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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 Human Resources at Fire Authorities**

Members of the National Joint Council

18 October 2012

CIRCULAR NJC/10/12

Dear Sir/Madam

ANNUAL REPORT OF THE INDEPENDENT CHAIR - 2011/12

1. The NJC constitution requires an Annual Report to be prepared by the Independent Chair setting out the activities and achievements of both the National Joint Council and the Middle Managers Negotiating Body.
2. A copy of Professor Chatterji's report, relating to 2011/12, is attached.

Yours faithfully

SARAH MESSENGER

MATT WRACK

Joint Secretaries

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

**ANNUAL REPORT OF THE INDEPENDENT CHAIR
2011-2012**

Professor Monojit Chatterji

OCTOBER 2012

Background

The National Joint Council for Local Authority Fire and Rescue Services (NJC), including the Middle Managers Negotiating Body (MMNB), is the body responsible for the supervision, from a national point of view, of all questions affecting the conditions of service of employees (other than those in Brigade Management roles) of fire and rescue services established under the Fire Services Act 2004. The NJC handles issues that affect all NJC employees. The MMNB has plenary powers to deal with issues which affect employees solely in the roles of station to area manager.

The principal purpose is to reach agreement on a national framework of pay and conditions for local application throughout the fire and rescue service in the United Kingdom. The NJC and MMNB are committed to the local democratic control of fire and rescue services to the community.

The parties to the negotiation are the Employers' Side comprising representatives of the Local Government Group, Welsh Local Government Association, Convention of Scottish Local Authorities and the Northern Ireland Fire and Rescue Service and the Employees' Side comprising representatives of the Fire Brigades Union and, for the MMNB, the Fire Brigades Union and the Fire Officers Association.

An Independent Chair oversees the work of the National Joint Council and the Middle Managers Negotiating Body and is supported by two Vice-Chairs. Vice-Chair appointments alternate between the Sides on an annual basis. In 2011/12 the Vice-Chair of the NJC was held by the Employees' Side and the Vice-Chair of the Middle Managers Negotiating Body by the Employers' Side.

The Independent Chair works closely with the Joint Secretariat, which is currently provided by Local Government Association and the Fire Brigades Union.

The membership of the National Joint Council and the Middle Managers Negotiating Body during 2011/12 is attached to this report.

Introduction

1. This Annual Report of the Independent Chair covers the period from 1 October 2011 to 30 September 2012.

What do we do?

2. The National Joint Council provides:
 - a) the national negotiating machinery for the pay and conditions of service of uniformed fire service employees in the United Kingdom.
 - b) the services of the respective side Secretariats in assisting parties at local level to resolve areas of disagreement.
 - c) the services of the respective side Secretariats in assisting parties at local level in the interpretation of the national scheme of conditions of employment and the flexibilities contained therein.

Meeting dates in 2011-2012

3. Since my last report the National Joint Council met on the following dates and considered a number of issues:

6 October 2011
2 February 2012
7 June 2012

The Middle Managers Negotiating Body also met on each of the dates above.

Both the NJC and MMNB will meet on the 4 October 2012.

Issues under consideration (2011/12)

4. The National Joint Council and, as appropriate, the Middle Managers Negotiating Body considered a number of issues over the course of the year. The main focus was on:

Independent Chair Appointments - NJC, MMNB, Resolution Advisory Panel and the Technical Advisory Panels

5. Independent Chair's are permitted to hold up to two three-year terms of office. Accordingly, at the Annual General Meetings in October 2011, I commenced the second year of my second term of office as Independent

Chair of the National Joint Council and the Middle Managers Negotiating Body.

6. Professor William Brown was formally appointed Independent Chair of the NJC's Resolution Advisory Panel in September 2010.
7. The acting Independent Chair of the Technical Advisory Panel is currently also Professor William Brown. The process to recruit a new Independent Chair for this Panel is currently underway.

Part-Time Workers (Prevention of Less Favourable Treatment) Regulations – Grey Book and settlement

8. Following the introduction of these Regulations many thousands of Employment Tribunal cases were lodged by retained duty system firefighters (supported by their trade union) across the UK.
9. Since then test cases drawn from Kent and Berkshire fire and rescue services have been subject to the Employment Tribunal, Employment Appeal Tribunal, Court of Appeal and House of Lords processes returning finally at the request of the House of Lords to the original Employment Tribunal again for re-consideration and determination.
10. Following that further determination the Tribunal indicated that it believed the parties should endeavour to reach a negotiated settlement, which the LGE, on behalf of fire authorities and the FBU consequently did.
11. In order to overcome the difficulty with fire authorities and unions being unable to exchange individuals' data, an independent third party was commissioned to implement the agreement e.g issue compensation offers, receive acceptances
12. This has been an extremely complex and difficult situation to administer and the Joint Secretariat has worked closely with fire authorities, union members and the independent organisation to progress matters.
13. I am pleased that this matter it is now drawing to a successful conclusion.

Protected Pay Points

14. The matter of the duration of the protected pay arrangements for Watch Manager B/Watch Manager B (control), arising from the assimilation of ranks to roles on introduction of the current pay structure, was raised by the Employees' Side of the MMNB with a view to extending the period of protection.

15. The Employers' Side responded that the protection arrangements had already been extended beyond the original cut off point and whilst it was mindful of the Employees' Side view it felt it was not appropriate to extend the arrangements further.

Sick Leave – taking of annual leave

16. The Employees' Side of the NJC put forward a claim in relation to the entitlement to carry over annual leave during or following periods of long term ill-health.
17. In response the Employers' Side has said that it is content to agree amendments to the relevant provisions in the Grey Book subject to clarity around change that is actually required by legislation. That work is on-going.

Diamond Jubilee - Additional Public Holiday

18. The Government in England announced that there would be an additional public holiday on 5 June 2012 to celebrate the Queen's Diamond Jubilee. This applied in England and Wales. The same decision was taken in Scotland and Northern Ireland.
19. There was no automatic entitlement to such a public holiday under the terms of the Grey Book and the Employees' Side consequently presented a claim for the day to be treated as a public holiday.
20. Agreement was reached in the NJC to treat the day as a public holiday and on the terms that would be applied.

Diamond Jubilee - commemorative medal

21. In order to mark the Queen's Diamond Jubilee the UK Government decided to award an official medal to those in the Armed Forces and emergency services, and to prison service personnel.
22. In the light of uncertainty over whether or not control staff were eligible, the NJC wrote to the Fire Minister in England (as DCLG was the relevant department) expressing concern that fire control employees appeared to not be regarded as falling within the eligibility criteria.
23. In response the Fire Minister clarified that Chief Fire Officers would have a degree of latitude to include such staff.

Development pay on promotion

24. The NJC considered the difficulties encountered by some fire and rescue services with acquiring external verification of assessment processes in the context of introducing development pay on promotion at local level since re-organisation of the responsibilities held by the then Department for Education and Skills .
25. Following discussion with both the Department for Education and the Department for Business and Skills the NJC agreed to update the Code of Practice reference point (circular NJC/9/05) to Ofqual's Register of Recognised Qualifications which contains details of recognised awarding organisations.

Pay 2012

26. The Employees' Side submitted a claim seeking an increase on all pay points equal to the percentage increase in inflation as identified by the Retail Prices Index (RPI) and announced in June 2012. This was a figure of 3.5%.
27. Considerable discussion took place at Joint Secretariat level and within the NJC in order to inform both Sides positions.
28. I am pleased that a mutually acceptable resolution was been identified and agreement reached on the following terms:
 - A pay award of 1.0% applied with effect from 1 July 2012.
 - No increase to Continual Professional Development payments or to allowances set at national level.
 - Commitment to work jointly on changes identified by each Side to ensure that there is a pay framework alongside terms and conditions in the fire and rescue service which reflect the responsibilities of, and current and future demands on, the service and the profession. This review will conclude in time to report to the NJC in June 2013.
 - In response to the Employers' Side belief that current mileage rates are too high, it has been agreed to engage in a joint review to consider the appropriate level for mileage rates in the fire service on a robust and objective basis. This will be based upon factors considered by appropriate bodies such as the HMRC and the AA and take into account actual mileage travelled and costs within the fire and rescue service and a report will be presented to the NJC meeting in October 2012. If a revision to the rates is agreed, it will be implemented with effect from 1 November 2012.

Circulars

29. A number of circulars have been issued since my last report:

Report of the Independent Chair	NJC/8/11
Report of the Independent Chair – 2010/11	
Development pay on promotion	NJC/9/11
Notification to authorities that the reference to DfES in the Code of Practice has been amended to Ofqual	
Sick leave – taking of annual leave	NJC/10/11
Employees' Side Claim	
Part-Time Workers (Prevention of Less Favourable Treatment) Regulations	NJC/1/12
Update on application of the Settlement Agreement with the FBU	
Diamond Jubilee	NJC/2/12
Commemorative medal – letter to DCLG	
Diamond Jubilee	NJC/3/12
Additional public holiday.	
Diamond Jubilee	NJC/4/12
Response from DCLG	
Pay 2012	NJC/5/12
Pay settlement agreement	
Pay 2012	NJC/6/12
Revised rates of pay	
Technical Advisory Panel	NJC/7/12
Greater Manchester Fire and Rescue Service	
Technical Advisory Panel	NJC/8/12
Durham and Darlington Fire and Rescue Service	
Technical Advisory Panel	NJC/9/12
Mid and West Wales	

General Joint Secretariat Activity

30. Issues under negotiation within the NJC are in the main progressed through the Joint Secretariat acting within the remit of its respective Sides.
31. On occasion lead members from each Side of the NJC/MMNB may meet outside of the usual round of larger meetings and this happened on two occasions this year.
32. The Joint Secretariat normally meets formally once a month to exchange information and to progress negotiations. These meetings are also an opportunity for either side to identify potential local industrial relations flashpoints and subsequently to raise those concerns with the local management or union side as appropriate.

33. The Joint Secretariat leads discussion in National Joint Council working parties which inform negotiations and respective Side positions, as appropriate.
34. The Joint Secretariat also leads discussion in the sub-Committee on rolemaps and national occupational standards.
35. In addition to the above, the Joint Secretariat has a formal conciliation role when requested by both parties at local level to assist in resolution of local disagreements.
36. When jointly requested to do so, the Joint Secretariat can also provide support to parties at local level who wish to explore their current industrial relations relationship with a view to seeking improvement.
37. The Joint Secretariat has handled a considerable number of requests from local parties seeking interpretation or clarification of Scheme of Conditions of Service issues or early informal assistance where a matter is likely to prove difficult to resolve at local level.

Joint Secretariat - Local Conciliation

38. In circumstances where discussion has been exhausted without agreement on an issue or issues at local level the Joint Secretariat, when requested by both parties to do so, can provide a conciliation process in order to assist the parties in identifying a mutually agreeable outcome.
39. The Joint Secretariat has a very good record of assisting the parties to either reach agreement at the time of conciliation or to develop the basis of an agreement which leads to a resolution following further discussion shortly afterwards at local level.
40. Over the last year various fire and rescue services have referred a total of thirty issues to the Joint Secretariat for formal conciliation.

Resolution Advisory Panel (RAP)

41. The Scheme of Conditions of Service *Negotiation Procedure* contains a number of options that local parties can explore to facilitate resolution to local issues where negotiation at local level has been exhausted. One of those options is the NJC's Resolution Advisory Panel whose remit is to endeavour to facilitate an agreement between the parties but where that is not possible the Independent Chair will make a recommendation based upon the positions presented and discussed during the course of the meeting and which he believes can form the basis of an agreement.

42. The NJC's Resolution Advisory Panel, which is comprised of an Independent Chair and the Joint Secretaries, did not meet during 2011/12.

Technical Advisory Panel (TAP)

43. The NJC also operates a Technical Advisory Panel which can consider whether or not a new duty system proposed at local level complies with the principles contained in Section 4 of the Scheme of Conditions of Service (Grey Book) where it has not been possible to reach an agreement on its introduction. As with RAP, the Technical Advisory Panel endeavours to facilitate an agreement between the parties, but where that is not possible the Independent Chair can, in addition to commenting on the extent of compliance with the principles, recommend a proposal that he believes may form the basis of an agreement.
44. The NJC's Technical Advisory Panel, which is comprised of an Independent Chair and the Joint Secretaries, met three times during 2011/12.
45. Agreement was reached immediately in one instance. In the remaining two instances the recommendation of the acting Independent Chair, Professor William Brown, subsequently formed the basis of agreement.

Conclusion

46. There are several aspects to the role of Independent Chair. Those utilised this year in particular have been:
- the chairing of all NJC and MMNB meetings that have taken place
 - consideration, with the Joint Secretaries, of items due for discussion through the NJC and/or MMNB at those meetings
 - ensuring the NJC and MMNB are each aware of the work of the other and that an opportunity for comment is provided
 - facilitating discussion between the parties on the Employees' Side
 - provision of this annual report
47. The NJC can be proud of its success in a fraught economic and industrial relations climate. Both sides are to be congratulated for continuing to use the negotiating machinery and the Joint Protocol even when initial positions appeared quite disparate. In particular I am pleased to note the agreement on pay (para 28) and that on issues of equal treatment for Part Time workers (para 13). I wish to thank both Joint Secretaries and their support teams for their excellent work in facilitating these outcomes.

PROFESSOR MONOJIT CHATTERJI
INDEPENDENT CHAIR

MEMBERSHIP OF THE NATIONAL JOINT COUNCIL
1 OCTOBER 2011 TO 30 SEPTEMBER 2012

Employers' Side	Employees' Side
<i>Local Government Association</i>	<i>Fire Brigades Union</i>
Cllr D Allan	Mr J Barbour
Cllr S Comer	Mr A Dark
Cllr K Hammond	Mr J Ford
Cllr M Heaster	Mr W Gee
Cllr R Hobbs	Mr K Horan
Cllr K Meeson	Mr I Leahair
Cllr N Murphy	Mr G Mayos
Cllr S Murphy	Mr T McFarlane
Cllr S Timoney	Mr A McLean
	Mr T Mitchell
<i>Convention of Scottish Local Authorities</i>	Mr M Nicholas
	Ms S Riley
Cllr M Bridgman	Mr R Robertson
Cllr M Raeburn (to 5/12)	Mr M Wrack
Cllr B Wallace (to 5/12)	
Cllr S Carle (from 7/12)	
Cllr J Lowe (from 7/12)	
Cllr P Valentine (from 7/12)	
<i>Welsh Local Government Association</i>	
Cllr E Evans (to 5/12)	
Cllr P Cannon (from 7/12)	
<i>Northern Ireland Fire and Rescue Service</i>	
Dr J McKee	

MEMBERSHIP OF THE MIDDLE MANAGERS NEGOTIATING BODY
1 OCTOBER 2011 TO 30 SEPTEMBER 2012

Employers' Side	Employees' Side
<i>Local Government Association</i>	<i>Fire Brigades Union</i>
Cllr D Allan	Mr J Barbour
Cllr S Comer	Mr A Dark
Cllr K Hammond	Mr J Denvir
Cllr M Heaster	Mr J Ford
Cllr R Hobbs	Mr K Handscomb
Cllr K Meeson	Mr I Leahair
Cllr N Murphy	Mr G Mayos
Cllr S Murphy	Mr A McLean
Cllr S Timoney	Mr P Moss (to 2/12)
	Mr M Pottinger
	Ms S Riley
<i>Convention of Scottish Local Authorities</i>	Mr R Robertson
	Mr M Wrack
Cllr M Bridgman	Vacancy (from 3/12)
Cllr M Raeburn (to 5/12)	
Cllr B Wallace (to 5/12)	<i>Fire Officers Association</i>
Cllr S Carle (from 7/12)	
Cllr J Lowe (from 7/12)	Mr G Morgan
Cllr P Valentine (from 7/12)	
<i>Welsh Local Government Association</i>	
Cllr E Evans (to 5/12)	
Cllr P Cannon (from 7/12)	
<i>Northern Ireland Fire and Rescue Service</i>	
Dr J McKee	