

## **LGA Scrutiny Panel**

### **Investigation into the Fire Dispute Negotiations**

#### **Report of Panel**

##### **1. Introduction**

1.1 The Panel was asked by the LGA Executive in October 2004 to undertake a review of the fire dispute negotiations, which had ended in an agreement in August 2004. The members undertaking the review have conducted interviews with most of the significant participants on the employers' side of the negotiations; and received much detailed information on the course of the dispute, and its resolution. It is important to point out that this report is not a comprehensive review of the fire dispute – it focuses solely on local government employers and their mechanisms for handling what was a national industrial dispute. The working group has concentrated on identifying lessons for the future rather than spending time apportioning blame, trusting that the report will be read in that same spirit.

1.2 The Panel would like to thank those members of the LGA and the employers' side (past and present) and officers of the LGA and Employers' Organisation who gave evidence for their clear and frank contributions to the investigation.

1.3 The investigation was carried out by the following members of the Scrutiny Panel:

Cllr Malcolm Blanksby (Wycombe DC) (Chair)

Cllr Gordon Beever (Kirklees MBC)

Cllr Christine Channon (Devon CC)

Cllr Robin Stonebridge (Rotherham MBC)

Panel members agreed an approach to the enquiry that relied on semi structured interviews using a question template which had been shared with witnesses before interview sessions took place.

##### **2. Terms of Reference**

2.1 The terms of reference of the investigation were:

1. To review the processes in the LGA and EO for handling the fire dispute from 2002 to 2004.

2. To consider the roles played by officers and members in conducting and steering the employers' position.
3. To make recommendations to the LGA Executive in respect of:
  - organisation arrangements
  - communications
  - media relations
  - officer and member protocols.

2.2 It became apparent in the very early stages of this inquiry that there were many complex issues to be investigated and understood within the fire dispute. To allow the necessary time for these to be fully explored in depth, the initial aspiration that the report would be submitted by the end of 2004 was abandoned. This decision was taken in the full knowledge that whilst the inquiry should be conducted with all speed, it was of greater importance that salient aspects should be investigated with rigour and that the quality of the report should not be sacrificed in the interests of meeting what had become an unrealistic deadline.

### 3. **Executive Summary**

3.1 The fire dispute which lasted from May 2002 until August 2004 was long and bitter. It placed enormous personal stress on many of those involved in the organisation, management and negotiation of the Employers' response to what was the highest national pay demand for decades. Yet, despite the stresses and strains engendered by the dispute, a significant agreement was reached which serves to lay the foundations of and give a developmental framework for a modernised fire service for the 21<sup>st</sup> century.

3.2 The aim of the working group has been to escape the mass of detail, and short term controversies, and to concentrate on identifying specific issues which need to be addressed by the LGA and by local government employers in the future. The recommendations are those which, in the view of the working group, will assist the Association in future national negotiations.

3.3 Specific areas for action identified in the report are:

- The need for a clear understanding of the accountability of the LGA representatives on the employers' side of the Fire NJC (and other NJCs) to the LGA, if necessary through the production of appropriate protocols; and arrangements for resolving any disputes over such lines of accountability.
- an urgent need to restore mutual trust and to build up constructive relationships between the LGA and the fire authorities, including ways in which they can contribute to fire policy formulation within the LGA generally; and to the on-going modernisation process for the service, whilst preserving the benefits of a more focussed employers' side.

- Agreed lines of communication between member negotiators and their constituent bodies, including the extent of delegation and report back mechanisms. This area may require a debate on the freedom of negotiators to negotiate.
- A review of the training needs of members in their role as negotiators.
- The management of the negotiating process
- A review of the LGA and Employers' Organisation media arrangements during industrial disputes
- The provision of "emergency" arrangements at the LGA

#### **4. Witness sessions**

4.1 Between November and February, the working group held six separate witness sessions and interviewed the following persons:

30 October: Sir Brian Briscoe, Chief Executive, LGA

11 November: Mr Rob Pinkham, Executive Director, Employers' Organisation and Ms Gill Gittins (EO)  
Cllr Peter Chalke CBE, (Group Leader, LGA Conservative Group and member of Fire Employers' Side)  
Mr Ken Knight, Lead Adviser, Fire Employers' Side and Commissioner, London FEPA)

17 November: Mr John Ransford, Director of Education and Social Policy, LGA  
of Cllr Ian Swithenbank, Member of Fire Employers' Side and former Chair EO  
Cllr Les Byrom, Member of Fire Employers' Side (by video – conference)  
Cllr Chris Clarke, Group Leader, LGA Liberal Democrat Group

24 November: Ms Valerie Shawcross, AM, Member of Fire Employers' Side, and Chair of London FEPA  
Cllr Peter Monk, Member of Fire Employers' Side

Cllr Mac McGuire, Member of Fire Employers' Side  
Cllr Christina Jebb, former Chair, Fire Employers' Side  
Cllr Sir Jeremy Beecham, Group Leader, LGA Labour Group

20 January 2005: Sir Sandy Bruce- Lockhart, Chairman of the LGA  
Cllr Brian Coleman AM, Conservative Group leader, London FEPA, and  
Cllr Colin Tandy, Vice Chair, London FEPA

7 February 2005: Mr Rob Pinkham, Executive Director, Employers' Organisation, Mr Phil  
White and Ms Gill Gittins (EO)

4.2 Evidence was given in the witness sessions on the basis that it would be confidential to the working group and that the subsequent report would not attribute statements to individuals.

4.3 The working group also received confidential written responses from Cllrs Clarke and Jebb; Ms Valerie Shawcross AM, Cllr Pat Watters, President of COSLA, and Mr R Pinkham, Executive Director, Employers' Organisation.

## **5. The Context of the Investigation**

5.1 It became clear to the working group from the outset of its investigation that there were distinct aspects to both the fire service and the dispute which set the dispute apart from the usual experience of negotiations within local government in recent years:

- The fire service itself at the outset of the dispute still retained much of the structure and ethos of the national service which emerged from the Second World War. Historically, it was regarded as a uniformed service, whose senior managers rose from the fire fighter ranks; had retained membership of the Fire Brigades Union (FBU) throughout their careers, and who, in many cases, were still active members at the beginning of the dispute.
- Following a prolonged and bitter period of industrial action in 1977, a pay indexation agreement had been reached which remained largely intact and which prevented another national dispute until 2002. This also had the effect of removing any real negotiations on pay, or terms and conditions for 25 years. Little progress on moving the service forward appeared to have occurred during this period. Yet, at the same time, towards the end of that 25 year period, the indexation arrangements which had benefited fire fighters in the early years, had led them to fall behind other groups.
- The period of seeming stability between 1977 and 2002 appears to have fostered a closer relationship between the employers and the union side both at national and local level than would perhaps be seen as typical for other local government employee groups. This close identification of interests appears to have contributed to the

difficulties experienced by the national employers' side during the course of the recent dispute.

- The constitution of the Fire NJC was also different from other NJCs in that it covered negotiations for the whole of the United Kingdom, unlike other major negotiating bodies in local government, whose scope were confined to England and Wales.

5.2 The dispute which developed from May 2002 following an FBU pay claim of 40% became long and bitter and engendered much animosity amongst the parties. It was played out in the full glare of national publicity and placed enormous stress on the major participants on both sides. Significant issues were at stake – the modernisation of the fire service – a prerequisite for Central Government support; the role of the fire service in local government; local management and appropriate pay for fire fighters in a changing service.

5.3 All of these elements contributed to the particular nature of the dispute and the way in which the negotiations were handled. Because of this, the working group would not claim that all of its recommendations have implications for negotiations generally.

5.4 In the context of all the bitterness and recriminations which arose from this dispute, there is a danger in overlooking the fact that, out of this dispute, a significant agreement was reached which, the Panel has been told repeatedly, lays the framework for a modernised fire service for the 21<sup>st</sup> century.

## **6. The negotiations**

6.1 The working group has heard evidence which focuses on three main stages of the negotiations:

- The period around the breakdown of negotiations in November 2002
- The period between December 2002 and May 2004
- The events in July and August 2004

6.2 The report provides a short commentary on each of these periods in turn, arising from the evidence it has received.

### ***(i) The period around the breakdown of negotiations in November 2002***

6.3 The FBU pay claim in May 2002 had presented the employers with an opportunity for the first time to introduce the issue of modernisation into the negotiations. However, there appeared to be concern within LGA at the willingness of the fire authority constituency as a whole to make a sufficiently explicit linkage between enhancing pay and achieving modernisation through the negotiations. Evidence was also heard that within the employers' side there was some sympathy for the FBU claim (though not the size) and that negotiations were going forward without adequate assurances as to funding or adequate modernisation commitments by FBU. The concern about the funding of any settlement was

clarified in July 2002, when Government said funding would only be available if modernisation was delivered. Evidence was also heard of concerns within the LGA and EO that fire authorities both at member and officer level were making statements about the claim and the negotiations which were not helpful to the negotiations or to the appearance of unity of purpose among the employers' side.

6.4 The subsequent and well – documented breakdown of negotiations on 21/22 November was a crucial turning point in the dispute. The breakdown led to

- Recrimination on the employers' side, with a clear perception that some Fire Authorities were willing to settle, which underlined the lack of cohesion amongst the employers, and
- A public perception, as projected through the media, that the employers had little ability to handle negotiations when faced with a resolute trade union.

6.5 This in turn led to a loss of Government faith in the ability of the employers' side to deliver modernisation in the fire service, which then increased concern within the LGA at the possible loss of local government responsibility for the fire service. A further recurring concern for senior LGA members and staff during the dispute was the possibility of the loss of government transitional funding for any pay settlement if modernisation was not delivered.

6.6 These events confirmed the view at senior level in LGA that the existing national negotiating bodies were too unwieldy to provide effective vehicles for negotiation. It has been emphasised to the panel that this view was not triggered by the fire dispute, for moves in this direction had already begun following an unrelated dispute involving local authority staff. The events of the November 2002 breakdown confirmed the LGA view that NJCs needed to be smaller and more focussed.

6.7 Moves then began within the LGA to reduce the size of delegations, with a small number of core and service members on each NJC. This process of reduction was not finally achieved until February 2004. The LGA reduction in its contingent had two significant impacts:

- The UK wide scope of the Fire NJC meant that a slimming down of the employers' side as a whole needed the agreement of the other national bodies – COSLA and Northern Ireland. This was not achieved during the period of the dispute and was a contributory factor in the LGA making use of substitutes in August 2004.
- The move to reduce the LGA contingent caused considerable resentment amongst sections of the fire authority membership, particularly amongst those who were removed from the LGA contingent on the Employers' Side. Much of this resentment appeared to stem from loss of influence. There was a perception amongst Fire Authority members that the conduct of the negotiations was being removed from members with extensive experience of fire service issues and placed in the hands of a smaller group of senior LGA figures. Evidence was heard that the process of informing members who were being removed from the employers' side was not handled expeditiously or sensitively,

which may have antagonised some members towards the LGA's handling of the dispute.

***(ii) The period between December 2002 and May 2004***

6.8 This period is characterised by long, patient and detailed technical negotiations, principally taken forward by LGA, COSLA and EO officers and advisers working with a small group of members. The employers' offer of March 2003 – initially rejected – eventually resulted in July 2003 in the Heads of Agreement on the stages leading to a final settlement. The assumption was that this agreement on process had effectively ended the dispute. Detailed negotiations on revised terms and conditions and disciplinary and grievance procedures continued through 2003 and into 2004.

6.9 Difficulties with the verification process triggering the stages of the settlement, together with the complexity of the subject matter under negotiation led to difficulties at the end of 2003. These were overcome when the FBU membership voted to accept a partial payment of the stage 2 award.

***(iii) The events in July and August 2004***

6.10 By the spring of 2004, the only significant outstanding issue was stand down time at nights and public holidays. In May 2004, a possible form of words had been agreed for consideration by the two sides. The employers' line was to agree a restricted range of duties for night time working, but to continue to press for normal working on public holidays.

6.11 On 11 June, the scheduled NJC meeting was cancelled because the FBU executive had rejected the stand down time package and industrial action was called. Prior to cancellation, the employers were having difficulty fielding a full team, because of local authority elections and had appointed substitutes.

6.12 In July, a TUC sponsored approach revived the negotiations, and on 22 July a meeting of the employers' side re-affirmed its policy on stand down time. A contact group, led by Cllr Christina Jebb (Chair of Employers' Side), was appointed to take forward negotiations.

6.13 On 23 July a meeting of the contact group with the FBU took place at the TUC offices. The FBU negotiators agreed the employers' approach on night time working but

wanted to apply that approach to public holidays. Evidence received by the working group suggests that the collective response of the contact group to this proposal was not clear.

6.14 Cllr Jebb and Phil White (Assistant Director, EO) were authorised to continue discussions and after a day of talks with FBU on 26 July, a form of words emerged, which would have applied the formulation relating to night time working to working on public holidays. Cllr Jebb and Mr White separately emphasised that in their view the formulation provided local management with the levers to achieve their aims for public holiday working. Attempts were then made to reach members of the contact group, or their representatives, so as to attempt to establish whether a consensus existed for the proposals.

6.15 Three members were contacted, two of whom were in support of the proposals, and one reserving his position for further consultations. No contact was achieved with the London Fire Commissioner, Mr Ken Knight, who was the link with Ms Valerie Shawcross, the other member of the contact group. This failure is the cause of some continued controversy, with some explanations given severely stretching the Panel's credulity.

6.16 The proposals were e-mailed that evening to the employers' side and the constituent bodies, with a view to their being considered by the Employers' side meeting scheduled for 2 August. The receipt of the proposals caused immediate concern amongst senior members and officers at the LGA. At meetings on 27/28 July the LGA Group Leaders and LGA Executive opposed the formulation being proposed by the chair of the employers' side, re-affirmed the employers' position on public holiday working and asked for a postponement of the NJC meeting for further discussions by the employers' side.

6.17 The Executive Director of the Employers' Organisation was asked by the LGA Executive to seek a postponement of the NJC meeting and, on 29 July, spoke at length with the chair of the employers' side. The chair took the view that the proposals delivered the employers' objectives; and that she had a responsibility, as chair, to the NJC as a whole, rather than only to the LGA, by whom she had been appointed. She accordingly took the view that the meeting should go ahead.

A further discussion between the chair and a senior officer of the LGA took place over the weekend, with the chair maintaining the position that the meeting should proceed.

6.18 As a result, the LGA increased its delegation for the employers' side up to the number allocated to it under the NJC constitution. This involved fielding a number of substitute members at the meeting, at which the proposal on public holiday working was rejected.

6.19 After the meeting, following discussions between August 3-5 with the Chairman of the LGA and LGA Group Leaders, and telephone conversations between the Chairman of LGA and Cllr Jebb, a letter from the Chief Executive of the LGA was sent on 5 August to Cllr Jebb removing her nomination by the LGA to the NJC, and consequently from the chair of the NJC.

6.20 Informal officer discussions between employers and the FBU, facilitated by the TUC took place during August, with the result that by 19 August a revised form of words on



public holiday working had evolved as a way forward. The stage 3 negotiations were also completed and the report by the Audit Commission on the verification process received by this time. A majority, but not all party support was obtained within the LGA for the revised public holiday wording, which was in turn accepted by a special meeting of fire authorities on 25 August, together with an acceptance that there had been sufficient progress in implementation to trigger payments under stage 3 of the heads of agreement.

6.21 A meeting of the NJC on 26 August then unanimously adopted the revised wording and accepted the verification report on implementation progress. The NJC consequently agreed to the release of the awards under stages 2 and 3 of the agreement. This brought the dispute to an end.

## **7. Conclusions**

7.1 The working group, in carrying out its investigation has been presented with a mass of detail on the events in the two years of the negotiations. There have been, inevitably, conflicting views on the lessons to be learned. In some cases, there have been conflicting views on the facts at certain points. The aim of the working group in producing its report has been escape the mass of detail, and short term controversies, to concentrate on identifying specific issues which need to be addressed in the future. The recommendations at the end of this report are those which, in the view of the working group, will assist the Association in future national negotiations.

7.2 There were a number of distinct groups on the employers' side who played significant roles in the negotiations. In arriving at conclusions, the working group has looked at the performance during the dispute of the LGA at senior member and officer level; the Employers' Organisation; and the fire authorities, as a distinct constituency within the LGA membership.

### **(a) The LGA and the Fire Authorities**

#### ***(i) The modernisation agenda***

7.3 The LGA at senior member and officer level from an early stage of the dispute understood that it was an opportunity to press the modernisation agenda for the fire service. The impetus for this stance was both that modernisation of the service was long overdue and was a necessary step in itself; and also was required to maintain the service under local authority control, and to bring the service into the mainstream of the community safety agenda. We have heard no evidence against the priority given to modernisation by the LGA. Senior members both at the LGA and in the employers' side maintained the pressure for modernisation through the dispute in a way which should be commended.

7.4 The pressure for modernisation was not always apparent from the outset of the dispute across the fire authority community as a whole. Whilst many were willing to embrace the modernisation agenda, an impression arose within the LGA that over many years of little change in the “indexation” period, the fire service had become something of a backwater within local government, and that a somewhat complacent relationship had developed between fire authority members and the union side. This impression was re-enforced particularly in the early stages of the dispute when voices within the fire authority community appeared willing to settle without sufficient modernisation linkages. What has been described as “background noise” was a particular feature of this dispute, which contributed to the impression of lack of employer unity and made the task of the employers’ side more difficult. The breakdown of negotiations in November 2002 came at the end of a chaotic session, the immediate aftermath of which was the nadir of employer cohesion, with no single employer view being audible but many voices being heard.

*(ii) The revision of the employers’ side*

7.5 Whether or not this view of the relationship of the fire authorities to the service was a fair reflection of reality, in negotiations impressions count, and contributed to the determination of senior members at the LGA to re-model the employers’ side.

7.6 The decision taken by the LGA from early 2003 to revise the NJC constitution caused much difficulty for relations between the LGA and the fire authorities. However, on its central premise – that the existing employer side arrangements were unwieldy and did not provide a suitable vehicle for negotiations – the working group has not heard any dissent. The arrangements, which have been applied to all the main negotiating groups, are seen to have worked well. In the case of the fire dispute they have delivered what has been described to the working group as a “ground breaking agreement” to modernise the service.

7.7 We have heard criticism of the LGA in relation to the process whereby the revision of the employers’ side was achieved. First, whilst it was possible to achieve the revision in other negotiating bodies in one stage, (because the LGA was in fact the employers’ side), the federal structure of the Fire NJC made this task more complex. The LGA announced its intention to unilaterally reduce its contingent on employers’ side in early 2003, leaving unfilled a large number of seats to which it was entitled under the NJC constitution. Yet no serious discussions appeared to have taken place with COSLA to revise the constitution of the employers’ side during the period of the dispute. This was significant particularly during the events of July and August 2004, when the LGA made use of its original places at the NJC meeting on 2 August, in order to ensure that its position was sustained.

7.8 Greater efforts ought to have been made during 2003 – 4 to resolve the constitutional position.

7.9 The working group has since learned that an outline agreement has now been reached amongst the constituent parties to revise the employers’ side constitution. The working group

would have recommended that the constitution be revised as a matter of urgency – and therefore welcomes the fact that an agreement has been reached.

7.10 The second strand of criticism relates to the process whereby the reduction in the LGA contingent was undertaken. We have heard evidence that fire authority members of the original contingent were not properly informed that they were being removed; or heard it at second hand. We have had conflicting accounts of this process, but it does appear to have been handled badly, and the LGA should consider its internal processes to ensure that member communications are handled effectively and sensitively.

7.11 Whilst the correct procedures for informing members of changes to representation is on one level an issue of “good house – keeping” on the part of the LGA and its political groups, it is also significant as the impression was left that fire authority members were being effectively excluded from the on-going process of negotiations. This in turn contributed to the worsening of relationships between the LGA and the fire authority constituency, during the remainder of the dispute.

***(iii) Relations between the LGA and fire authorities***

7.12 Relations between the LGA and fire authorities suffered during the dispute. The perceptions of a “cosy” relationship between some in the fire constituency and the union side, exacerbated by the breakdown of the negotiations in November 2002, and the subsequent loss of confidence by government in the ability of the employers’ side to deliver modernisation all contributed to this perception. The revision of the LGA contingent on the employers’ side, and at a later stage, the introduction within the LGA of new member arrangements, has also contributed to this deterioration. The LGA may also not have taken sufficient account of the differing types of fire authorities, the majority of which were stand – alone bodies, in separate membership of the LGA.

7.13 It has also been suggested to the Panel that the extent of consultations with the fire constituency during these negotiations were less comprehensive than might have been expected.

7.14 The view has been expressed to the working group from a number of witnesses that whilst the recent agreement was a significant one for the fire service, it was only the beginning of the process of taking forward modernisation. That being so, it is a matter of some urgency that a closer and more constructive relationship be developed between the LGA and the fire constituency to maintain the momentum of reform.

7.15 Such a relationship must balance the managerial needs of the LGA in being able to focus on the strategic issues both in fire policy generally and in relation to the ongoing modernisation negotiations; and the representational needs of the fire constituency. The relationship should be capable of providing a channel for the fire community into the policy formulation process both for general fire issues, and negotiating matters; whilst preserving the benefits of the smaller, more focussed employers’ side.

*(iv) The events of July and August 2004*

7.16 The sequence of meetings at the end of July which led to a form of words on public holiday working being put forward by the chair of the employers' side; their subsequent rejection by the Employers' side on 2 August; and the removal of the LGA nomination from the chair together caused significant difficulties for the LGA.

7.17 The working group has heard much detailed evidence from participants in these events, and again has tried to isolate those events from which important lessons can be drawn. These do not always equate with issues to which some witnesses have given particular prominence.

7.18 Certain elements of these events appear particularly relevant to the working group:

7.19 *Firstly, the form of words negotiated by the chair of the employers' side circulated to the employers' side on 26 July was subsequently rejected by the LGA Group Leaders and the LGA Executive.* Whether or not it was the case, (as was the view of the chair of the employers' side), that the proposal was capable of delivering the employers' objective, the LGA rejection was clear, and a request to postpone the employers' side meeting was made. Conversations took place with the chair at officer level. However, there does not appear to have been a concerted effort at political level on the part of the LGA to engage the chair in discussion on why they objected or to hear any argument in support of the proposal from the chair, during the period up to the employers' side meeting on 2 August.

7.20 This lack of contact appeared to contribute to a hardening of positions as the meeting approached. In high profile disputes, where, as here, a consensus has not been reached, a clear upward line of accountability to the constituent bodies needs to be available and understood. But such a line of accountability needs to also be a two – way channel of communication. There needs to be a robust line of communication between the senior members of the LGA and the members involved in the negotiations, particularly in cases where those lead elected members are not senior members of the political hierarchy within the LGA. There needs to be mechanisms in place to ensure that senior political negotiators can have access to both the political support and guidance of their appointing body and their political leadership within that appointing body.

7.21 In this instance, the line of accountability to the LGA was restated (the re-affirmation of the employer line by the LGA Executive), but lines of communication at political level do not appear to have been used.

7.22 *Secondly, there were fundamentally different understandings of the lines of accountability of the chair of the employers' side held by the senior members of the LGA and by the chair of the employers' side.*

7.23 Following the decision of the LGA Executive to re-affirm the employers' line on bank holiday working, there was a clear expectation amongst senior members of the LGA that the

chair of the employers' side, as an LGA appointee, would agree to a postponement of the employers' side meeting. The chair, in her evidence, clearly took the view that the chair had a wider responsibility to the NJC as a whole, i.e. to all employing bodies from all constituent nations, a view which buttressed her decision not to agree to the postponement of the meeting.

7.24 This difference in understanding appeared to have caused the chair to move away from the understood procedure within the LGA whereby political decisions are taken, wherever possible, by consensus to one where the chair became willing to proceed by a majority decision within the employers' side as a whole.

7.25 We have received no evidence to suggest that there was any activity at a political level by the LGA to seek the support of COSLA or FANI for postponing the NJC meeting.

7.26 This shift in stance was not something which the LGA was prepared to countenance, and it is understandable that the decision was made to revert to using the seats available to the LGA under the constitution in force at the time.

7.27 Given the strongly held view of senior members of the LGA that members of the LGA delegation on the employers' side were accountable to the LGA – a view which was not held by the chair of the employers' side – then, in the context of that view, they were justified in seeking to remove the chair from the LGA delegation.

7.28 However, in the light of this divergence of view, it is important, in future, that there is a far clearer understanding as to the accountability of members appointed by the LGA to negotiating bodies; and protocols setting out such accountability, reporting mechanisms, and the political and organisational support such members may expect, should be produced where appropriate, particularly in the context of a federal body.

7.29 It has been suggested that the process taken to remove the chair of the employers' side from the LGA delegation to the employers' side was inappropriate. The evidence which the working group has received leads it to the view that, given the urgent nature of the circumstances, the process which involved consultation with all group leaders was appropriate.

7.30 Nevertheless, in the event of differences of opinion on accountability, there needs in future to be clear agreement as to the appropriate processes, including urgency procedures, for the resolution of such issues.

#### **(b) The Employers' Organisation (EO)**

7.31 The Employers' Organisation had a central role in the detailed negotiations throughout this period.

7.32 Criticisms levelled against it by witnesses were, essentially, that its officers were too slow in picking up the need to use the negotiations to deliver modernisation in the fire

service. There appeared to be, at the outset, a distance in policy terms between the EO and the LGA leadership on the significance of the modernisation agenda. In particular, senior officers of the EO appeared to have lacked the political acuity to sense the impending turbulence with the FBU in 2001/2.

7.33 This may have been a consequence of the long “indexation” period, when no significant negotiations of terms and conditions took place. The result, during the earlier stages of the dispute, was that the EO sometimes seemed to be willing to “cut a deal” with the FBU, rather than to make a strong linkage with modernisation.

7.34 However, following the breakdown of negotiations in November 2002, EO officials were prominent in taking forward the detailed and patient technical negotiations with the unions which first resulted in the Heads of Agreement, and then in the subsequent months secured agreement with the unions on the re-writing of the Grey Book and other major aspects of the existing agreements. This was a major effort in the modernisation agenda.

7.35 Issues arising from the role of the Employers’ Organisation in the negotiations are:

*(i) The political links between the LGA and the EO*

7.36 The revisions to the LGA member structure in 2004 have resulted in a much closer political relationship between the LGA and the EO. The members of the Board of the EO and the LGA Human Relations Panel are now the same. This should ensure a much closer working relationship between the two bodies at political level.

*(ii) The advisory structure*

7.37 Whilst the working group was not able to explore this issue in detail, it was aware that there was concern at a possible lack of cohesion between the advisers appointed by the EO, and those appointed by the constituent bodies. There was some comment from witnesses that there may have been differences between advisors drawn from a fire service background, and those from a purely HR background; and that the geographical and type of fire authority spread may not have been sufficiently comprehensive.

7.38 The Employers’ Organisation has now introduced a revised advisory structure centred round an Advisory Forum which will draw in officer advisers from the wider fire service. This initiative is welcomed by the working group.

*(iii) The negotiating process*

7.39 Certain stages of the fire dispute were characterised by long drawn out negotiating sessions, often against a background of needing to meet tight deadlines to avoid potential industrial action. In such situations, it is vital that the EO and the employers' side have fast and accurate means of reporting back to, and seeking views from, constituent bodies. There is a need to seek better use of reliable technologies to support negotiators.

7.40 As a leading negotiating organisation, the EO should seek to establish agreements with the TUC and others to avoid the clichéd and outmoded behaviour that leads to all night negotiating sessions, and the use of strategies that can be construed by outside observers as negotiation by attrition. As both sides are committed to a better work/life balance for staff, healthier working styles for negotiators should be possible to achieve.

## **8. Recommendations**

### *(i). Constitutional Issues*

- There needs to be, within LGA, a clear understanding of the accountability of the LGA representatives on the employers' side of the Fire NJC (and other NJCs) to the LGA, if necessary through the production of appropriate protocols.
- In the event of differences of opinion on accountability, there needs to be clarity as to the appropriate processes, including urgency procedures, for the resolution of such issues.

### *(ii). LGA/Fire Authority Relations*

- There is an urgent need to restore mutual trust and to build up constructive relationships with the fire authorities, including ways in which they can contribute to fire policy formulation within the LGA generally; and to the modernisation process for the service whilst preserving the benefits of a more focussed employers' side.

### *(iii). The negotiating process*

- There needs to be an understanding – and if necessary a debate – between the LGA and EO on the extent to which negotiators have the freedom to negotiate.
- Attention needs to be given, within the negotiating process, to finding ways to remove any confusion as to extent of delegated authority; and report back mechanisms.
- Consideration should be given by the employers' side to the timetabling of the negotiating process, so as to avoid marathon negotiating sessions.
- The training needs of members in negotiating roles should be reviewed.
- Key parties involved in negotiating and advising on negotiations should agree and be clear on how communications between those parties are to be maintained throughout the period of the negotiations.

- The LGA and EO should review their media arrangements to ensure that there is a cohesive approach to publicising the employer message.

*(iv) Other issues*

- The LGA should devise mechanisms to provide the local government equivalent of the central government's emergency situations procedures (a "COBRA committee" situation). Such mechanisms should include clear protocols on leadership and executive powers to act in situations which threaten the organisation, the reputation of local government or the well – being of the communities that the LGA represents. Such mechanisms should clearly spell out member and officer roles, responsibilities and accountabilities in such situations. The Scrutiny Panel's supplementary report on the role of the LGA in national emergencies (January 2004) made a small number of recommendations which could be pertinent to the development of such emergency arrangements.
- The LGA should review its procedures for informing members of any changes to the representative structure.