Union/Representative Body, the quorum of the employees' side shall be one third of the total number of representatives appointed by each side, with no requirement for each Trade Union/ Representative Body to be represented, provided that the relevant Trade Union/ Representative Body is represented.

In the event of: -

- (a) The elected member group of JCP being unable to arrive at an agreement or
- (b) The Authority or the Chief Fire Officer, as appropriate, disagreeing with the recommendations of the elected member group of the JCP

The matters in dispute shall be referred to: -

- (a) ACAS or other suitable organisation to support the conciliation process and/or
- (b) The National Joint Council Joint Secretaries and/or
- (c) The National Joint Council Technical Advisory Panel

The JCP is a discussion forum with a view to reaching a consensus. It will support and govern the principles set down in the 'Working Together' A Joint Protocol for Good Industrial Relations in the Fire and Rescue Service document.

All sides to the JCP accept that agreements, reached by them shall be binding in honour only, all parties expressly agreeing that joint decisions as to recommendations are not intended to constitute legally enforceable agreements between them

until such recommendations are approved by the Authority or Chief Fire Officer as appropriate.

All parties agree, nevertheless, to use their best endeavours to explore joint solutions to ensure that the spirit and intention of the agreements on recommendations reached at meetings of the Panel are honoured at all times.

The notes of the JCP shall be submitted to the Authority.



## Appendix 4

### Responsibilities of Elected Members for Employee Relations

#### **1. BACKGROUND**

West Midlands Fire and Rescue Authority is a statutory body that has a legal duty to provide services as defined by the Fire and Rescue Services Act 2004 and the Civil Contingencies Act 2004 through West Midlands Fire Service (The Service).

The Fire Authority is the employer for the Service and the supervisory body which ensures that the Service performs efficiently and in the best interest of the public and community it serves.

In order to have in place a formal consultation mechanism, the Service in consultation with the Trade Unions/Representative Bodies has developed the Employee Relations Framework. Included within the policy is a constitution for a Joint Consultative Panel (JCP) and a Joint Consultative Committee (JCC).

The Employee Relations Framework has been based on the Joint Protocol published by the National Joint Council (NJC), the model procedure in the Grey Book and guidelines produced by ACAS. It has been jointly agreed and will govern the relationship between the Service and its recognised Trade Unions/Representative Bodies. It is not legally binding but relies on all parties to work within a spirit of co-operation.

The JCP provides an opportunity for employee representatives and the employing Authority to comment on matters relating to the conditions of employment of employees of the Service. It also provides a forum for discussion to assist in the consultation process.

The JCC meetings between managers and Trades Union Officials will take place monthly but depending on the needs of the organisation this may be reviewed. The consultative process will support the employee engagement and involvement process, but it does not detract from a manager's responsibility to make decisions. These terms of reference define the process for getting employees views prior to decisions being made.

#### **2. PURPOSE**

The (JCP) provides a means where elected members of WMFRA, Principal Officers of West Midlands Fire Service and the Services employees, come together on a regular basis to discuss issues of mutual concern. The JCP may have items referred to it from the Joint Consultative Committee as part of the negotiation or consultation process. However, a majority of the items considered will be for consultation.

The elected members of the JCP will consider and make recommendations on: -

- any relevant matter referred to it by the Service or by the relevant employee organisations following consideration and response by the Service and referral to JCC
- any Employee Relation issues which may arise. (In these circumstances the issue must have been considered at Joint Consultative Committee and if there is an outstanding dispute, as per the Terms of Reference, the dispute may be registered with the Service
- the application of the terms and conditions of service for employee

The Joint Consultative Panel supports and governs the principles set out in the "Working Together" A Joint Protocol for Good Industrial Relations in the Fire and Rescue Service document, please see Appendix 2.

The National Joint Council (NJC) recognises that Fire and Rescue Service managers and Trade Union representatives must work together for the benefit of the Service, its employees, and local communities. The Service supports the application of these principles for recognised Representative Bodies.

The principles within the Working Together document identify the need for joint commitment from Trade Union Officials and the organisation by defining how the individual representatives will engage and work together to the success of the business.

### **3.CONULTATION**

For the benefit of this process consultation (as defined in the Employee Relations Framework) goes beyond communication and involves managers actively seeking and then taking account of, the views of employees' representatives before making a decision. Managers are obliged to seek acceptable solutions to problems through a genuine exchange of views and information. The responsibility for decisions remains at all times with the employer and does not remove the right of managers to manage and make the final decision. Managers must be aware of the need to consult and Trade Union/ Representative Body representatives must be aware of the need to respond.

Items may be referred to the Joint Consultative Panel as 'a failure to consult'. The Joint Consultative Panel needs only to consider if appropriate consultation has taken place and not what the outcome of the consultation should be.

### **4.PROCESS FOR FAILURE TO CONSULT**

In the case of consultation, if Trade Union/Representative Body representatives believe there has not been appropriate consultation they can refer the matter to the Joint Consultative Panel. However, in doing so Trade Unions/Representative Bodies must clearly demonstrate how they have worked with the Service to try and resolve the dispute prior to the referral to the Joint Consultative Panel.

The Trade Unions will be responsible for identifying where they believe the lack of consultation has taken place. The Strategic Enabler - People or their delegated representative will provide an audit trail demonstrating the consultation that has taken place and its appropriateness. It is important to stress that a 'failure to consult' should not be considered by the elected member group of JCP if it is clear that a consultation process has been implemented but the Trades Union/Representative Bodies have chosen not to attend or did not send a deputy.

A referral to JCP will be in the format of a joint report, with the business case for both the Trade Union/Representative Body and the Service. The information relating to the 'Failure to Consult' will be distributed to JCP members prior to the meeting. The Trade Union/ Representative Body representative will present the reasons why they have raised the dispute and the management representative will clarify the consultation process used.

Deliberation will take place, see section 7. The process for consultation and Failure to Consult is defined within the Employee Relations Framework. See 2.6.6ii and Appendix 7.

The recommendation of the elected member group of Joint Consultative Panel will only relate to whether appropriate consultation has taken place.

The Elected Members may be assisted by a Technical Advisor. The advisor and the representative from the Clerk to the Authority will adjourn with the elected member group of the panel. The Technical Advisor and Clerk are not part of the decision-making process. Their role is to give advice on the Service's policy, process or interpretation of legislation.

The presenter of the management case must not be the advisor to the panel.

## **5. NEGOTIATION**

For the benefit of this process negotiation is defined in the Employee Relations Framework as the process by which employers and Trade Union/Representative Body representatives seek to reach agreement through collective bargaining. It requires an agreement to be reached. Collective bargaining is the process by which employers and recognised Trade Unions/Representative Bodies seek to reach agreement on issues such as pay and terms and conditions of employment.

## **6. PROCESS FOR FAILURE TO AGREE**

In cases of negotiation items will be referred to the JCP if the Joint Consultative Committee has failed to reach an agreement. However, in doing so both parties must clearly demonstrate how they have worked together to try and resolve the dispute prior to referral to the JCP.

A referral to JCP will be in the format of a joint report, with the business case for both the Trade Union/Representative Body and the Service. In this situation the elected member group of JCP will need to consider the Failure to Agree and make a recommendation which would be considered by the Authority or Chief Fire Officer prior to it becoming contractual.

The information relating to the Failure to Agree will be distributed to JCP members prior to the meeting. The Trade Union/ Representative Body representative will present the reasons why they have raised the dispute and the management representative will be given the opportunity to clarify why it was necessary to make that decision taking into consideration the needs of the Service and ensuring the provision of an assertive, safe and effective service which contribute to keeping our communities stronger, safer and healthier.

The Elected Member group of JCP will adjourn to consider the presentations made. If further information is required both parties will be called back to the Elected Member group of JCP even if the query relates to one side. The Elected Member group of JCP then give their decision on their recommendation back to the Service.

The Elected Members may be assisted by a Technical Advisor. The advisor and the representative from the Clerk to the Authority will adjourn with the elected member group of the panel. The Technical Advisor and Clerk are not part of the decision-making process. Their role is to give advice on the Service's policy, process or interpretation of legislation.

The process for negotiation and Failure to Agree is defined within the Employee Relations Framework. See Section 2.6.6 iii and Appendix 8.

The presenter of the management case must not be the advisor to the panel.

## **7. DECLARATION OF INTERESTS**

Pecuniary and other interests should be declared at the beginning of each meeting under 'Declaration of interests'. Where a member has a personal interest in the outcome of any item referred to the JCP they should declare this at the beginning of the meeting under the standing item on the agenda.

## **8. CONFIDENTIALITY**

Elected members of WMFRS are bound by The Model Code of Conduct. This Code of Conduct should be considered prior to any discussions or conversations with Trades Union representative outside of the Joint Consultative Panel. Confidentiality should always be maintained.

## **9. DECISION MAKING**

The General Principles underlying with the Code of Conduct outline the considerations for elected members group of JCP when making decisions. Elected members should consider carefully how their decisions might affect the community, Service and other stakeholders/partners. Members of JCP should strive to operate as a

team in which constructive working relationships are actively promoted to support joint solutions to resolve differences.

## **10. GENERAL**

Elected members have a responsibility to actively promote good employment relations and lead by example through their actions and conduct. Individual Fire Authority Members will actively promote good employment relations through their own actions and behaviours in accordance with the members' code of conduct and the Services core values in respect of their communications with the Trade Unions/Representative Bodies.

## **Appendix 5**

### **West Midlands Fire Service Joint Consultative Committee Terms of Reference**

#### **1. TITLE**

The Committee shall be known as the West Midlands Fire Service JCC (WMFS JCC).

#### **2. OBJECTIVES**

The objectives of the WMFS JCC shall be to: -

1. provide a forum for communication and joint understanding
2. promote the health, safety and wellbeing of employees and to endeavour to maintain good relationships between them and management
3. promote efficient and seamless processes between the management of the Service and Trade Unions/Representative Bodies (hereinafter referred to as stakeholders)
4. fulfil an appropriate role for such groups in the settlement of organisational disputes and be a conduit for the resolution of such disputes
5. develop joint policy, co-operation and arrangements for implementing plans between stakeholders
6. develop dialogue to include organisational development, performance and organisational culture
7. develop the benefits of partnership working to create a mature employment relationship to benefit the residents and communities within the West Midlands region

#### **3. TERMS OF REFERENCE**

A. The Joint Consultative Committee shall consist of representatives from the management of the Service including a representative from PSS (hereinafter referred to as the "management side") and representatives of the Trade Unions/Representative Bodies having members employed within the Service (hereinafter referred to as the "Trade Unions/Representative Bodies")

B. The management side shall be appointed by the Chief Fire Officer from amongst the management of the Service. The management shall not exceed in numbers the employees' side of the committee provided in paragraph 3C below.

C. The Trade Unions/Representative Bodies shall consist of maximum 5 representatives appointed annually for the municipal year by the Trade Union/Representative Body having members employed within the WMFS.

UNION	SEATS
Fire Brigades' Union	2
Fire Officers' Association	1
UNISON	1
Fire Leaders Association (formerly APFO)	1

D. Any vacancy on the committee shall be filled as soon as possible by the Chief Fire Officer or the Trade Union/Representative Body.

E. Regional officials of the Trade Union/Representative Body may attend any meeting of the WMFS JCC in an advisory capacity at the request of either side.

#### **4. QUORUM**

The quorum of the WMFS JCC shall be 2 members of the management side and 2 members of the Trade Union/Representative Body.

#### **5. OFFICERS**

1. Strategic Enabler - People, or their nominee will act as chairperson.
2. In the absence of the chairperson at any meeting a chair for the meeting shall be appointed from the management side.
3. The Secretary and a minute taker shall be appointed by the chairperson.
4. The Trade Union/Representative Body can appoint a secretary from amongst the Trade Union/Representative Body.

#### **6. MEETINGS**

1. The WMFS JCC meets on the first Tuesday of each month. This is reviewed and mutually agreed.
2. A JCC Business Case should be completed for all items to be raised which are new to the JCC and these should be received by the JCC Meeting Manager 10 working days prior to the meeting
3. The Business Case should identify if the item is for - The commencement of/To Seek approval for/Consultation/Information or Negotiation
4. A JCC Business Cases should include the following:
  - Health and Safety Risk Assessment (HS06 Multi Risk Assessment Form)
  - Initial Equality Impact Assessment
  - Privacy Impact Assessment
5. Should it be identified the JCC Business Case template needs to be amended, this is with agreement of the JCC



6. The agenda for each meeting is circulated to all members and relevant attendees seven working days before the meeting.
7. Urgent business can be raised with the Chair prior to the meeting, for consideration to be added to the agenda.
8. The Chair of the JCC determines in advance of meetings whether agenda items are for consultation or negotiation as determined by the Green Book/Grey Book and considering the principles of the Joint Working Protocols, or whether items are for information/discussion. The Trade Unions/Representative Bodies may question this decision in advance of or at the relevant meeting.
9. Except by agreement of all side's, reports shall be circulated to the members of the WMFS JCC with the notice of the meeting at which they are to be considered.
10. The minutes of the meetings are shared 'for approval' 10 days after the meeting with a date given for receipt of comments/amendments
11. Trade Unions/Representative Bodies may meet prior to each meeting of the WMFS JCC to consider items they may wish to place on the agenda of the meeting and to consider such items relating to the business of the WMFS JCC as they may wish.
12. Time off with pay shall be granted to each member of the Trade Union/Representative Body who attends such meetings, up to a maximum of two hours on each occasion plus one hour's travelling time in each case.

## **7. FUNCTIONS**

1. The functions of the WMFS JCC shall be to:
  2. consider any matter referred to it
  3. consider any matter referred to it by stakeholders represented on the WMFS JCC except any matter which should be considered by any other body at an earlier stage
  4. recommend any arrangements, which in the opinion of the WMFS JCC, may be desirable to promote the efficiency of the Service and the maintenance of good relations between the management and its employees
  5. collect statistics and information necessary to enable the WMFS JCC to consider matters coming within its scope -
  6. The JCC will refer items to the Brigade Health Safety and Wellbeing Meeting and consider items from this forum
7. The WMFS JCC shall not have the power to agree any action inconsistent with the powers or decisions to any national or regional negotiating body or committee dealing with the conditions of service of employees of the Service.
- 8.

## **8. PROCEDURE AT MEETINGS**

1. The Strategic Enabler - People or their representative shall take the chair at the time stated in the notice of the meeting except as may be agreed otherwise.
2. The meeting shall consider items of business in the order they appear on the agenda except as may be agreed otherwise.
3. Where an item has been raised by a stakeholder whose representatives are not present at the meeting, by agreement on all sides that item shall be deferred and placed on the agenda for the next succeeding meeting of the WMFS JCC.
4. Either side may, during the course of a meeting, request an adjournment. Such adjournment may not exceed thirty minutes in duration unless the meeting is adjourned to another day.
5. A failure to consult appropriately will be referred to the JCP for a final recommendation on whether appropriate consultation has taken place. If consultation has not been appropriate this will be referred back to the JCC or appropriate process.
6. A Failure to Agree in the JCC Process following negotiations will be referred to the JCP for the final recommendation.
7. Where a final recommendation is awaited a decision on maintaining the status quo will be taken on a case by case basis by an appropriate manager e.g. health and safety considerations.
8. The recommendation of the JCP is final; there is no further appeal process.

## **9. COMMUNICATIONS**

All communications relating to the work of the WMFS JCC shall be addressed to the secretary of the WMFS JCC.

## **10. AMENDMENTS TO THE CONSTITUTION**

Written notice of any proposed amendment must be given to each member of the WMFS JCC at least 5 working days prior to the date of the meeting at which the proposed amendment is to be considered. This Terms of Reference may not be amended unless it is ratified at the Authorities Joint Consultative Panel.

## Raising a Cause for Concern

As identified within the ERF a Cause for Concern (see 5.3.6i) can be raised should the Trade Unions/Representative Bodies believe a new or current practice or procedure is not fit for purpose and may have Health, Safety, Wellbeing or Equality concerns. In these circumstances they should raise their concerns using the process detailed below: -

1. Trade Union/Representative Body raise concern with lead manager for work stream

Email sent to lead manager for work stream lead. Subject Heading - Cause for Concern. E.g. 'Cause for Concern/Falls Response First Aid Training'. People Support Services Manager – Employee Relations and JCC Meeting Manager to be copied into email.

2. Lead manager for work stream to acknowledge email within 5 working days of receipt

3. Lead manager for work stream to provide full response within 15 working days of receipt (or mutually agreed date)

Should no response be received within the above, (or mutually agreed) timeframes, or the Trade Union/Representative Body still have serious concerns, the above process should be followed again, escalating to the respective Strategic Enabler.

### Progressing to JCC

The Cause for Concern template (available from JCC meeting Manager) should be completed in full and forwarded to the People Support Services Manager – Employee Relations and JCC Meeting Manager to be included at the next JCC meeting under agenda item 'Items for Consideration for Joint Working Party (JWP)/Joint Consultative Council (JCP)' for appropriate consideration and action. The Cause for Concern will be raised at JCC and consideration given to appropriate actions. Once fully discussed and actions decided, where appropriate, the concern and proposed resolution will be forwarded to the Brigade, Health, Safety and

## Appendix 7

### Raising a Failure to Consult

As identified within the ERF Consultation (see 5.3.1) is a two-way process, with the spirit of the process being to work towards agreement. Consultation is an integral part of day to day management and used in the development of new projects or policies or in the consideration of change.

Consultation should always be meaningful and start at the earliest opportunity. In consultation the employer has the right to implement changes even when agreement has not been reached. However, all consultation comments should be responded to prior to the closing of the consultation which will outline reasons and rationale of decision. All reasonable dialogue to reach agreement should be considered and concluded as appropriate. External support will be jointly agreed but not unreasonably refused.

Failure to Consult Process:

If one or more of the Trade Unions/Representative Bodies believe appropriate consultation has not taken place at the conclusion of the consultation process, they should raise their concerns at JCC using the process detailed below. The Trade Unions should clearly demonstrate how they have engaged in the process to resolve the dispute.

1. Trade Union/Representative Body raise concern with lead manager for work stream

Email sent to lead manager for work stream lead. Subject Heading - Failure to Consult. E.g. Failure to Consult /Falls Response First Aid Training'. People Support Services Manager – Employee Relations and JCC Meeting Manager to be copied into email.

2. Lead manager for work stream to acknowledge email within 5 working days of receipt

3. Lead manager for work stream to provide full response within 15 working days of receipt (or mutually agreed date)

Should no response be received within the above, (or mutually agreed) timeframes, or the Trade Union/Representative Body still have serious concerns, the above process should be followed again, escalating to the respective Strategic Enabler.

The Failure to Consult template (available from JCC meeting Manager) should be completed in full and forwarded to the People Support Services Manager – Employee Relations and JCC Meeting Manager to be included at the next JCC meeting under agenda item ‘Items for Consideration for Joint Working Party (JWP)/Joint Consultative Panel (JCP)’ for appropriate consideration and action.

No item can be unilaterally referred to JCP. However, should a referral be necessary the presentation will be in the form of a joint report. The Trade Union case would be included as Appendix 1 and the Management case as Appendix 2.

Each side will present their case to Elected Members and will be afforded the opportunity to ask questions through the Chair of the panel.

Once both cases have been presented, time will be afforded to summarise respective positions. Elected Members will then adjourn to consider the case. During deliberations, should the Elected Members wish to address either party, both parties should return.

The Elected Members may be assisted by a Technical Advisor. The Advisor and the representative from the Clerk to the Authority will adjourn with the Elected member group of the panel.

The Technical Advisor and the representative of the Clerk are not part of the decision-making process. Their role is to give advice on the Service’s policy, process or interpretation of legislation.

The Technical Advisor to the panel cannot be the presenter of the Management case.

The Trade Union that has raised the Failure to Consult must attend the meeting with Elected members. The normal Terms of Reference on quorate will not apply in these circumstances.

Trade Unions cannot bring a Failure to Consult if they have not engaged/attended consultative meetings.

## Appendix 8

### Raising a Failure to Agree

As identified within the ERF, Negotiation (see 5.3.2) will be used for matters subject to collective bargaining. The Service will therefore, negotiate on matters subject to collective agreement with the recognised local Trade Unions/Representative Bodies.

With negotiation, the Trade Unions/Representative Bodies and the organisation will work towards achieving agreement. This may be through JCC and/or Local Agreement discussions or other consultative forums set up for this purpose.

Within the spirit of negotiation, both parties should work towards reaching an agreement. Appropriate time should be given to the process to ensure alternative options and suggestions can be meaningfully explored to facilitate the process and achieve agreement.

However, if an agreement cannot be reached, and the use of external support considered, an agreement may be reached at JCC to refer the matter to Joint Consultative Panel (JCP).

Failure to Agree Process:

If one or more of the Trade Unions believe appropriate negotiation has not taken place at the conclusion of the negotiation and agreement has not been reached, the Trade Unions should raise their concerns at JCC using the process detailed below. The Trade Unions should clearly demonstrate how they have engaged in the process to resolve the dispute.

1. Trade Union/Representative Body raise concern with lead manager for work stream

Email sent to lead manager for work stream lead. Subject Heading - Failure to Agree. E.g.' Failure to Agree/ Working hours People Support Services. People Support Services Manager – Employee Relations and JCC Meeting Manager to be copied into email.

3. Lead manager for work stream to acknowledge email within 5 working days of receipt
4. Lead manager for work stream to provide full response within 15 working days of receipt (or mutually agreed date)

Should no response be received within the above, (or mutually agreed) timeframes, or the Trade Union/Representative Body still have serious concerns, the above process should be followed again, escalating to the respective Strategic Enabler.

The Failure to Agree template (available from JCC meeting Manager) should be completed in full and forwarded to the People Support Services Manager – Employee Relations and JCC Meeting Manager to be included at the next JCC meeting under agenda item 'Items for Consideration for Joint Working Party (JWP)/Joint Consultative Council (JCP)' for appropriate consideration and action.

No item can be unilaterally referred to JCP. However, should a referral be necessary the presentation will be in the form of a joint report. The Trade Union case would be included as Appendix 1 and the Management case as Appendix 2.

Each side will present their case to Elected members and will be afforded the opportunity to ask questions through the Chair of the panel.

Once both cases have been presented, time will be afforded to summarise respective positions. Elected Members will then adjourn to consider the case.

During deliberations, should the Elected Members wish to address either party, both parties should return.

The Elected members may be assisted by a Technical Advisor. The Advisor and the representative from the Clerk to the Authority will adjourn with the Elected member group of the panel.

The Technical Advisor and the representative of the Clerk are not part of the decision-making process. Their role is to give advice on the Service's policy, process or interpretation of legislation.

The Technical Advisor to the panel cannot be the presenter of the Management case.

The Trade Union that has raised the Failure to Agree must attend the meeting with Elected members. The normal Terms of Reference on quorate will not apply in these circumstances.

In raising a Failure to Agree, both sides need to demonstrate how they have worked together to reach agreement.

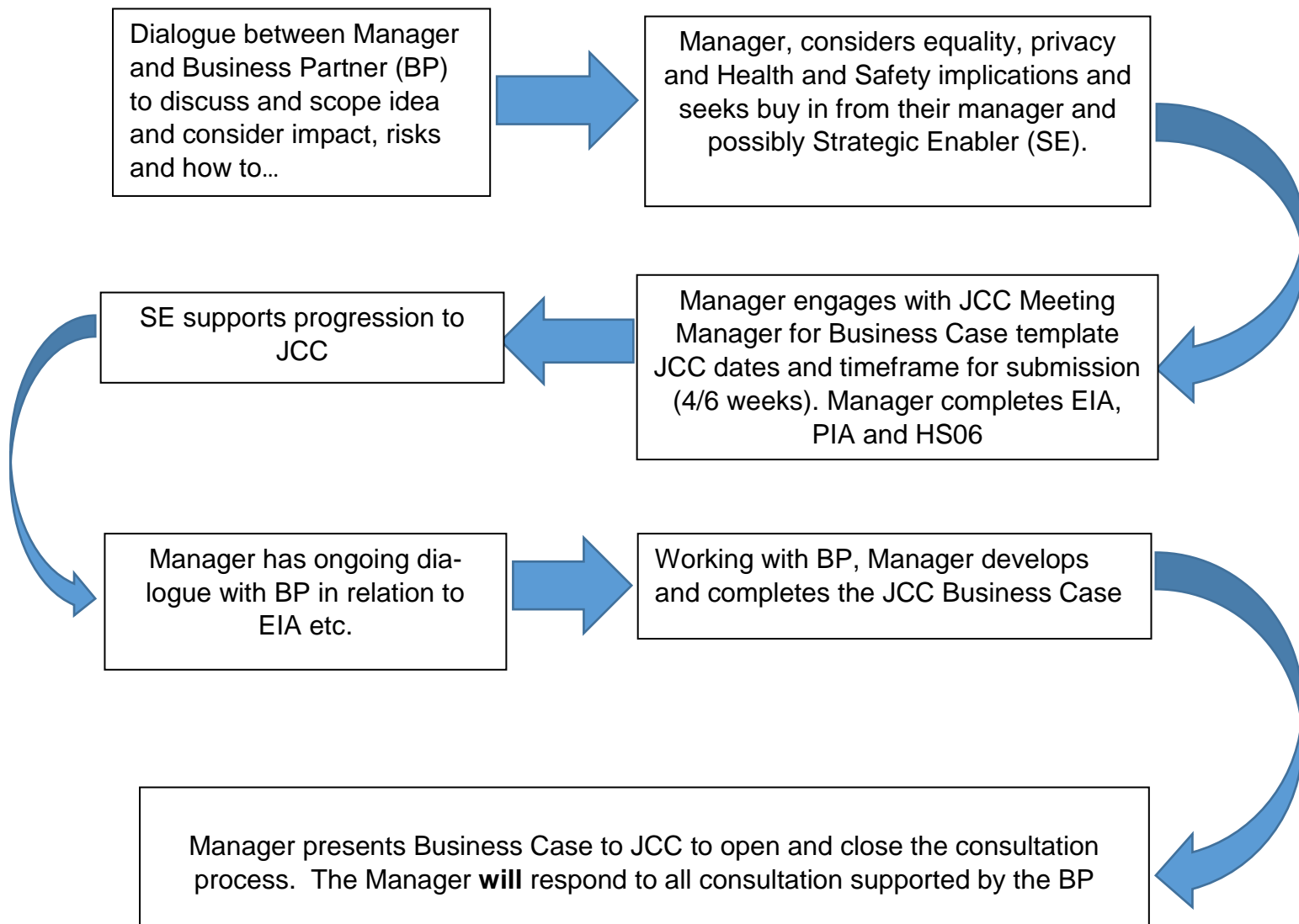
Elected members of JCP will need to consider the Failure to Agree and make recommendations which would be considered by the Fire Authority or Chief Fire Officer, prior to being contractual.



## Appendix 9

### Employee Relations Consultation Flowchart

This flow chart outlines the basic process for the development of a proposal to be shared at JCC. It does not factor in initial and primary engagement that should take place with affected people to develop proposals, prior to consulting on the preferred proposal at JCC.



## Appendix 10

### **REQUEST FOR FACILITIES TIME FOR TRADE UNION/ REPRESENTATIVE BODY OFFICIALS TO UNDERTAKE TRADE UNION/REPRESENTATIVE BODY DUTIES**

1. An official from each Trade Union/Representative Body will be responsible for providing written information, to support the Trade Union's/Representative Bodies request for the time off for the Trade Union/Representative Body officials for a 12-month period commencing 1 April. Each Year this request should be sent to the PSS Manager - Employee Relations or their delegated representative.

2. The request for facilities should be received by the PSS Manager - Employee Relations or delegated representative by 31 October. This request should be accompanied by documented evidence supporting the request. This evidence should include details such as:

- current membership levels and changes from the previous year;
- how the Trade Union/Representative Body Official supports its members and how this adds value to the Service including a cost benefit rationale.;
- joint meetings which support the development and change management processes within the organisation; and
- other duties.

3. The PSS Manager - Employee Relations, or delegated representative will review the requests giving careful consideration to the efficient and effective use of resources within the organisation and the information received.

4. The PSS Manager - Employee Relations, or delegated representative will respond in writing to each of the Trade Unions/Representative Bodies identifying their allocation of facilities by 31 December. The Service and Official will agree arrangements for the role in line with the Facilities Agreement Document. In exceptional circumstances, may request additional time to support the Service in timely and effective co-operation and consultation.

5. The Trade Union/Representative Body may wish to appeal against the decision on facilities time. To do so, it must be in writing identifying grounds for the appeal which should be either:

- The information provided by the Trade Union/Representative Body did not reflect the facilities required by the Trade Union/Representative Body. In the situation the decision has been made on inaccurate information, explanation for the error needs to accompany this appeal
- The facilitated process was not applied fairly, and

- There is a comparative Trade Union/Representative Body within West Midlands Fire Service that has been given more facilities resource

In each case the reasons for the appeal must be given, simply stating the grounds is not enough.

6.The appeal will go to the Strategic Enabler - People within 5 days of receipt of the date of the confirmation letter. The appeal will then be considered within 10 working days and a written response received within 15 workings days of the date of the appeal letter.

7.The outcome of this process will be implemented each April.

8. If a Trade Union/Representative Body fails to provide the required information any facilities may be withdrawn.