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**NATIONAL JOINT COUNCIL
FOR LOCAL AUTHORITY
FIRE AND RESCUE SERVICES**

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of HR (Fire Authorities)**

Members of the National Joint Council

6 November 2018

CIRCULAR NJC/7/18

Dear Sir/Madam

TECHNICAL ADVISORY PANEL (Cumbria, 11 October 2018)

1. Section 4, part A, paragraphs 3, 4 and 5 of the Scheme of Conditions of Service (Grey Book) outlines the principles on which duty systems should be based.
2. Where local agreement cannot be reached between the fire and rescue authority and the recognised trade union the difference can be referred to the NJC's Technical Advisory Panel whose role is to seek agreement, but where that is not possible, to make recommendations.
3. Steve Hodder, who is assisted by the Joint Secretaries, is currently Chair of the panel.
4. The Technical Advisory Panel met on 11 October 2018 to consider a referral from Cumbria FRS and FBU.
5. A copy of the recommendation, which is applicable only to Cumbria, is attached.

Yours faithfully

**SIMON PANNELL
MATT WRACK**
Joint Secretaries

**NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE
SERVICES**

TECHNICAL ADVISORY PANEL (TAP), 11 October 2018

**PARTIES: CUMBRIA FIRE AND RESCUE SERVICE & THE FIRE BRIGADES
UNION (FBU)**

In attendance:

Steve Hodder, TAP Chair

Gill Gittins, Employers' Side Assistant Joint Secretary

Andy Dark, Employees' Side Assistant Joint Secretary

Steve Healey, Chief Fire Officer

John McVay, Assistant Chief Officer

Angela Miller, HR Business Partner

Tracey Robinson, HR Business Partner

Ed Burrows, FBU Brigade Secretary, Cumbria

Steve Ratcliffe, FBU Brigade Chair, Cumbria

Mark Rowe, FBU Regional Secretary, North West Region

Les Skarratts, FBU Executive Member, North West Region

1. Introduction

- 1.1 The TAP was asked to consider the introduction of two new duty systems (2 x 12 hour and 3 x 8 hour) for Wholetime Fire Stations following a failure to agree at Cumbria Fire & Rescue Service.
- 1.2 In accordance with Section 4, Part A of the sixth edition of the Grey Book, the Panel sought to broker an agreement. However, despite the best efforts of the Chair and Joint Secretaries, this did not prove possible. I am therefore required to make recommendations to ensure that each of the duty systems followed the four principles set out in Section 4, Part A, Paragraph 3 of the Grey Book (see below).

2. Findings

Principle 1: Basic working hours should average forty-two per week (inclusive of three hours of meal breaks in every twenty-four hours) for full-time employees. Hours of duty should be pro-rata for part-time employees.

2.1 2 x 12 hour Duty System

The first principle is met by the proposed 2 x 12 hour Duty System.

2.2 3 x 8 hour Duty System

The first principle is met by the proposed 3 x 8 hour Duty System.

Principle 2: There should be at least two periods of twenty-four hours free from duty each week.

2.3 2 x 12 hour Duty System

The second principle is met by the proposed 2 x 12 hour Duty System.

2.4 3 x 8 hour Duty System

I note that if additional hours are worked, whether through additional hours or incidents continuing beyond the end of shift it could result in the proposed shift pattern not providing two periods of 24 hours free from duty one week in four. I was assured by Management that they were aware of this possible shortfall and that sufficient staffing and other arrangements would be made available to prevent this from occurring. Subject to the sufficient staffing and those arrangements being in place I find that the second principle would be met by the 3 x 8 hour Duty System.

Principle 3: It should comply with relevant United Kingdom and European law, including the Working Time Regulations 1998, and Health, Safety and Welfare at Work legislation.

2.5 2 x 12 hour Duty System

I note the reference by both parties that the introduction of a 12 hour shift pattern would require a collective agreement with the FBU to exclude or change the restriction on night work under the relevant provisions of the Working Time Directive. The FBU representatives have informed me that they will not agree to any such collective agreement. On this basis I find that the third principle is not met.

2.6 3 x 8 hour Duty System

The HSE 'Managing Shiftwork' guidance (Table 8) states that 'There are few differences in the effects of 8-hour and 12-hour shifts on workers' however, it

does suggest that 8-hour shifts are preferable if the nature of the work '....demands concentration or vigilance...is safety critical and/or there is exposure to work-related physical or chemical hazards'. From this I conclude that 8 hour shifts are not necessarily contrary to Health & Safety legislation and can be preferable to 12 hour shift systems.

- 2.7 The Public Sector Equality Duty (PSED) requires Fire Services to take into account equality when shaping policies, procedures and practices. An EIA is not a statutory requirement but it is one way of demonstrating and documenting compliance with the PSED.
- 2.8 The FBU has criticised Management for not providing a proper Equality Impact Assessment or Risk Assessment. I note however that Equality Impact Assessments (EIA) of both the proposed shift patterns were included in Management's TAP submission (at Appendices 12 & 13), albeit that these documents lack detail, are incomplete and clearly work in progress, particularly as regards to the impact on gender equality.
- 2.9 Subject to Management completing its EIA, and consulting on this with the Trade Union, I find that the third principle will be met by the 3 x 8 hour Duty System.

Principle 4: It should have regard to the special circumstances of individual employees and be family friendly.

2.10 2 x 12 hour Duty System

I note the concerns expressed by the FBU regarding the lack of suitable private child care providers that could accommodate a 12 hour shift pattern, based on a small number of providers. I also have no doubt that, should such a shift pattern be adopted, firefighters would have difficulty in changing their established childcare/dependents-care arrangement. I also recognise that 12 hour shifts are not unknown in the Fire Service and some Cumbria staff are already working such hours and Management have committed to consulting with the FBU to mitigate the affects of 12 hour working.

- 2.11 Management have also said that there will be benefits to staff working shifts of equal duration (see para. 2.13 below). The FBU did not agree that there would be an improved facility because of the lean-staffing in Cumbria and believed there would and could be no change to the negligible number of flexible working requests granted for station-based operational personnel.

2.12 On the basis of Management's assurances, and (as at 2.9 above) subject to Management completing its EIA, and consulting on this with the Trade Union, I find that the fourth principle could be met by the 2 x 12 hour Duty System.

2.13 3 x 8 hour Duty System

I have no doubt that some firefighters will have their existing domestic arrangements disrupted by the introduction of a 3 x 8 hour Duty System. The FBU also pointed to the demographics of Cumbria and that shorter, more numerous shifts would place greater strain on travel-to-work journeys.

However, I also note Management's contention that having shifts of equal duration will enhance the possibility of greater flexibility in working patterns (for example, job sharing, static shift patterns and part-time working) which would be more family friendly and better suit the special circumstances of individual employees.

2.14 I note that (as at 2.11 above), because of the lean-staffing in Cumbria, the FBU did not agree that there would be an improved facility greater flexibility in working patterns and believed there would and could be no change to the negligible number of flexible working requests granted for station-based operational personnel.

2.15 However, on the basis of Management's assurances on this point, and (as at 2.12 above) subject to Management completing its EIA and consulting on this with the Trade Union, I find that the fourth principle will be met by the 3 x 8 hour Duty System.

3. Recommendations

3.1 That Cumbria Fire & Rescue Service should complete its EIA regarding the implementation of new shift working arrangements and consult with the FBU in the process.

4. Conclusion

4.1 I would like to thank the parties for their forbearance and perseverance throughout the TAP process and remind them that the services of the Joint Secretaries remain available should they wish to use them.

Steve Hodder
TAP Chair
October 2018