

MERSEYSIDE FIRE AND RESCUE AUTHORITY			
MEETING OF THE:	CONSULTATION AND NEGOTIATION SUB-COMMITTEE		
DATE:	2 SEPTEMBER 2014	REPORT NO:	CFO/090/14
PRESENTING OFFICER	CHIEF FIRE OFFICER		
RESPONSIBLE OFFICER:	NICK MERNOCK	REPORT AUTHOR:	MIKE CUMMINS
OFFICERS CONSULTED:	CHIEF FIRE OFFICER		
TITLE OF REPORT:	INDUSTRIAL RELATIONS UPDATE		

APPENDICES:	APPENDIX A:	FBU DISPUTE LETTER 30 JUNE 2014
	APPENDIX B:	CLERKS RESPONSE TO FBU DISPUTE LETTER OF 02 JULY 2014
	APPENDIX C:	COLLECTIVE AGREEMENT FOA
	APPENDIX D:	COLLECTIVE AGREEMENT FBU
	APPENDIX E:	WORK ROUTINE FIRE CONTROL
	APPENDIX F:	FBU LETTER 24 HOUR COLLECTIVE AGREEMENT
	APPENDIX G:	SERVICE RESPONSE TO FBU LETTER 24 HOUR COLLECTIVE AGREEMENT
	APPENDIX H:	VAH COLLECTIVE AGREEMENT (FOA)

Purpose of Report

1. To advise Members of the matters of negotiation and consultation currently being progressed with Representative Bodies since the last meeting of the Consultation & Negotiation Committee on 25th March 2014.

Recommendation

2. That Members note the progress being made to:
 - a. Maintain effective and constructive industrial relation with Representative Bodies, and
 - b. Deliver the Authority's IRMP and other key objectives

Introduction and Background

3. This report deals with matters of consultation and negotiation.

Service Instructions

4. Following the last meeting of the Consultation & Negotiation Committee (CNC) of 25th March 2014 the Joint Secretaries have successfully concluded consultation on a total of 121 new or amended Service Instructions. At the time of writing this report 11 Service Instructions remain in process. A sample of the range of areas in which agreements have been successfully reached through the formal consultation process are listed below to provide Members with an insight into the breadth of the work undertaken:
 - Divergence of Medical Opinion
 - Standards of Dress
 - Values Based Appraisal
 - Use of Social Media
 - Stress Risk Assessment
 - Driver Procedures
 - Mental Health & Well Being

Conduct & Performance Policy

5. At its Annual General Meeting of 26th June 2014 the Authority approved a range of revised and new HR policy documents listed below:-
 - Conduct & Capability Policy
 - Conduct Service Instruction
 - Capability Service Instruction
 - Absence and attendance Service Instruction
 - Firefighter Health & Fitness Service Instruction
 - Positive Mental Health & Well Being Service Instruction
 - Medical Discharge Procedure
6. This followed an extended period of consultation with Representative Bodies including the Fire Brigades Union (FBU), the Fire Officers Association (FOA), Unite and Unison. The Service has been able to reach agreement on the content of all the policy documents with all of the Representative Bodies consulted (apart from the FBU), prior to them being presented to the Authority for final approval at its meeting of 26th June 2014.
7. The FBU wrote to all Authority Members on the 24th June 2014 contending that the substantive matters covered in the policy documents are matters of negotiation not consultation and as such had not been agreed by the FBU. Further to this the FBU also contended that the Authority was acting in contravention of national and local agreements in agreeing to 'impose' the new and revised policies. The FBU raised a formal dispute on 30th June 2014 (see appendix A). The Service does not accept the FBU position in this regard and wrote to the FBU on 2nd July 2014 (see Appendix B) setting out its preliminary response to the FBU dispute.

8. It has now been agreed by the Service and the FBU to request NJC assistance in the form of conciliation. The outcome of conciliation is not binding on either party. The conciliation meeting has been scheduled for 10th and 11th September 2014. The outcome will be reported to CNC thereafter.

MACC Duty System

9. Following the recommendations of the Resolution Advisory Panel (RAP) at its meeting of 19th August 2013, the Service and the FBU agreed on an early introduction of the 12-hour shift duration for station based personnel recommended by Professor Brown (Chair RAP).
10. The shift duration was introduced on 3rd January 2014. It was also agreed at this time that staff at Fire Control (formerly MACC) would not move immediately onto 12-hour shifts, but instead would wait until the move to the new Joint Control Room at Service Headquarters planned for the autumn of 2014.
11. The rationale for the introduction of a 12-hour shift at Fire Control related primarily to fatigue considerations. The 12-hour shift model generates a lower HSE Fatigue Index risk score than the 9/15 model. Whilst other potential models offered greater efficiencies and lower fatigue index scores, the views of Fire Control staff were taken into consideration, particularly with regard to the 2-2-4 model which is popular with Fire Control staff.
12. Subsequently negotiations with regard to the introduction of 12-hour shifts, shift start/finish times and the implementation date for the revised duty system at Fire Control were progressed through the Joint Secretaries arrangements with the FBU and the FOA. Principal Managers were able to exercise a degree of flexibility over start/finish times to reflect the preferences of staff. The final decision on start/finish times was also informed by Snap Survey of Fire Control staff, which was undertaken by the Service to assess preferences over a range of potential start/finish times.
13. Negotiations between the FBU and the FOA took place over a number of months and were successfully concluded on 22nd July 2014. Collective agreements providing for the introduction of 12 hour shifts and start/finish times of 0700/1900 were signed with FOA and the FBU on (see Appendices C and D). A new work routine for Fire Control (see Appendix E) has also been put in place following the successful outcome of consultation with the FOA and the FBU.
14. Representative bodies have also been provided with assurances that the Authority will continue to deal with requests for work/life balance agreements from Fire Control staff on a case by case basis, mirroring the successful approach undertaken in relation to station based staff following the introduction of 12-hour shifts in January 2014.

Resilience Agreements

15. The principal method employed by the Authority for providing resilience during Contingency Situations (including Industrial action) is through its reliance on Resilience Contracts which place the holders under a contractual obligation to provide firefighting and rescue duties.
16. This mechanism has proved highly effective during the recent periods of Industrial Action by the FBU and has allowed the Authority to operate with a very high level of appliances staffed by highly trained 'wholetime' firefighters. This arrangement compares most very favourably with resilience arrangements in other areas of the United Kingdom with Merseyside operating at near normal levels of appliance availability.
17. The existing Resilience Contracts were principally designed for a continuous prolonged period of Industrial Action similar to the type of action historically taken by the FBU. However, the most recent strike action took place over an 8-day interval and involved multiple stoppages of a short duration, mostly of 1-hour and 2-hour intervals.
18. This has prompted a review of the existing Resilience Contract with the objective of constructing a model fit for purpose that reflects the broad range and type of Contingency Situations (including strike action of varying lengths and frequency) to which the Authority may be subject to in the future. A revised Resilience Contract has been prepared by the Service and subsequently agreed with the FOA. This revised contract will be offered to all those members of staff providing resilience.

National Industrial Action - Impact on Industrial Relations

19. Members will be cognisant of the impact of the national dispute between the Government and the FBU over pension reform, which has resulted in 46 instances of industrial action. Periods of industrial action have varied in length and pattern, with the most recent period of strike action taking place over a period of consecutive 8-days with multiple stoppages of short duration designed to test local resilience arrangements. This is a national dispute in which no role exists for the local parties to support a resolution. The parties locally have taken full account of this position and have striven to ensure that the national dispute does not unduly impact upon the conduct and maintenance of the excellent industrial relations that have been developed over recent years. Both parties have therefore committed to 'business as usual' with regard to the conduct of industrial relations on Merseyside and in particular to the on-going work of the Joint Secretaries.
20. However, further industrial action will result in the Authority reviewing its position on 'partial performance', although each instance of potential strike action will be dealt with on a case by case basis and upon its own merit. Should the Authority under certain circumstances refuse to accept 'partial performance' then this would inevitably place a strain on the good industrial relations that still pertain at this time despite a prolonged period of industrial action. The potential for a protracted national dispute and the commitment of the FBU nationally to action short of strike action including a potential overtime ban may impact

negatively on the ability of the Authority to introduce more efficient duty systems that rely upon Voluntary Additional Hours, as demanded by the overall financial position in which the Authority finds itself. Notwithstanding this the Service and the local Representative Bodies continue to work constructively to explore the options for achieving the most efficient iteration of the whole-time duty system achievable that will allow the Authority to maintain its commitment to a 'whole-time' duty system.

24-Hour Collective Agreement

21. The Authority signed a collective agreement with the FBU on 28th January 2013 to adopt the flexibility permitted under the Working Time Regulations to facilitate the operation of 24-hour shift working at locations determined by the Service and subject to staff volunteering to undertake shifts of this duration. On 1st July 2014 the FBU wrote to the Employers Joint Secretary (see appendix F) contending that the agreement contractually entitles staff to undertake 24-hour shifts.
22. The view of the Service is that the interpretation of the Collective Agreement is beyond reasonable doubt in that it does not place any obligation on the Service to meet requests from employees to work 24-hour shifts. The position of the Service remains that it will consider requests for 24-hour working where an operational rationale for doing so exists. In this respect dialogue in the Joint Secretaries continues over the possible introduction of Self-Managed Teams at agreed locations, linked to 24-hour working. The Service responded formally to the FBU on 4th July 2014 (see appendix G)
23. The FBU has requested that the issue of the interpretation of the 24-Hour Collective Agreement be referred to the National Joint Council for conciliation and have suggested that this could be undertaken as part of the already agreed round of conciliation meetings scheduled for 10th and 11th September 2014 with regard to the suite of Conduct and Performance policies disputed by the FBU. The Employers Joint Secretary has agreed to this request subject to time constraints related to the core business of the mediation meeting.

IMT Consultation

24. The Service has identified how changes in the provision of command support at operational incidents can release Watch Manager and Firefighters currently serving in the Incident Management Team (IMT) for redistribution to stations to improve appliance availability. SMG has recently approved a proposal to change the staffing of the IMT to complementary crewing in order to facilitate the release of personnel
25. Formal consultation over this proposal commenced with the FBU and the FOA on 13th June 2014 and was successfully concluded on 13th August 2014. The new agreed arrangements which will provide for the development of personnel at 3 stations in command support with Toxteth, Crosby and Whiston currently under consideration as locations. Complementary crewing will be introduced at one of these stations to provide a full crew of trained command support

personnel to any incident ground when needed, effectively replacing the full time staffed vehicle. The Service is currently reviewing the options for the replacement of current ICCU and spare IMT light vehicle with a more suitable replacement.

26. The conclusion of this agreement further reflects the commitment of the Service and the FBU locally to ensure that in so far as is reasonably practicable, the conduct of industrial relations on Merseyside and the business of the Authority is not unduly and negatively impacted upon by the national dispute over pension reform.

Self-Managed Teams

27. Members will recall from the presentations they received from the CFO at the recent Strategy Day, the key role that is played by the Self-Managed Team system in delivering the most efficient staffing arrangements possible by ensuring optimal crewing at any time and through reducing the cost of short term sickness absence. This system provides a very cost effective means of providing the 'wholetime' provision to which the Authority is committed as its preferred option for the delivery of operational response provision moving forward.
28. The Self-Managed Team system relies upon staff working additional shifts above their contractual commitment. Negotiations at the local level with the FBU over the possible introduction of Self-Managed Teams have been hampered as a consequence of the Action Short of Strike arising from the national pensions dispute. Notwithstanding this negotiations continue with local FBU Officials in anticipation of resolution of the national dispute in the due course.
29. During negotiations with the FOA over the introduction of Self-Managed Teams, local FOA Officials submitted a proposal for their Watch Manager members to work 24-hour shifts at Southport, Kirkdale and Toxteth. The position of the Service is that 24-hour working will be considered at locations where a strong operational rationale exists. The introduction of Self-Managed Teams in conjunction with 24-hour working satisfies this rationale as it facilitates the working of additional shifts through the compression of working time and provides for a significant and predictable reduction in the costs associated with short term sickness absence, albeit that 24-hour shifts generate a modest but acceptable increase in risk fatigue based upon the application of the HSE Risk Fatigue Index.
30. The extant 24 Hour Working collective agreement provides the contractual underpinning to facilitate 24-hour working on a Self-Managed Team basis and the FOA have also agreed to enter into a new Voluntary Additional Hours collective agreement with the Authority (see appendix H) to fully reflect the commitment of their members to work the additional shifts necessary to support the application of Self-Managed Team arrangements. Managers are currently in dialogue with FOA Officials regarding the details of implementation and have provided the FOA with confirmation that the new staffing arrangements will be

subject to a trial period to ensure that they deliver the anticipated benefits to the Authority.

Independent Review of Conditions of Service

31. The Government has appointed an independent reviewer, Adrian Thomas, to consider whether the present conditions of service present a barrier to the reform, improvement and efficiency of the fire and rescue service. Key considerations within the terms of reference are:
- Flexibility and responsiveness of the workforce, management practices, staffing and crewing arrangements.
 - People working longer
 - Collaboration and integration with other emergency services
 - Increased use of on call FF's
 - Clarity of process for fair recruitment and remuneration of Chief Fire Officers and fire officers
32. Whilst the current edition of the Grey Book is nearly ten years old, this review represents a clear challenge to management and trade unions, particularly as it is being considered by Government in conjunction with the findings of the Knight report. The Government questionnaire has to be completed by 19th September and further reports over the progress of this issue will be brought back to CNC.

Equality and Diversity Implications

33. There are no E&D implications arising from this report.

Staff Implications

34. Staff at Fire Control will move onto a 12-hr duty system with a start/finish time of 0700/1900, effective from 2nd September 2014. The new duty system is being introduced with the agreement of the relevant Representative Bodies.
35. Staff at a limited number of locations at the Watch Manager level will adopt a 24-hour working pattern based upon the application of Self-Managed Team principles.

Legal Implications

36. There are no legal implications arising out of this report. The Director of Law is consulted upon all matters arising out of the work of Joint Secretaries as is appropriate.

Financial Implications & Value for Money

37. The adoption of the Self-Managed Team arrangements amongst Watch Managers at a number of locations will in all likelihood, subject to historical precedent, significantly result in a reduction in short term sickness absence amongst this cohort. Any savings delivered in the short term will be reinvested to ensure appliance availability through additional voluntary hours.

Risk Management, Health & Safety, and Environmental Implications

38. The 12-hour shift model generates a lower HSE Fatigue Index risk scores than the 9/15 model.

Contribution to Our Mission: *Safer Stronger Communities – Safe Effective Firefighters*

39. Good industrial relations contribute to preventing disruption and distraction in the workplace thereby supporting the Authority in its mission to ensure *Safer Stronger Communities and Safe Effective Firefighters*.

BACKGROUND PAPERS

CFO/025/14 This report follows on from the CNC report of 25th March 2014.

GLOSSARY OF TERMS

FOA	Fire Officers Association
FBU	Fire Brigades Unions
NJC	National Joint Council
SMG	Strategic Management Group
SMT	Self-Managed Team
IMT	Incident Management Team
VAH	Voluntary Additional Hours
CNC	Consultation & Negotiation Sub-Committee
CFO	Chief Fire Officer