

AGENDA ITEM:

REPORT TO:	MERSEYSIDE FIRE & CIVIL DEFENCE AUTHORITY
DATE:	17th JANUARY, 2005
REPORT NO.	CFO/15/05
REPORTING OFFICER:	EXECUTIVE DIRECTOR OF LAW AND HR
CONTACT OFFICER:	MR. DAVE WRIGHT, EXT. 4111
OFFICERS CONSULTED:	
SUBJECT:	PROPOSED AMENDMENTS TO DISCIPLINE AND GRIEVANCE PROCEDURES, AND CONSULTATION AND NEGOTIATION PROCEDURES

Purpose of Report

1. To request the Authority to consider amendments to the Discipline and Grievance Procedures and Consultation and Negotiation Procedures approved by the Authority.

Recommendations

2. That the Authority approves the revised :-
 - 2.1. Discipline Procedures Scheme of Delegation, attached as Appendix A.
 - 2.2. Grievance Procedures Scheme of Delegation, attached as Appendix B, and
 - 2.3. Consultation and Negotiation Procedures, attached as Appendix C.

Information

3. The Authority, on 23rd December, 2004, approved new Discipline and Grievance Procedures and Consultation and Negotiation Procedures in line with the new Grey Book provisions.
4. However, the Fire Brigades Union has entered into correspondence and discussions regarding specific issues of concern to the Union in respect of such procedures. The outcome of discussions is that the parties have reached a Collective Agreement as to revised arrangements, which are now submitted for endorsement by the Authority as set out in Appendix A, B & C.

Discipline Procedures Scheme of Delegation

5. The Discipline Procedures Scheme of Delegation, attached as Appendix A, is amended from that previously approved by the Authority by expressly providing that the Assistant Chief Fire Officer, Deputy Chief Fire Officer or Chief Fire Officer or Brigade Manager are the only officers who have delegated powers to dismiss under the third formal stage.

The third formal stage is the stage at which dismissal, demotion, loss of pay, final written warning or a further written warning may be given.

6. It should be noted that any appeal against dismissal would then fall to be considered by the Appeals Committee. The Fire Brigades Union also wish the Authority to consider whether it would be willing to determine that appeals against sanctions other than dismissal at the third formal stage should also be heard by the Authority (e.g. demotion or loss of pay).

Grievance Procedure

7. The Grievance Procedure, attached as Appendix B, is amended from that previously approved by the Authority in the following manner.

Where a complainant is still dissatisfied following determination of an appeal against the initial determination of their grievance, then instead of the Chief Fire Officer determining whether the matter is one of a serious nature, and if so referring the matter to the Appeals Committee, the arbiter as to whether the matter should be referred to the Appeals Committee, will be the local Joint Secretaries.

Consultation and Negotiation Procedures

8. The Consultation and Negotiation Procedure, attached as Appendix C, is amended from that previously approved by the Authority as follows :-

The National Negotiation Procedure provides that, where issues are not resolved internally, then both parties may jointly agree to refer the issue to the NJC Joint Secretaries, ACAS or the NJC Disputes Resolution Advisory Panel. Agreement of both sides is therefore required.

However, the revised proposals provide that, if the parties cannot agree on reference of the issue to an external route, then the issues will be referred to the NJC Joint Secretaries for them to seek resolution of the issue in question.

If the issues are not resolved by the NJC Joint Secretaries within 10 working days of reference of the issues to them (or such longer time as is agreed between the parties), then both parties agree that the issues will be referred to ACAS for resolution.

Financial Matters

9. None arising directly out of this report.

APPENDIX A
(CFO/15/05)

MERSEYSIDE FIRE & RESCUE SERVICE

SCHEME OF DELEGATED POWERS TO OFFICERS – DISCIPLINE AND
GRIEVANCE PROCEDURES

1. Officers for the time being employed by Merseyside Fire & Civil Defence Authority (“the Authority”) at the ranks or roles specified in the first column below (or for the time being employed at a higher rank or role) shall be empowered to take the action specified in the corresponding part of second column below in respect of the Disciplinary Procedure set out in the National Joint Council for Local Authority Fire & Rescue Services Scheme of Conditions of Service (6th edition) 2004 as amended from time to time (“the Grey Book”).

First Column
(Rank/Role)

2nd Column
(Authorised action under Discipline
Procedures)

Informal Stage

- | | | | |
|----|--|----|---|
| 2. | Leading Firefighter, Crew Manager (or line manager if higher rank/role than employee the subject of the procedures). | 2. | Informal discussion under informal stage. |
|----|--|----|---|

First Formal Stage

- | | | | |
|----|---|----|--|
| 3. | <ul style="list-style-type: none"> • Line Manager of employee the subject of the procedures at the rank of sub officer or role watch manager or equivalent level. • HR Manager. | 3. | <ul style="list-style-type: none"> a) Initiation of discipline process. b) Investigation of disciplinary case. |
| 4. | <ul style="list-style-type: none"> • Sub.O., Stn.O. or watch manager. | 4. | <ul style="list-style-type: none"> • Conduct discipline meeting and decide outcome re cases of unsatisfactory performance or absence and inform employee that a failure to improve could lead to disciplinary action. • Issue written warning. |
| 5. | <ul style="list-style-type: none"> • ADO, station manager or equivalent. • HR Manager. | 5. | <ul style="list-style-type: none"> • Conduct discipline meeting and decide outcome. • Issue written warning |

Second Formal Stage

- 6.
- ADO, station manager or equivalent.
 - HR Manager
 - Group Manager or equivalent, HR Manager

- 6.
- Initiation of disciplinary process.
 - Investigation of disciplinary case.
 - Conduct disciplinary meeting and decide outcome.
 - Issue further written warning or final written warning.

Third Formal Stage

- 7.
- DO, Group Manager or equivalent.
 - HR Manager

- 7.
- a) Initiation of discipline process.
 - b) Investigation of disciplinary case.

8. 8.1.
- SDO, Area Manager or equivalent.
 - Director of HR

8. 8.1
- a) Conduct disciplinary meeting and decide outcome.
 - b) Issue further written warning, or final written warning, and/or demotion and/or disciplinary transfer and/or loss of pay up to a maximum of 13 days pay.

- 8.2
ACFO, DCFO, CFO or Brigade Manager

- 8.2
Dismiss employee (including dismissal for gross misconduct).

Gross Misconduct

9. ACFO, DCFO, CFO or Brigade Manager.

- 9.
- a) Establish facts and determine an outcome.
 - b) Summary dismissal.

Appeals Against Disciplinary Sanctions

(other than dismissal)

11. Officers at the rank/role or equivalent level who are at a rank/role/level higher than the rank/role/level of the officer that determined the disciplinary case the subject of the appeal.

- 10.
- Conduct appeal hearing.
 - Determine whether appeal is by way of review or rehearing.
 - Determine whether appeal is allowed or dismissed.

Suspension

11. 11.
- SDO, Area Manager or equivalent
 - Director of HR
- Determine whether an employee should be suspended.
 - Review supervision.
12. This scheme of delegation shall apply with effect from 1st January, 2005 until and unless further amended or revoked by the Authority.
13. In this scheme :-
- (a) Reference to the roles in the 1st column below include reference to the ranks specified in the corresponding part of the second column below.

First Column
(Roles)

Crew Manager
Watch Manager
Station Manager
Group Manager
Area Manager

Second Column
(Ranks)

Leading Firefighter
Sub. Officer and Station Officer
Assistant Divisional Officer
Divisional Officer
Senior Divisional Officer

- (b) The term “Manager” applies to both uniformed and non-uniformed roles where reference is made to a uniformed role, that reference is equally applicable to a non-uniformed employee at the level equivalent to that uniformed role.

APPENDIX B
(CFO/15/05)

MERSEYSIDE FIRE & RESCUE SERVICE
SCHEME OF DELEGATED POWERS TO MANAGERS
-GRIEVANCE PROCEDURES

1. officers for the time-being employed by Merseyside Fire & Civil Defence Authority ("the Authority") at the ranks or roles specified in the first column below (or for the time-being employed at a higher rank or role), shall be empowered to take the action specified in the corresponding part of the second column below in respect of the individual Grievance Procedures set out in the National Joint Council for Local Authorities Fire & Rescue Services Scheme of Conditions of Service (6th edition) 2004 as amended from time to time ("the Grey Book").

First Column
(Rank/Role)

2nd Column
(Authorised action under Grievance Procedures)

Informal Stage

- | | |
|--------------------------------------|----------------------------------|
| 2. Line Manager of person aggrieved. | Discuss grievance with employee. |
|--------------------------------------|----------------------------------|

Formal Stage

- | | |
|--|--|
| 3. Line Manager of person aggrieved (or person who made the decision the subject of the grievance if at a higher level). | <ul style="list-style-type: none"> • Hear grievance • Reach decision on grievance and notify person aggrieved of decision. |
|--|--|

Appeal Stage

- | | |
|---|--|
| 4. Employees at next level of management higher than the complainant's line manager (or person who determined the grievance). | <ul style="list-style-type: none"> • Hear grievance • Reach decision on grievance and notify person aggrieved of decision. |
|---|--|

Consideration of further appeal

- | | |
|----------------------------|--|
| 5. Local Joint Secretaries | <ul style="list-style-type: none"> • Decide whether a grievance determined at the Appeal Stage, but where the complainant is still dissatisfied, is one of a serious nature. If so, refer the grievance to the Appeals Committee for consideration. |
|----------------------------|--|

Collective Grievances

6. The powers set out above do not apply to collective grievances, which are not appropriate for the individual grievance procedures.

APPENDIX C
CFO/15/05)

LOCAL CONSULTATION AND NEGOTIATION

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 pre-arranged 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 issues 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 take 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 unreasonable 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.
 - 15.1. 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.
 - 15.2. Where the parties do not agree on reference of the issue to an external party under paragraph 15.1 within 10 working days of the meeting referred to in paragraph 12 (or such longer time as agreed between the parties) then the issue shall be referred to the NJC Joint Secretaries for them to seek resolution of the issue.
16.
 - 16.1. The above should be completed within twenty working days of the request for external assistance being made.
 - 16.2. If the issue is not resolved within 10 working days of reference of the issues to the NJC Joint Secretaries (or such longer time as agreed between the parties) under paragraph 15.2, then the parties agree that the issue shall be referred to ACAS for resolution.

Arbitration

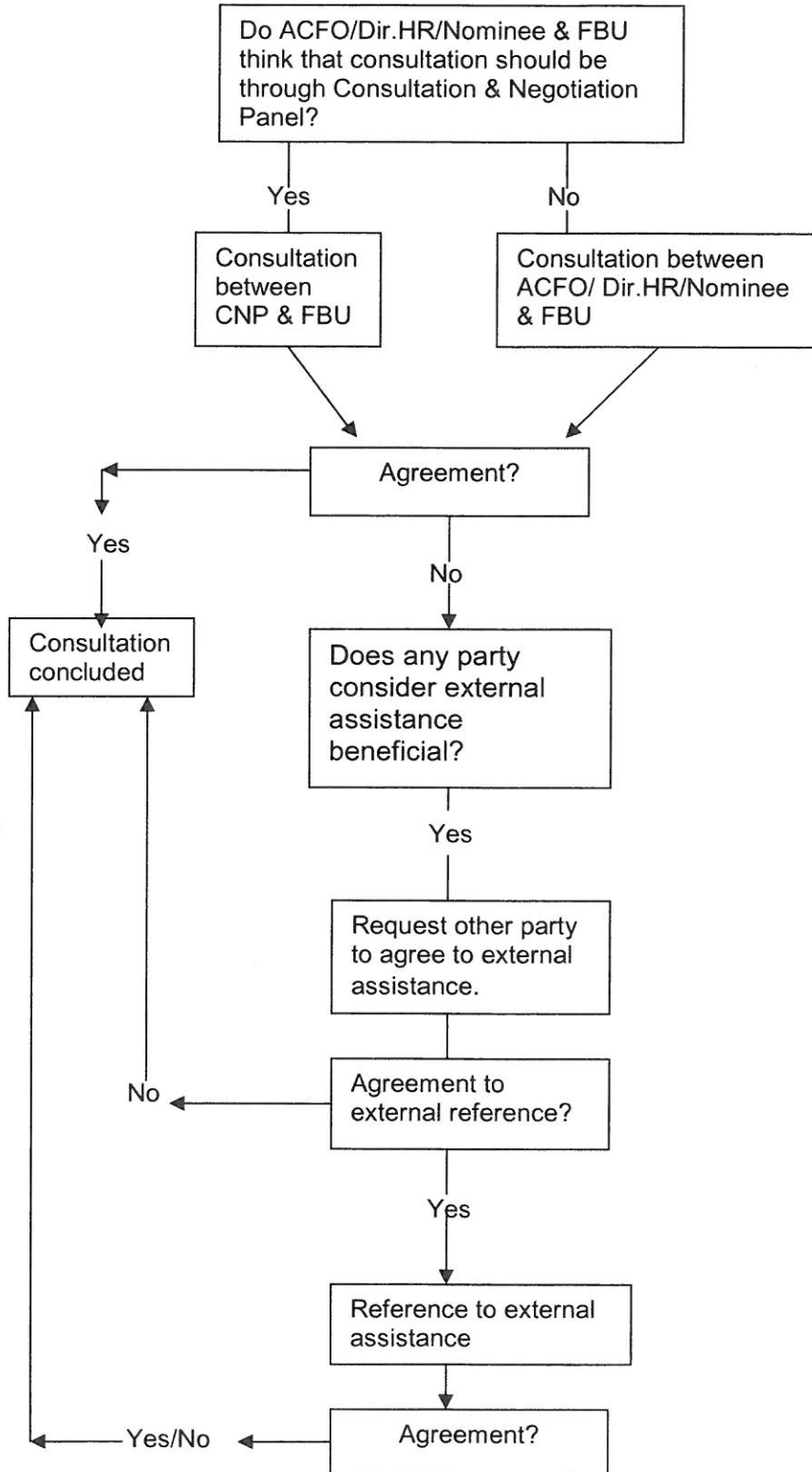
17. If a difference remains unresolved, subject to agreement of the parties and agreed terms of reference, an issue may be referred to ACAS (in Northern Ireland, the Labour Relations Agency) for settlement by arbitration.

General

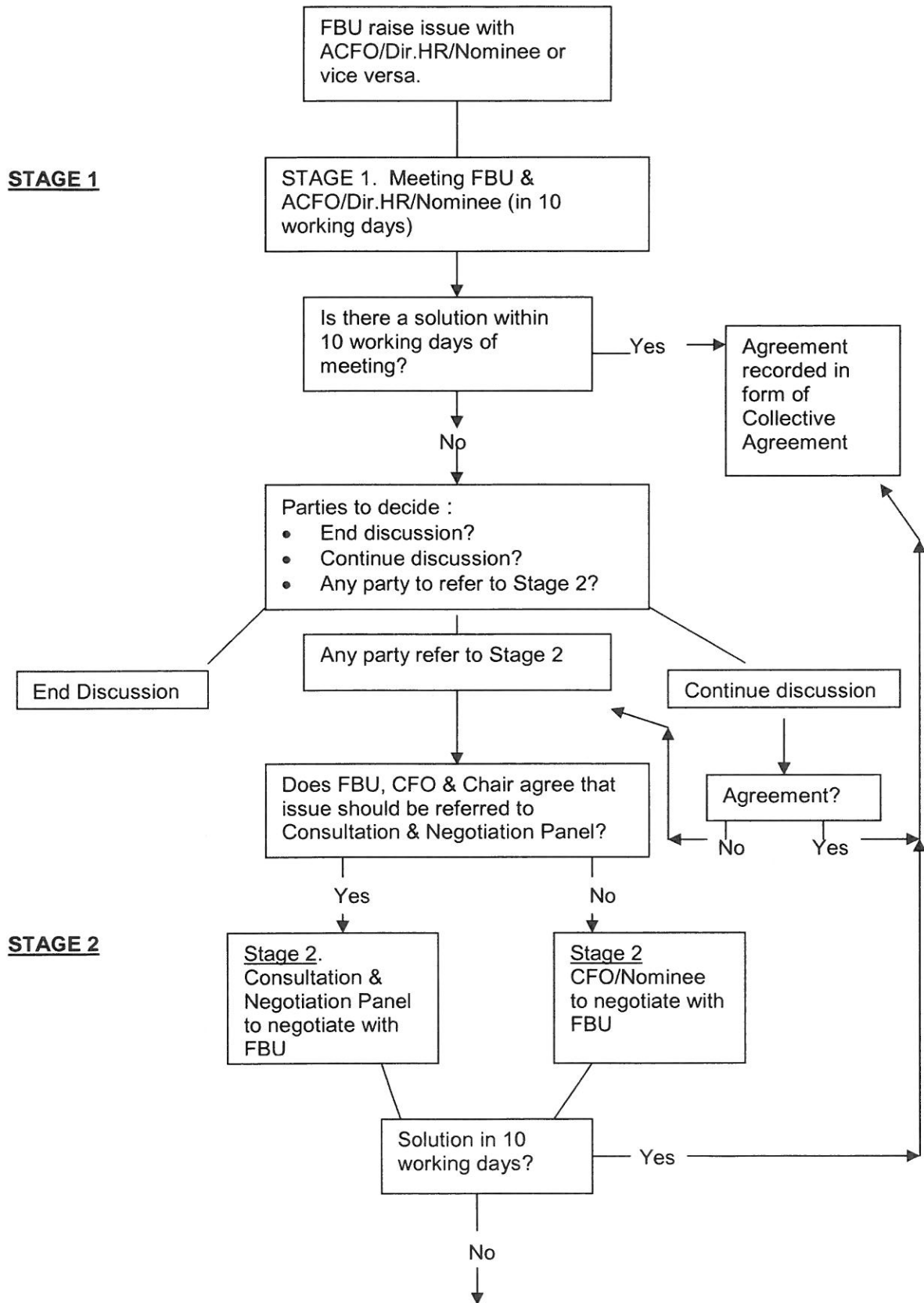
18. While an issue is subject to discussion/resolution under this negotiating procedure neither side will seek to take any collective action or introduce change.

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.

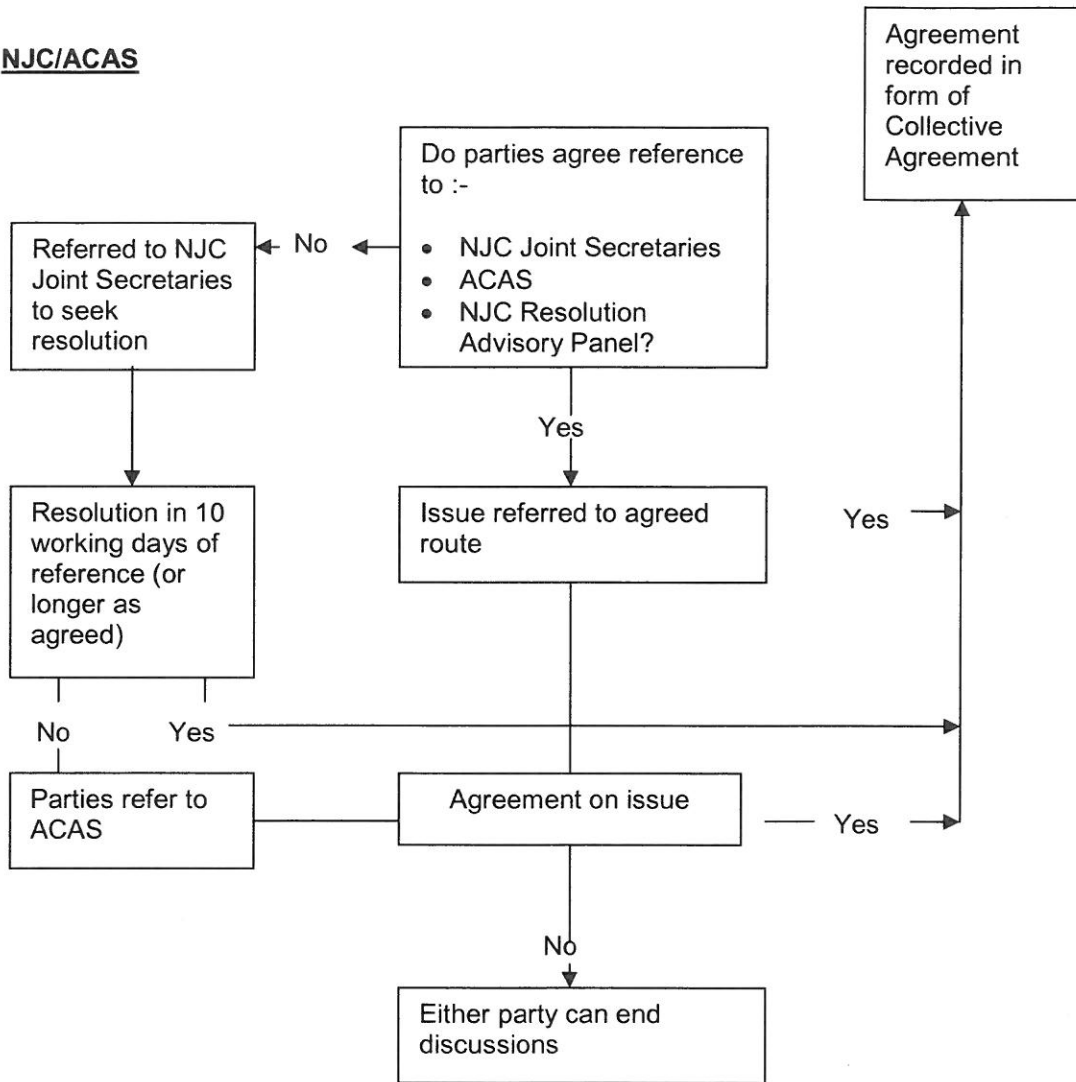
CONSULTATION PROCEDURE



NEGOTIATION PROCEDURE



NJC/ACAS



NOTE 1

No collective action or introduction of change whilst issue subject to discussion/resolution under negotiation procedure.

NOTE 2

Where the Authority proposes a change in duty system (which does not accord with the principles of the duty systems set out in the 6th edition of the Grey Book) and there is no agreement between the Authority and the FBU, the above procedure will not apply. Instead, the procedure set out under Section 4 Part A of the Grey Book will apply (i.e. reference to NJC Technical Advisory Panel).