

Employers' Secretary, Sarah Messenger
Local Government House, Smith Square,
London, SW1P 3HZ
Telephone 020 7187 7335
e-mail: firequeries@local.gov.uk

Employees' Secretary, Matt Wrack
Bradley House, 68 Coombe Rd
Kingston upon Thames KT2 7AE
Telephone 020 8541 1765

**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

27 September 2012

CIRCULAR NJC/8/12

Dear Sir/Madam

TECHNICAL ADVISORY PANEL (Durham and Darlington Fire and Rescue Service, 11 May 2012)

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. Professor William Brown, who is assisted by the Joint Secretaries, is currently the Acting Chair of the panel.
4. The Technical Advisory Panel met on 11 May 2012 to consider a referral from Durham and Darlington Fire and Rescue Service.
5. A copy of the recommendation, which is applicable only to Durham and Darlington Fire and Rescue Service, is attached. The recommendation subsequently formed the basis of local agreement.

Yours faithfully
SARAH MESSENGER
MATT WRACK

Joint Secretaries

Technical Advisory Panel of the National Joint Council for Local Authority Fire and Rescue Services

County Durham and Darlington Fire and Rescue Authority – 11th May 2012

Those present

For the CDDFRA:

- Stuart Errington (Director, Community Protection)
- Colin Bage (Manager, Operations)

For the FBU:

- Tony Curry (Brigade Secretary)
- Peter Wilcox (Regional Secretary)
- Andy Noble
- Lee Brown

Gill Gittins (Joint Secretary, Employers' Side)

John McGhee (Joint Secretary, Employees' Side)

William Brown (Independent Chair)

Background

In December 2010 the Authority informed the employee representatives that, in order to make more efficient use of resources, it proposed to move from the established 9 hour day and 15 hour night shift system. In March 2011 it proposed five options to the FBU – three based on 12 hour days and 12 hour nights, one on three 8 hour shifts, and one on an 11 hour day and 13 hour night. All options involved the removal of scheduled stand down periods in order to increase productive time. An extended period of discussion and consultation ensued. A union counter-proposal based on the existing system was rejected by management. A management proposal based on 12 hour shifts was rejected by the FBU. In November 2011, management proposed an 11 and 13 hour shift system, with discretionary rest periods. This was also rejected. In December 2011, management withdrew this offer and replaced it with one based on a 12 and 12 hour system. In February 2012 management invited the FBU to make another counter-proposal. No formal response was made and the issue was moved to the TAP to advise on whether the management proposal met the four principles of the Grey Book.

Considerations

The Authority is having to plan in the face of severe budget cuts over the next three years. It has already, through consultation, made substantial reductions in numbers of headquarters and other non-uniformed staff, and some duties have been passed down to uniformed operational staff, whose numbers have so far been preserved. Performance indicators suggest the Authority needs to enhance performance in some areas. Management calculate that a new shift pattern is essential, in order to enable more productive working on the night shift and a better coverage of duties on the day shift to meet these challenges. Management said that both the 11 and 13 and the 12 and 12 patterns would provide the necessary extra capacity. The legal advice provided to management also suggested that to have regularly scheduled night shifts exceeding 13 hours without sufficient guaranteed breaks would contravene legislation associated with the Working Time Directive. The denial of a rest period of 11 hours between the two consecutive night shifts, even if embodied in a collective agreement, would be open to legal challenge, which was an unacceptable risk.

The FBU fully appreciates the worsening budgetary position and the need for change in order to deal with it. They had played a constructive part in negotiating annualised hours in 2010, and they accepted discretionary rest periods in place of stand-downs as a means of improving operational effectiveness. The FBU's main concern was with the effect of longer day shifts on the domestic arrangements of station staff. They had been willing to propose replacing 9 hour with 10 or 10.5 hour day shifts, but the finish times associated with 11 or 12 hour day shifts would create severe problems for officers with caring responsibilities; if they could be met at all, it would be at considerable cost. The FBU legal advice suggested a less restrictive position to management in respect of the Working Time Directive issues.

Recommendation

The recommendation of the Chair is that the Authority should move to a shift system based on an 11 hour day and a 13 hour night (e.g. the indicative proposal described in the email of 2nd November 2011 (Authority Appendix F)). This would comply with the four principles of Section 4, Part A of the Grey Book.

To ease the transition, and for it better to 'have regard to the special circumstances of individual employees and be family friendly':

- (i) It should be a matter for negotiation whether 8.00/19.00 or 7.00/18.00 should be the more appropriate start/finish times for the 11 hour day shift.
- (ii) The implementation of the new shift system should not be until January 2013
- (iii) Employees moving to the new shift system should be provided with a single payment of £1000 (one thousand pounds).

Professor William Brown – Independent Chair
Darwin College
University of Cambridge
16th May 2012