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Clerk to the Authority  
Merseyside Fire and Rescue Service  
Service Headquarters  
Bridle Road  
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Date: Monday, 21 September 2009

Ref: Grey to Green Book Review - FBU Dispute.

Dear Mr Wright,

I write further to my letter to you dated 7<sup>th</sup> September 2009 registering the above dispute, to which you confirmed such registration in your correspondence to me dated 9<sup>th</sup> September 2009.

I note in the fire authority meeting of the 17<sup>th</sup> September 2009 in response to the FBU informing the elected members that the FBU had registered a dispute on the matter that you declared that as the issue was one of consultation, the dispute is to be progressed through the consultation procedure which does not contain a status quo clause. I strongly disagree with both comments you make in relation to the dispute being registered under the consultation procedure and your claim that there is no prohibition on management initiating change without agreement or when a dispute has been registered and to which I make the following comments:

1. Dispute being registered under the consultation procedure - you are aware from my correspondence of the 7<sup>th</sup> September 2009 that the dispute the FBU registered was in relation to the Service being in breach of number of agreements and conditions of service. Those agreements and conditions of service include the Grey Book in that the Grey Book consultation procedures have been breached; the NJC Joint Protocol for Good Industrial Relations as contained within the Grey Book by virtue of NJC Circular NJC/08/07 and of local collective agreements such as the MF&RS/FBU Consultation Protocol.

Clearly the above agreements are national agreements and are contractual in nature; the local collective agreement is contractual by virtue of paragraph 1 of the contract.

You will be aware the FBU didn't dispute the substantive issue but the breach of the agreements referred to.

The NJC Joint Protocol determines that 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. Clearly those breaches can only be a matter for resolution under the negotiation procedure as it was the national conditions that have been breached; I ask your confirmation that is to be the case.

Further, the national conditions in paragraph 18 state that while an issue is subject to discussion/resolution under the negotiating procedure neither side will seek to take any collective action or introduce change. Any difference over the application of paragraph 18 will be resolved by reference to the Independent Chair of the Resolution Advisory Panel.

2. Status Quo arrangement under consultation procedure - notwithstanding the above points, the assertion you made at the authority meeting that there is no status quo arrangement in relation to a dispute registered under the consultation arrangements is simply not correct. I trust you will be aware that the MF&RS/FBU Consultation Protocol states that consultation will be conducted by both parties with a view to reaching agreement on decision (*sic*) within the scope of the Authority's powers. Where agreement cannot be reached, the Authority is committed to addressing all concerns or proposals raised by the representative body including alternative approaches to an issue. Where agreement cannot be reached both parties agree not to seek to take any collective action or to introduce change.

I have attached the protocol for your information.

As stated above, and as the national conditions have clearly been breached I seek the matter now be progressed in line with the national agreement to which I suggest an immediate referral to the NJC Joint Secretariat and look forward to your confirmation on that matter.

If you require any further information please do not hesitate to contact me.

Yours sincerely

L Skarratts  
Brigade Secretary

cc A Dark  
Elected Members  
Branch Secretaries  
ACO

attach

## **MERSEYSIDE FIRE AND RESCUE AUTHORITY/FIRE BRIGADES UNION**

### **JOINT CONSULTATION PROTOCOL**

This Joint Protocol is written to ensure both parties involved in consultation processes adhere to the locally and nationally agreed procedures which will encourage effective employer/employee representative relationships within Merseyside Fire and Rescue Authority (the Authority) and has been agreed on behalf of the Authority and the relevant representative body.

In order to ensure the delivery of meaningful consultation processes, the Authority will at the earliest opportunity provide the representatives of the representative bodies with information on:

- a. The recent and probable development of the Authority's activities and financial situation
- b. The situation, structure and probable development of employment within the Authority, and on any anticipatory measures envisaged, in particular, where there is a risk to employment within the Authority
- c. Decisions likely to lead to changes in work organisation or in contractual relations such as transfer of undertakings, collective terminations of employment and/or re-engagement of staff
- d. Any and all information as referred to in the Grey Book, including the National Joint Protocol for Good Industrial Relations in the Fire and Rescue Service (the National Joint Protocol)

Consultation will also take place on all other matters that may be of concern for management and employee's representatives.

Consultation will be conducted by both parties with a view to reaching agreement on decision within the scope of the Authority's powers. Where agreement cannot be reached, the Authority is committed to addressing all concerns or proposals raised by the representative body including alternative approaches to an issue

Where agreement cannot be reached both parties agree not to seek to take any collective action or to introduce change.

It is accepted that consultation is different from negotiation and there is joint recognition to the definition between the two being as contained within the Grey Book and the National Joint Protocol. Decision making remains the responsibility of management and the Authority, however managers should seek and listen to the views of employees and their representative bodies before decisions are taken. This can only be achieved if both parties recognise the legitimate responsibilities of the other and take an active and constructive part in discussion.

## **Introduction**

As a member of the National Joint Council for Local Authority Fire and Rescue Services, the Authority has adopted the national 'Joint Protocol for Good Industrial Relations in the Fire and Rescue Service.'

All principles contained within the National Joint Protocol apply to this protocol. Specific principles have been emphasized so as to inform and guide the process of effective and meaningful consultation and in addition guidance has been taken from the Safety Representatives and Safety Committees Regulations 1977.

## **Principles**

For consultation to be meaningful and effective and for the process to inform the development of the Authority it is essential that the following principles are adopted and observed throughout any consultation exercise. Therefore all parties will 'observe the following'.

- A commitment to operating in a transparent manner.
- A joint commitment to dialogue and exchange of views.
- To behave respectfully toward each other at all times.
- To respect the confidential nature of the consultation discussions.
- That no final decisions will be made until consultation has been concluded.
- A 'no surprises' culture should be maintained.
- A joint focus on quality of working life will be maintained.

## **The Process**

- Terms of reference for each matter under consultation will be agreed by the local joint secretaries.
- Consultation timeframe will be agreed between the local joint secretaries.
- Start and conclusion dates will be agreed by the local joint secretaries. In the absence of agreement a consultation timescale of 8 weeks commencing from the date on which the representative body was notified of the commencement of the consultation process by management will apply.
- Officers nominated to conduct consultation will be notified by all parties.
- Consultation will commence with the provision by management of all relevant and available material.
- Any request for further relevant information will be responded to as soon as is practicably possible but such requests should be pragmatic, relevant to the terms of reference, take account of the fact that business cases presented to

the Authority are required to present all relevant information and not be allowed to frustrate meaningful consultation.

- The process should include face to face meetings and correspondence, files containing correspondence and notes/minutes of meetings should be maintained in an orderly fashion on a master file for local joint secretaries' scrutiny. A first consultation meeting will take place by the officers nominated by the parties within 10 working days of commencement of consultation.
- Every effort should be made by those involved in the process to be available for meetings and respond to correspondence in a timely manner and within the agreed timeframe.
- The process should be open and transparent at all times.

### **Conclusion of the Process**

- In all usual circumstances consultation will conclude on the date announced at the commencement of the process, extension to the timeframe may be mutually agreed.
- The representative body should summarise their final position on matters directly relating to the item under consultation, in writing to management/local joint secretary (management) within three days of the expiry date of consultation.
- Management will respond in writing to the representative body's summary document identifying what has been agreed, and any matters not agreed. A conclusion meeting will be held to discuss both documents.
- Where as a result of consultation agreement has been reached in relation to any matter, then where appropriate that agreement should be recorded by means of a local collective agreement entered into by the representative body and representative of the Authority.

This local protocol is supplementary to the National Joint Protocol and other relevant Sections of the National Joint Council for Local Authority Fire and Rescue Service Scheme of Conditions of Service Sixth Edition 2004 (the Grey Book)

