

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

21st SEPTEMBER 2009

1. TERMS OF REFERENCE FOR THE JOINT CONSULTATIVE PANEL (JCP) AND CHANGE TO THE AUTHORITY'S SCHEME OF DELEGATION

Report of the Chief Fire Officer and Clerk.

RECOMMENDED

- 1.1 THAT the Authority approve the draft Terms of Reference for the Joint Consultative Panel (JCP), attached as Appendix 1.
- 1.2 THAT the existing paragraph 2.14 (Changes to Conditions) in the Authority's Scheme of Delegation be deleted and replaced with the following 'To make changes to conditions of service of the Authority's employees working within the framework of the Employee Relations Policy and Terms of Reference for the Joint Consultative Committee and Panel.'
- 1.3 THAT Authority employees be appointed to serve on the Joint Consultative Panel in the proportions indicated below for the period ending with the Annual Meeting of the Authority in June 2010:
 - Fire Brigades' Union (2)
 - Fire Officers' Association (1)
 - UNISON (1)
 - APFO (1)
- 1.4 THAT the attendance of regional trade union officials at meetings of the JCP by prior agreement with the Director of Human Resources, is in an observer capacity.
- 1.5 THAT meetings of the Joint Consultative Panel take place as indicated below:
 - 7 October, 2009
 - 15 February, 2010
 - 19 April, 2010

2. **PURPOSE OF REPORT**

This report is submitted for the Authority to agree revised Terms of Reference for the Joint Consultative Panel; to amend paragraph 2.14 in the Authority's Scheme of Delegation; and to take the necessary steps to appoint employee representatives to the Panel and agree dates for future meetings of the Panel.

3. **BACKGROUND**

- 3.1 The Employee Relations Team has been in consultation with the Trade Unions since January 2009 to jointly agree an Employee Relations Policy for the West Midlands Fire Service. A copy of the finalised and jointly consulted policy is attached to this report as Appendix 2. The policy was approved by the Corporate Board on 21 July 2009.
- 3.2 The Employee Relations Policy 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 West Midlands Fire Service and its recognised Trade Unions. It is not legally binding, but relies on all parties to work within a spirit of co-operation.
- 3.3 Joint Consultative Committee (JCC) meetings between Managers and Trade Union Officials will take place initially monthly but depending on the needs of the organisation this may be reviewed. This will support the employee involvement process but it does not detract from a Manager's responsibility to make decisions. It defines the process for getting employees' views prior to decisions being made.
- 3.4 The Joint Consultative Panel (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 Joint Consultative Panel has not met since 15th November 2004, pending discussions on its future. The Joint Consultative Panel forms an integral part of the employee relations structure now proposed for the Authority.

- 3.5 The draft Terms of Reference for the Joint Consultative Panel were considered by Corporate Board following a meeting on 21 July 2009 and are recommended for approval. The draft Terms of Reference are attached to this report as Appendix 1.
- 3.6 The Director of Human Resources held a briefing session for Elected Members of the Joint Consultative Panel on 7 September 2009, the briefing notes are attached as Appendix 3.
- 3.7 Once agreed the terms of reference will be added as an Appendix to the Employee Relations Policy.
- 3.8 The Employee Relations Team will then commence briefings for all Managers of the Service to advise them of the role of the Employee Relations Team and the changes to the consultation process including the agreed Terms of Reference for the Joint Consultative Committee (JCC), attached for information as Appendix 4, and Joint Consultative Panel (JCP).
- 3.9 The delegation approved by the Authority on 22 June 2009 will no longer be appropriate if the above proposals are adopted. This report recommends that the existing paragraph 2.14 (Changes to Conditions of Service) in the Authority's scheme of delegation be deleted and replaced with the following 'To make changes to conditions of service of the Authority's employees working within the framework of the Employee Relations Policy and Terms of Reference for the Joint Consultative Committee and Panel.'
- 3.10 If these proposals are approved, the Joint Consultative Panel will comprise employees of the Authority and cannot therefore be regarded as an ordinary Committee for the purposes of Section 15 of the Local Government Act 1989. The rules of proportionality do not apply. The Panel is an advisory committee and cannot be given any executive power as it has persons other than elected members sitting on it. 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. Meetings of the Joint Consultative Panel are not open to the public.
- 3.11 The Authority is requested to approve the appointment of Fire Service employees to serve on the Joint Consultative Panel and the attendance of regional trade union officials by prior agreement with the Director of HR in an observer capacity.

4. **EQUALITY IMPACT ASSESSMENT**

A full Equality Impact Assessment has been completed for the Employee Relations Policy and Draft Terms of Reference.

5. **LEGAL IMPLICATIONS**

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 (WMFS).

The European Union Directive 2002/14/EC sets out the employer's legal responsibility to consult with employees.

Sections 181 and 182 of the Trade Union and Labour Relations (Consolidation) Act 1992 sets out the duty of employers to disclose information requested by a union representative for the purposes of collective bargaining.

6. **TRADE UNION CONSULTATION**

Discussions with the trade unions have taken place in relation to the draft documents and they will be informed of any amendments.

7. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report.

BACKGROUND PAPERS

Report to the Authority on 22 June 2009 – Agenda item 12

VIJ RANDENIYA
CHIEF FIRE OFFICER

SUE PHELPS
CLERK

West Midlands Fire Service

Joint Consultative Panel

Constitution

1. TITLE

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

2. REPRESENTATION

The Panel shall comprise of elected members of the West Midlands Fire and Rescue Authority and recognised trade unions as follows:

JCP

6 employers and

2 Fire Brigades' Union
1 Fire Officers' Association
1 UNISON
1 APFO
(Known as the employees)

All members 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 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 staff organisations concerned.

3. 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.

The Clerk shall liaise with the Director HR on the compilation of the agenda. The Director HR will consult with the Employees 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.

5. 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.

6. FUNCTIONS

The functions of the Panel shall be:

- i. 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.
- ii. To consider and 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
- iii. To consider and make recommendations to the Authority or the Chief Fire Officer, as appropriate, on the application of the terms and conditions of service for employees
- iv. To consider and 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.
- v. To discharge such other functions as are specifically assigned to it
- vi. 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 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. 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

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 being represented, however, where the Panel is considering business relating specifically to one trade union, 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 to be represented, provided that the relevant union 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
- (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.