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

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.

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.
Dear Sir/Madam

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

1. At its meeting earlier today, the National Joint Council agreed a protocol for good industrial relations in the fire and rescue service.

2. The NJC welcomes the valuable opportunity provided by the protocol to develop and improve upon industrial relations across the UK fire and rescue service.

3. As such both Sides expect all parties to adopt the principles and commitments contained therein, working together to ensure efficient and effective industrial relations.

4. A copy of the protocol is attached.

5. For clarity, this protocol is supplementary to the model consultation and negotiation procedures contained in Section 6 in the Scheme and Conditions of Service (Grey Book).

Yours faithfully

SARAH MESSENGER
MATT WRACK
Joint Secretaries
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
- Joint recognition of each others 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 principles 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

1 The Term “Organisation” refers to the NJC and/or local fire and rescue services, as appropriate
2 The Term “Employer representatives” refers to the Employers’ Side of the NJC or local managers, as appropriate
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 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 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 polices 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 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.