

# HIGHLAND AND ISLANDS FIRE BOARD

22 APRIL 2008

Agenda Item	
Report No	

## JOINT CONSULTATIVE GROUP

### Report by the Assistant Clerk

#### Summary

This Report recommends a revised role and remit for the Board's Joint Consultative Group (JCG), following consultation between Service management and the Staff representatives, and taking into account the current provisions of the Fire Service Scheme of Conditions of Service (the "Grey Book") in relation to staff consultation and negotiation procedures. The Report also recommends the appointment of four alternate Members of the JCG, to assist in ensuring that Group meetings can be quorate.

#### Background

1. At its meeting held on 15 June 2007, the Board appointed the following Members to its Joint Consultative Group (JCG): Convener, Vice-Convener, Mr Donald Mackay and Mr Bill Fernie.
2. At that meeting the Board noted that, in view of various changes in legislation and the Grey Book since the JCG's inception, and in light of the Framework for Scotland documents, the JCG would be invited to consider its existing constitution; and that any recommended changes would be reported to a future meeting of the Board.
3. While the JCG has not met in the intervening period, discussions have been ongoing between the Service management and the Staff representatives as to the appropriate role of the JCG in the context of the current framework. A copy of the resulting agreed arrangements for consultation and negotiation, and the JCG's recommended role in this, is attached at Appendix 1.

#### Revised Arrangements

4. Given these developments, it is recommended that the remit of the JCG be amended to the following:
  - (a) in the event of impasse at the conclusion of a consultation process between the Service management and Staff representatives: to assist the management and representative bodies to identify their differences clearly and to support them in trying to achieve agreement; and, to this end, to make suggestions with a view to preventing differences and resolving disagreements; and
  - (b) in the event of impasse in a collective negotiation: to offer suggestions and solutions to assist in resolving the issue.

5. A recommended procedural Protocol is attached at Appendix 2.
6. To help ensure that any meeting of the JCG is quorate, the Board is asked to appoint four alternate Members who may be invited to substitute in the event that any of the four elected Members is unable to attend. Members are asked to note that arranging attendance by an alternate will be a Member responsibility.

**Recommendation**

The Board is invited to:

- (a) agree the revised JCG remit, its role in the Service/Staff agreed consultation and negotiation procedures (Appendix 1) and the procedural Protocol (Appendix 2); and
- (b) appoint four alternate Members, who may substitute for an elected JCG Member, as required.

Signature

Designation Assistant Clerk

Date 9 April 2008

Author Mrs R Moir, Assistant Clerk

**ARRANGEMENTS FOR CONSULTATION & NEGOTIATION**  
**AND ROLE OF THE JOINT CONSULTATIVE GROUP**

**Purpose**

This proposal is to ensure appropriate mechanisms exist between Highlands & Islands Fire and Rescue Service and the representative bodies. It sets out in clear terms an agreed methodology for implementing consultation and negotiation procedures and supporting the joint protocol for good industrial relations.

**Context**

Consultation and negotiation are means by which the Service engages staff, via their representative bodies, in areas of mutual concern with the aim of working together to resolve differences that may occur from time to time. These arrangements exclude the current consultation framework for the Service's IRMP.

**Consultation**

Consultation procedures are used for matters that do not require collective agreement.

Consultation shall commence at the earliest opportunity and all relevant, non-confidential information shall be provided to the representative bodies to allow meaningful consultation to take place.

Matters will be dealt with at the appropriate level in the Service. Only matters of a corporate nature will be dealt with directly by the designated Joint Secretaries. The Joint Secretaries will encourage this approach and revert any inappropriate issues back to source.

Service and Staff representatives should make regular use of information consultation and then formalise in writing at the appropriate juncture. Formal consultation will consist of the Service clearly setting out its position and providing the representative bodies with initially 28 days to respond.

The consultation procedure is effective if dialogue is present; it is concluded when there is agreement between both parties, or when the issues that have not been agreed have been fully responded to. This does not mean that agreement is necessary, but there should be clear evidence that each point of concern has been considered and responded to.

Consultation is a process by which the Service and staff, via their representatives, jointly examine and discuss issues, with the aim of seeking acceptable solutions to problems through a genuine exchange of views and information. However, consultation does not remove the right of managers to

manage and they are still required to make the final decision having taken the views of staff fully into consideration.

### **Joint Consultative Group**

Where, at the conclusion of the consultation process, concerns remain, then either party may declare an impasse and recommend seeking third party assistance where it considers this would be beneficial and support the reaching of an agreement. Neither party can unreasonably refuse a request for third party assistance.

Where this occurs, the Highland & Islands Fire Board will, at the request of either the Service or the Staff representatives, convene a meeting of its Joint Consultative Group (JCG) (comprising 4 Board Members) to act as third party assistance for the purpose of this consultation procedure. This group will be brought together as necessary to assist management and representative bodies to clearly identify their differences and then support them in trying to achieve agreement.

JCG elected Members will make suggestions to prevent differences and resolve disagreements.

At the end of this process, should agreement still not be reached, the Service will have the final decision, having taken account of the outstanding concerns and the suggestions from the JCG elected Members.

### **Negotiation**

The negotiation procedure shall be used for all matters that are subject of collective negotiation and agreement between Highlands & Islands Fire and Rescue Service and the representative bodies.

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 entitlement and any other condition of service. It may also cover local policies and procedures not specified within the Scheme of Conditions of Service (Grey Book), or NJC circular, 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. (NJC circular 18/07)

Unlike consultation, where responsibility for decision making remains with the Service, with collective negotiation both the Service and representative body take responsibility for achieving agreement. Collective negotiation entails not

only a willingness to discuss, but also to negotiate with a view to reaching an agreement on an issue.

Issues should be dealt with at the appropriate level, however, unlike consultation. Any issue should be able to be pursued to corporate level for resolution.

Where an impasse is reached, the Highland & Islands Fire Board will, at the request of either the Service or the Staff representatives, convene a meeting of its **Joint Consultative Group**, with a view to JCG elected Members offering suggestions and solutions to assist in resolving the issue.

Each party should endeavour to give the other party early notification of issues for negotiation and then maintain a continuous informal dialogue and exchange of information on relevant issues. It is imperative that both parties should have the requisite information to enable it to negotiate from an informed position.

Both parties should comply with the relevant nationally agreed timetable, unless jointly agreed locally. External assistance may be used to facilitate the negotiating process where the parties agree that this would be helpful.

### **Arbitration**

Arbitration only applies to the negotiation procedure. If a difference remains unresolved, subject to the parties' agreement and agreed terms of reference, an issue may be referred to ACAS for settlement by arbitration.

### **General**

While an issue is under negotiation neither side will seek to take any collective action (industrial action) or introduce change. Failure to abide by this will be resolved by reference to an Independent Chair, for example 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.