

FIRE & RESCUE SERVICES National Employers

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of Human Resources**

Members of the Employers' Side of the NJC

19 April 2011

CIRCULAR EMP/05/11

Dear Sir/Madam,

PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS – EMPLOYMENT TRIBUNAL CASES

Retained Firefighters' Union (RFU) cases

1. Authorities are aware of the many thousands of Employment Tribunal cases brought against individual fire and rescue authorities in connection with the regulations above and that LG Employers has been acting on behalf of affected authorities in the negotiations requested by the Employment Tribunal service to identify a resolution to these cases as far as the terms and conditions aspect is concerned.
2. You will also be aware from circular NJC/3/11 that agreement has been reached with the Fire Brigades Union (FBU) on both a settlement and a mechanism to facilitate withdrawal of cases supported by the FBU.
3. Negotiations have been taking place separately with the RFU to facilitate withdrawal of the cases supported by the RFU. Those negotiations have also been complex in nature and involved legal representatives for each party. This has included several meetings and considerable joint work at national level outside of those meetings.
4. Since the issue of circular NJC/3/11 those discussions have continued and I write to advise you that formal agreement has now also been reached on both the settlement and mechanism for withdrawal of the RFU supported cases.
5. There is no material difference in the terms of this agreement to those being offered to all retained firefighters irrespective of the trade union to which they belong or whether they are union members at all. For example, both agreements have in common:

- the reference period – 1 July 2000 to 30 June 2010
 - the levels of compensation payments
 - the compensation payment is based on a very simple calculation using a single date point of reference – role, duration of service and level of cover on 30 June 2010. (In the case of ex-employees who are claimants the relevant date is the date of termination)
 - non-standard and/or previous employment circumstances, as set out in detail in the agreements, may apply.
6. Details of the Settlement Agreement with the RFU which includes the mechanism to facilitate withdrawal of claims/potential claims are attached as **Appendix A**.
 7. Attached as **Appendix B** is a copy of a flowchart which outlines the timescales contained within the mechanism included in the agreement to ensure settlement and withdrawal of claims/potential claims in relation to the terms and conditions aspect of the Employment Tribunal cases.

Equal Pay Act

8. There is however a practical difference between the two agreements in that the RFU cases largely also cited the Equal Pay Act as well as the Part-Time Workers Prevention of Less Favourable Treatment Regulations. Hence the agreement at Appendix A covers cases supported by the RFU that cited either the Part-Time Workers Regulations or the Part-Time Workers Regulations and the Equal Pay Act. This reflects acknowledgement by the RFU that the settlement deals with any claim arising from the Equal Pay Act and/or the Regulations in respect of alleged less favourable treatment of RFU members on a retained duty system during the reference period 1 July 2000 to 30 June 2010.
9. Furthermore, the RFU acknowledges that, on amendment of the Grey Book in the ways identified in circular NJC/4/11 and those changes being implemented retrospectively as of 1 July 2010, it does not identify any claim arising from the Equal Pay Act and/or the Regulations in respect of alleged less favourable treatment of RFU members on a retained duty system arising from the wording in the Grey Book with effect from that date.
10. The above discussions have brought to our attention that authorities may have separate unresolved Employment Tribunal cases on file supported by the RFU that only cite the Equal Pay Act as they pre-date the introduction of the Part-Time Workers Regulations in 2000. These cases are currently stayed.
11. As these cases fall outside of this work relating to the Part-Time Workers Regulations they are not covered by this agreement with the RFU. It may be possible to assist authorities in the resolution of these cases (for the period 1994 – 2000) and authorities will be advised in due course if we are able to do so.

Data

12. In common with the agreement with the FBU, this agreement with the RFU will also make use of the services of *Popularis* in order to accommodate Data Protection Act issues.
13. Authorities have already been asked to provide information to *Popularis* in respect of all current employees who were in post on 30 June 2010. As far as ex-employees are concerned authorities were asked to provide data in respect of those employed at any point in the reference period providing they had also entered an Employment Tribunal claim.
14. Accordingly, as that data provides information on all eligible employees regardless of union membership, no further action is required as a consequence of this agreement.

Withdrawal of claims/potential claims

15. Once acceptance has been received by *Popularis* it will forward a copy of the acceptance form to the individual's employing authority and the RFU's legal representatives. In the case of potential claimants the respective fire and rescue service will then forward the settlement payment to the individual within 3 months. In the case of claimants, the RFU's legal representatives will advise the Employment Tribunal (copied to the individual's employing authority) that the case should be withdrawn. Upon receipt of confirmation that this has occurred the respective fire and rescue service will forward the settlement payment to the individual within 3 months. In no circumstances will a payment be made without signed acceptance and, in the case of claimants, withdrawal of the ET claim. The mechanism provides two further reminder opportunities to eligible past and present employees should they be required. By far the majority of cases will be resolved in this straight-forward manner.
16. In rare circumstances the non-standard and/or previous employment process as set out in the agreement will apply instead.

Pension scheme access

17. The remaining aspect of the Employment Tribunal cases is that of pension scheme access and is a separate matter between CLG and the RFU.

Eligible employees who are not members of the RFU or FBU

18. For the avoidance of doubt the agreement and mechanism set out in circular NJC/3/11 will apply to eligible employees who are not members of the FBU or the RFU.

Amendments to the Grey Book

19. Amendments to the Grey Book referred to in paragraph 10 above have already been agreed by the NJC and issued to authorities (Circular NJC/04/11).
20. Authorities who operate an alternative to the retained duty system as defined in the Grey Book (referred to as salary pay schemes in the Agreement) will need to consider whether any changes to the alternative salary pay scheme is required in order to ensure compliance with the Regulations with effect from 1 July 2010.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Gittins', with a long horizontal flourish underneath.

Gill Gittins
Principal Negotiating Officer

APPENDIX A

ALAN TERRY AND MARTIN GOSLING

Claimants

-and-

(1) KENT & MEDWAY TOWNS FIRE AUTHORITY

(2) THE ROYAL BERKSHIRE FIRE & RESCUE SERVICE

(3) THE SECRETARY OF STATE FOR
COMMUNITIES AND LOCAL GOVERNMENT

Respondents

SETTLEMENT AGREEMENT BETWEEN THE CLAIMANTS AND THE FIRST AND SECOND RESPONDENTS

RECITALS

1. This Agreement is made between the Retained Firefighters Union (“RFU”) on behalf of the Claimants it represents in tribunal proceedings including Alan Terry and Martin Gosling and others, together with all other Eligible RFU Members (as defined below at clause 1) and the Local Government Employers on behalf of the First and Second Respondents and all other Fire Authorities (“FRAs”) in the United Kingdom and the Local Government Employers are duly authorised in that regard.
2. In 2000 and after the RFU brought claims on behalf of fire-fighters employed on the retained duty system relating to their terms and conditions of employment and access to pension entitlements and the parties wish to settle such part of those claims that relates to terms and conditions of employment, but not pensions.

IT IS AGREED AS FOLLOWS:

DEFINITIONS

1. In this Agreement the following words and phrases shall have the following meanings:
 - a. “**Act**” means the Equal Pay Act 1970 (as amended);
 - b. “**Claims**” means the combination of the Terms and Conditions and Pension Claims;
 - c. “**Compensation Payment**” means the sums set out in clause 5 below;
 - d. “**Eligible RFU Members**” means all employees of the Respondents and FRAs who have been employed under a retained duty system (as such term is referred to in the Grey Book) and were members of the RFU during any part of the Reference Period whether or not such employees are claimants for the purposes of the Claims, but excluding any member of the RFU who, as at 30 June 2010,

- was not then currently employed by any FRA and who failed to present a claim under either the Regulations or the Regulations and the Act within three months of the termination of their employment;
- e. **“FRA”** means a United Kingdom Fire Authority;
 - f. **“Grey Book”** means the 6th edition of the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire and Rescue Services (and its predecessors);
 - g. **“Non-Standard Circumstances”** means where an individual Eligible RFU Member:
 - has had a continuous period of sickness absence within the Reference Period (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B, paragraph 11 of the 6th edition of the Grey Book) which amounts to nine months or more; and/or
 - is able to show that the way in which the Compensation Payment has been applied to the individual is incorrect;
 - h. **“Pension Claims”** means the claims by RFU members alleging that they have been treated less favourably and/or subjected to a detriment as regards access to and/or membership of the Firemen’s Pension Scheme or any claims arising from or connected with such allegation whether such claims arise under the Regulations, the Act, the Pensions Act 1995, the Occupational Pension Schemes (Equal Treatment) Regulations 1995, Article 119/141 or under any other domestic or European legislation;
 - i. **“Previous Employment”** means circumstances where an individual Eligible RFU Member has previous employment with a different FRA within the reference period and this has not been taken into account in the original compensation calculation;
 - j. **“Reference Period”** means the period 1 July 2000 until 30 June 2010 inclusive;
 - k. **“Regulations”** means the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000;
 - l. **“Salary Pay Scheme”** means a salary pay scheme operated by an FRA for employees employed under a Retained Duty System in place of the Grey Book arrangements;
 - m. **“Settlement Mechanism”** means the series of letters to be sent by the RFU to its retained members set out in Appendix 1 to this Agreement; and
 - n. **“Terms and Conditions Claims”** means the claims by RFU members under the Regulations or under the Regulations and the Act concerning less favourable treatment in comparison to wholetime firefighters with reference to:
 - Sick leave;
 - Increased pay for additional responsibilities;
 - Spoilt meals allowance;
 - Removal and lodgings allowances;
 - Recall to duty pay at double time;
 - Payment during suspension;
 - Medical charges and expenditure;
 - Reimbursement for use of privately owned vehicles on official duty;
 - Pay during maternity support leave;
 - Special leave;
 - Public holiday leave; and
 - Long service leave.

SCOPE

2. This agreement covers all Eligible RFU Members.

3. The Respondents confirm that there is no material difference in the terms of this agreement to those being offered to all retained firefighters irrespective of the trade union to which they belong or whether they are union members at all and irrespective of whether or not they have brought claims before the Employment Tribunal.

DECLARATION OF LESS FAVOURABLE TREATMENT

4. The Respondents hereby acknowledge and agree by way of a declaration of the RFU Members' rights, that, following the decision of the House of Lords and the subsequent Employment Tribunal proceedings in the case of *Matthews & others v Kent and Medway Towns Fire Authority & others*, [2006] UKHL 8, Eligible RFU Members have, contrary to the Regulations, been treated less favourably with regards to their terms and conditions of employment, specifically with reference to the provisions of the Grey Book. The *Matthews* decision also states that fire-fighters employed on the retained duty system received less favourable treatment with respect to access to pension entitlements provided by the Respondents, and that any and all such discriminatory terms shall henceforth be promptly removed and replaced by non-discriminatory terms as between fire-fighters employed on the retained duty system and whole-time fire fighters which shall be backdated to 1 July 2010.

COMPENSATION

5. Each FRA shall make a payment (without deduction of tax or National Insurance) by way of compensation for the Terms and Conditions Claims, and any potential claim under the Regulations or the Regulations and the Act during the Reference Period, including injury to feelings, taking into account both the Eligible RFU Member's role and length of service, as set out below ("the Compensation Payment"):

The Compensation Payments:

Firefighter	£750
Leading Firefighter/Crew Manager	£778
Sub-officer and Station Officer/Watch Managers	£806

The minimum total Compensation Payment to an Eligible RFU Member shall be not less than £150.

6. The Compensation Payment shall be based on the individual Eligible RFU Member's role as at 30 June 2010 (or for Eligible RFU Members who were no longer employed as at that date, their rank/role held on the date of leaving service). The Compensation Payment shall also be applied pro-rata, against the Reference Period, to each Eligible RFU Member's aggregated length of service based on total complete weeks. In addition, where appropriate, the Compensation Payment shall be adjusted on a pro-rata basis to take account of the percentage of cover provided by each Eligible RFU Member on 30 June 2010 (or if they left prior to 30 June 2010 the level of cover they provided on their date of leaving service), but to not less than 75%. The Compensation Payments will not be pro-rated on account of the existence of a Salary Pay Scheme.
7. The only exception to an Eligible RFU Member receiving a compensation payment other than the Compensation Payment set out above is if Non-Standard Circumstances and/or Previous Employment apply.
8. If an Eligible RFU Member was employed by more than one FRA during the Reference Period, the parties agree that, subject to either the current employing FRA providing information in accordance with clause 16 below or the Eligible RFU Member providing documentary proof

of his/her service with another FRA during the Reference Period, the Eligible RFU Member's current employing FRA (or most recent employing FRA) will make a compensation payment which reflects all previous service under a retained duty system within the Reference Period with another FRA .

MECHANICS

9. In order to achieve settlement of the Terms and Conditions Claims, and any prospective claims brought by Eligible RFU Members, the parties agree to use the Settlement Mechanism.
10. If Non-Standard Circumstances and/or Previous Employment apply to any Eligible RFU Member the process set out in the Settlement Mechanism shall apply.
11. The RFU agrees that once an individual has accepted the terms and conditions part of the settlement, it will write to the Employment Tribunal (copied to the individual's employer), asking for the Terms and Conditions Claim to be withdrawn, and requesting that on such withdrawal the Terms and Conditions Claim should be dismissed.
12. Further, the parties agree that on signature of this Agreement, the parties shall write to the Employment Tribunal asking for a hearing to be convened at which this Agreement will be explained to the Employment Tribunal who will be asked to:
 - a. stay all of the Terms and Conditions Claims for a period of six months so that these terms of settlement may be implemented where they are agreed to by individual claimants; and
 - b. dismiss the Terms and Conditions Claims once they are notified that an individual has accepted the settlement and their Terms and Conditions Claim is withdrawn.
13. Where an Eligible RFU Member says that Non-Standard Circumstances and/or Previous Employment apply because of the way in which the Compensation Payment has been applied to them, he/she must first seek to agree the information/seek clarification from their FRA as to the correct figures. If this does not achieve resolution then he/she may also access the Non-Standard Circumstances and/or Previous Employment process set out in the Settlement Mechanism. The RFU acknowledges that in such cases payment will not be made until the matter has been resolved and that such situations are expected to be rare occurrences.
14. It is agreed that the FRA will assist the RFU in contacting all Eligible RFU Members (who are currently members of the RFU) and inform them of any entitlement under this Agreement. Such assistance will be provided via an independent third party with experience of providing such information in compliance with the FRAs' obligations under the Data Protection Act 1998.
15. The dates of payments will be in accordance with the timetable envisaged by the Settlement Mechanism. Payments will in any event be made as early as is possible and within three months of the notification of acceptance of the offer to the relevant employer by or on behalf of the Eligible RFU Member and the claims being withdrawn in accordance with clause 11.
16. In order for the Settlement Mechanism letters to be sent to Eligible RFU Members, each FRA will, within 35 days of the date of this agreement, send to the independent third party a list setting out the names and national insurance numbers of its employees employed on a retained duty system as at 30 June 2010 and, in respect of each employee employed on a retained duty system as at 30 June 2010 (i) the most recent address; and (ii) the information for the purpose of the insert to Mechanics Letter 1 in an electronic format (.xls or .csv) as

contained in Appendix 2. Within the same period, the RFU will send to the independent third party a list setting out the names, dates of birth and most recent addresses for Eligible RFU Members.

FULL AND FINAL SETTLEMENT

17. The parties agree that this Agreement is in full and final settlement of the Terms and Conditions Claims and of any claims under the Regulations arising out of the Grey Book and/or any Salary Pay Scheme during the Reference Period.

EXCLUSION OF CLAIMS FOR ACCESS TO THE FIREMEN'S PENSION SCHEME

18. This Agreement is not in settlement of the Pensions Claims, issues relating to Eligible RFU Members' access to the Firemen's Pension Scheme, or pensions generally, which would be the subject of discussions between the RFU and the Third Respondent.

19. The First Respondent acknowledges and agrees that it will at no stage, of its own accord, in these proceedings or otherwise seek to recover from the RFU Members or seek to set off against the Claims any bounty payments received by the Eligible RFU Members.

20. The terms of settlement set out in this Agreement shall:

- a. apply only in respect of the Reference Period and not any period prior to the Reference Period. The RFU acknowledges that, on amendment of the Grey Book in the ways identified by the National Joint Council for Local Authority Fire and Rescue Services (a copy of the relevant circular is appended to this Agreement at Appendix 3) and those changes being implemented retrospectively as of 1 July 2010, it does not identify any claim arising from the Act and/or the Regulations in respect of alleged less favourable treatment of RFU members on a retained duty system arising from the wording in the Grey Book; and
- b. not act to compromise, settle nor waive the Pension Claims.

MISCELLANEOUS

21. This Agreement, together with the Settlement Mechanism, sets out the entire agreement between the parties with regards to the Terms and Conditions Claims (but not the Pensions Claims) and supercedes, in this regard, all prior discussions between them or their advisors and all statements, representations, terms and conditions, warranties, guarantees, communications and understandings whenever given and whether orally or in writing.

22. The parties agree that, before seeking recourse through the courts, if any circumstance arises where arrangements are not in place to resolve the entitlement of an Eligible RFU Member, including the mechanics associated with doing so, such matter will first be referred to the RFU and Local Government Employers to consider and seek to resolve the same.

23. This Agreement shall be governed and construed in accordance with the law of [*England and Wales/Scotland/Northern Ireland*]. Subject to clause 22 above, each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of [*England and Wales/Scotland/Northern Ireland*] over any claim or matter arising under or in connection with this Agreement.



.....
For and on behalf of the Claimants and all other Eligible RFU Members

.....
Date 19 April 2011



.....
For and on behalf of the First and Second Respondents and all other Fire Authorities

.....
Date 19 April 2011

RFU members (whether current employees who were in post on 30 June 2010 or ex-employees who are claimants)

**LETTER 1
[date] 2011**

Dear

Retained Duty System Employees: Offer of Settlement Terms

URGENT LETTER REQUIRING YOUR RESPONSE WITHIN 14 DAYS OF THE DATE OF THIS LETTER

This letter:

- (i) explains the payments that will be made to you in settlement of the terms and conditions part of your Employment Tribunal claims (or, in the case of current employees who were in post on 30 June 2010, if you have not made a claim, your prospective terms and conditions claims); and**
- (ii) explains what you need to do to receive payment.**

The RFU has always championed the right of retained firefighters to equality of treatment with their wholetime equivalents. In this regard the RFU has supported not just individual members with claims, but has also championed group causes.

One particular group cause has concerned less favourable treatment of retained firefighters with regards to terms and conditions of employment, including specifically pay and access to the Firemen's Pension Scheme.

As you will know from our most recent briefing circular of 19 April 2011, a settlement offer has now been made in relation to the non-pension aspects of these claims and the purpose of this letter is to enable members to make an informed decision whether to accept the offer.

The offer made to you is in settlement of the part of your claim/prospective claim which relates to your terms and conditions of employment (i.e. sick pay etc.). It does not settle any claim/prospective claim which relates to pensions. This part of your claim/prospective claim is still being negotiated with central government. We will be in touch with you shortly about that.

Terms and Conditions Offer

There is an offer of compensation, inclusive of all matters except pensions, which takes into account rank/role, length of service and percentage of cover provided.

The compensation paid to you will be based on the rank/role you held on 30 June 2010 (or, if you are no longer serving, the rank/role you held on the date of leaving service provided that an Employment Tribunal claim has been made on your behalf). If you have not lodged an Employment Tribunal claim and it is now in excess of three months since your employment ended, I am afraid that you are not eligible to receive a compensation payment.

This letter assumes that you are eligible to receive a compensation payment, but if you are in any doubt, please contact me.

The amounts listed below are the starting amounts which will be applied pro-rata to your aggregated length of service based on total complete weeks from the date the relevant law came into force (1 July 2000) until 30 June 2010.

In addition, where appropriate, the figures shall be adjusted on a pro-rata cover basis (based on the level of cover you provided on 30 June 2010), but to not less than 75%.

The maximum possible amounts are:

Firefighter	£750
Leading Firefighter/Crew Manager	£778
Sub-officer and Station Officer/Watch Managers	£806

In any case, the minimum total amount payable to you shall be not less than £150.

The Compensation Payment will be made without deduction of tax or national insurance contributions and is not pensionable.

The figure which your employer is offering to you, and the way in which it has been calculated, is set out in the attached form.

1. Acceptance of the offer

In order to obtain the payment referred to in the attached form, all that you need to do is complete the attached acceptance form and return it to Popularis (the independent third party assisting the RFU and FRA's with the settlement process) using the return address shown on it within 14 days of the date shown on this letter. To assist with the payment process, Popularis will then send a copy of the acceptance form to your employer FRA.

Acceptance of that payment will:

- (i) be in full and final settlement of only the part of your Employment Tribunal claim or prospective claim which relates to terms and conditions (and not any claim in relation to pension access and/or benefits);

- (ii) be in full and final settlement of any claim that you may have arising out of the NJC terms and conditions of employment up until 30 June 2010;
- (iii) for employees of an FRA who operate a salary scheme in place of the Grey Book provisions for retained firefighters, be in full and final settlement of any claims in respect of such salary scheme arising up until 30 June 2010; and
- (iv) amount to authority for the RFU to notify your employing FRA of your acceptance and to instruct our solicitors to withdraw the terms and conditions aspect of your claim from the Employment Tribunal (if applicable) (but not any claim in relation to pension access and/or benefits).

The RFU has considered the offer very carefully, and this has included conducting an analysis of the offer based on an overview of the RFU's membership. Based on that analysis we have concluded that the offer may be in excess of actual loss for some members, and less than actual loss for others. Overall, though, we consider that it is a fair offer and accordingly, following a unanimous vote at the last AGM, the RFU has decided to recommend that members accept the terms being offered unless there are Non-Standard Circumstances and/or Previous Employment which apply. Such circumstances are where:

- (i) you have had a continuous period of sickness absence (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B. paragraph 11 of the 6th edition of the Grey Book) within the period from 1 July 2000 to 30 June 2010 of nine months or more; and/or
- (ii) you are able to show to your employer that the way in which the compensation payment has been applied to you, using the figures set out in Insert 1 to this letter, is incorrect; and/or
- (iii) Where you have moved from one FRA to another during the period 1 July 2000 to 30 June 2010 (the "Reference Period") that previous service will be recognised to calculate your compensation. It will be your current employing FRA who will make the payments though. It will be necessary for you to provide evidence of your previous employment with a different FRA during the Reference Period. Without this proof, no additional payment can be made. (If you have brought any claim under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ("PTWR") or the PTWR and the Equal Pay Act 1970 (the "Act") against an FRA which previously employed you on a retained duty system, you will be accepting the payment from your current employing FRA in full and final settlement of any terms and

Further, if you believe the information used to apply the compensation payment is incorrect, you should first seek to agree the information/seek clarification from your employing FRA as to the correct figures before using the Non-Standard Circumstances and/or Previous Employment process.

Should you consider that Non-Standard Circumstances and/or Previous Employment apply to you, please consult the attached “Non-Standard Circumstances and/or Previous Employment” document which contains more information about Non-Standard Circumstances, and the procedure to be followed.

The RFU strongly recommends that you accept the terms offered in this letter unless Non-Standard Circumstances and/or Previous Employment apply to you, as explained above, in which case you should consult the attached “Non-Standard Circumstances and Previous Employment” document. It is important to appreciate that if you choose not to accept the offer, you will not receive the settlement payment referred to in this letter.

2. Time for response and consequences of failing to respond

In order for you to receive the compensation payment within a period of approximately three months from the date of this letter, you must complete and return the acceptance form in the enclosed freepost envelope within 14 days of the date of this letter. If you claim you have previous service with another FRA during the Reference Period you must also provide evidence of this within the same 14 day period.

This is a strict deadline and you must respond to this letter by **[date]**.

If you do not respond within this timeframe, the RFU will cease to represent you in the terms and conditions aspect of your claim/prospective claim and you will not have the benefit of legal representation provided by the union.

3. Pensions Claims

As has been stated throughout this letter, the settlement terms on offer do not apply to the pension aspect of your claim/prospective claim. That aspect is still being negotiated over, and we hope to be able to write to you shortly with details of further developments. In the meantime, the pensions aspect of your claim will remain stayed and is unaffected by the settlement procedure that has been covered above.

I very much hope that you will choose to accept this offer which the RFU has negotiated on your behalf. I urge you to communicate your acceptance, save where the Non-Standard Circumstances and/or Previous Employment,

(explained above) apply, notify Popularis as soon as possible and in any event within 14 days of the date of this letter.

If you have any concerns arising from the content of this letter, or there is anything that you do not understand, please do not hesitate to get in touch.

Yours sincerely,

John Barton
General Secretary

INSERT 1

Form Explaining How Your Compensation Payment has been calculated

Name:

Rank/Role: 30 June 2010

(if no longer employed on that date rank/role on the date service terminated)

Employee Number:

Employing Fire Authority:

Date employment with employing fire authority commenced:

[if applicable] Date employment with employing fire authority terminated:

Length of service (years and weeks):

Level of cover provided at 30 June 2010, or if not employed on that date, level of cover provided on the date service terminated:

Length of Service on a retained duty system with another FRA within the reference period (YY/WW):

Amount of Compensation Payment:

INSERT 2

ACCEPTANCE OF OFFER

Dear Sirs

Claims brought by the RFU re: the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (“Regulations”) or the Regulations and Equal Pay Act 1970 (“Act”)

1. I, _____, of _____ FRA, confirm that I have read and understood the content of the letter from John Barton, General Secretary of the RFU, to me dated **[insert date]** attaching a form setting out how my compensation payment has been calculated.

2. I confirm that I accept the compensation payment in full and final settlement of:

(i) *[only the terms and conditions aspect of my Employment Tribunal claim[s] in the **[insert detail]** Employment Tribunal[s] with case number[s] **[insert case number[s]]**¹ (“the Claim[s]”), but (for the avoidance of doubt), not such aspect as relates to, arises from, or is connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen’s Pension Scheme or otherwise);]*

(ii) any claim that I may have under the Regulations and/or the Act arising out of the NJC terms and conditions of employment up until 30 June 2010 but not of any claim I may have connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen’s Pension Scheme or otherwise); and

(iii) any claim that I may have under the Regulations and/or the Act arising out of the salary scheme terms and conditions of employment operated

¹ RFU to complete as appropriate before Popularis send out

by my employer up until 30 June 2010 but not of any claim I may have connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen's Pension Scheme or otherwise).

3. *[I also confirm that the RFU may withdraw the terms and conditions aspect of the Claim[s] from the Employment Tribunal on my behalf and to say that on withdrawal, this aspect of my claim only should be dismissed. This means (for the avoidance of doubt) that any and all aspects of the Claim[s] as relate to, arise from, or which are connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen's Pension Scheme or otherwise) shall remain entirely unaffected by the terms of this Agreement.]*

Signed.....Dated.....
[NAME]

Employing Fire and Rescue Service as at 30 June 2010

.....

Membership Number

Return to:

**Popularis Ltd
6 Montfort Mews
Leicester
LE1 7EU**

RFU members (claimants/prospective claimants with current concurrent service who were in post on 30 June 2010)

**LETTER 1a
[date] 2011**

Dear

Retained Duty System Employees: Offer of Settlement Terms

URGENT LETTER REQUIRING YOUR RESPONSE WITHIN 14 DAYS OF THE DATE OF THIS LETTER

This letter:

- (i) explains the payments that will be made to you in settlement of the terms and conditions part of your Employment Tribunal claims (or, if you have not made a claim, your prospective terms and conditions claims); and**
- (ii) explains what you need to do to receive payment.**

The RFU has always championed the right of retained firefighters to equality of treatment with their wholetime equivalents. In this regard the RFU has supported not just individual members with claims, but has also championed group causes.

One particular group cause has concerned less favourable treatment of retained firefighters with regards to terms and conditions of employment, including specifically pay and access to the Firemen's Pension Scheme.

As you will know from our most recent briefing circular of 19 April 2011, a settlement offer has now been made in relation to the non-pension aspects of these claims and the purpose of this letter is to enable members to make an informed decision whether to accept the offer.

The offer made to you is in settlement of the part of your claim/prospective claim which relates to your terms and conditions of employment (i.e. sick pay etc.). It does not settle any claim/prospective claim which relates to pensions. This part of your claim/prospective claim is still being negotiated with central government. We will be in touch with you shortly about that.

Terms and Conditions Offer

There is an offer of compensation, inclusive of all matters except pensions, which takes into account rank/role, length of service and percentage of cover provided.

The compensation paid to you will be based on the rank/role you held on 30 June 2010.

This letter assumes that you are eligible to receive a compensation payment, but if you are in any doubt, please contact me.

The amounts listed below are the starting amounts which will be applied pro-rata to your aggregated length of service based on total complete weeks from the date the relevant law came into force (1 July 2000) until 30 June 2010.

In addition, where appropriate, the figures shall be adjusted on a pro-rata cover basis (based on the level of cover you provided on 30 June 2010), but to not less than 75%.

The maximum possible amounts are:

Firefighter	£750
Leading Firefighter/Crew Manager	£778
Sub-officer and Station Officer/Watch Managers	£806

In any case, the minimum total amount payable to you shall be not less than £150.

The Compensation Payment will be made without deduction of tax or national insurance contributions and is not pensionable.

The figure which your employer is offering to you, and the way in which it has been calculated, is set out in the attached form.

1. Acceptance of the offer

In order to obtain the payment referred to in the attached form, all that you need to do is complete the attached acceptance form and return it to Popularis (the independent third party assisting the RFU and FRA's with the settlement process) using the return address shown on it within 14 days of the date shown on this letter. To assist with the payment process, Popularis will then send a copy of the acceptance form to your employer FRA.

Please note carefully that as you are currently employed on a retained duty system by two or more FRAs, you will need to send a separate acceptance form in respect of each of these separate contracts.

Acceptance of that payment will:

- (i) be in full and final settlement of only the part of your Employment Tribunal claim (or prospective claim) which relates to terms and conditions (and not any claim in relation to pension access and/or benefits);

- (ii) be in full and final settlement of any claim that you may have arising out of the NJC terms and conditions of employment up until 30 June 2010;
- (iii) for employees of an FRA who operate a salary scheme in place of the Grey Book provisions for retained firefighters, be in full and final settlement of any claims in respect of such salary scheme arising up until 30 June 2010; and
- (iv) amount to authority for the RFU to notify your employing FRA of your acceptance and to instruct our solicitors to withdraw the terms and conditions aspect of your claim from the Employment Tribunal (if applicable) (but not any claim in relation to pension access and/or benefits).

The RFU has considered the offer very carefully, and this has included conducting an analysis of the offer based on an overview of the RFU's membership. Based on that analysis we have concluded that the offer may be in excess of actual loss for some members, and less than actual loss for others. Overall, though, we consider that it is a fair offer and accordingly, following a unanimous vote at the last AGM, the RFU has decided to recommend that members accept the terms being offered unless there are Non-Standard Circumstances and/or Previous Employment which apply. Such circumstances are where:

- (i) you have had a continuous period of sickness absence (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B. paragraph 11 of the 6th edition of the Grey Book) within the period from 1 July 2000 to 30 June 2010 of nine months or more; and/or
- (ii) you are able to show to your employer that the way in which the compensation payment has been applied to you, using the figures set out in Insert 1 to this letter, is incorrect; and/or
- (iii) Where you have moved from one FRA to another during the period 1 July 2000 to 30 June 2010 (the "Reference Period") that previous service will be recognised to calculate your compensation. It will be your current employing FRA, with whom you have the longest period of service, who will make the payments though. It will be necessary for you to provide evidence of your previous employment with a different FRA during the Reference Period. Without this proof, no additional payment can be made. (If you have brought any claim under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ("PTWR") or the PTWR and the Equal Pay Act 1970 (the "Act") against an FRA which previously employed you on a retained duty system, you will be accepting the payment from your current employing FRA

Further, if you believe the information used to apply the compensation payment is incorrect, you should first seek to agree the information/seek clarification from your employing FRA as to the correct figures before using the Non-Standard Circumstances and/or Previous Employment process.

Should you consider that Non-Standard Circumstances and/or Previous Employment apply to you, please consult the attached “Non-Standard Circumstances and/or Previous Employment” document which contains more information about Non-Standard Circumstances, and the procedure to be followed.

The RFU strongly recommends that you accept the terms offered in this letter unless Non-Standard Circumstances and/or Previous Employment apply to you, as explained above, in which case you should consult the attached “Non-Standard Circumstances and Previous Employment” document. It is important to appreciate that if you choose not to accept the offer, you will not receive the settlement payment referred to in this letter.

2. Time for response and consequences of failing to respond

In order for you to receive the compensation payment within a period of approximately three months from the date of this letter, you must complete and return the acceptance form in the enclosed freepost envelope within 14 days of the date of this letter. If you claim you have previous service with another FRA during the Reference Period you must also provide evidence of this within the same 14 day period.

This is a strict deadline and you must respond to this letter by **[date]**.

If you do not respond within this timeframe, the RFU will cease to represent you in the terms and conditions aspect of your claim/prospective claim and you will not have the benefit of legal representation provided by the union.

3. Pensions Claims

As has been stated throughout this letter, the settlement terms on offer do not apply to the pension aspect of your claim/prospective claim. That aspect is still being negotiated over, and we hope to be able to write to you shortly with details of further developments. In the meantime, the pensions aspect of your claim will remain stayed and is unaffected by the settlement procedure that has been covered above.

I very much hope that you will choose to accept this offer which the RFU has negotiated on your behalf. I urge you to communicate your acceptance, save where the Non-Standard Circumstances and/or Previous Employment,

(explained above) apply, notify Popularis as soon as possible and in any event within 14 days of the date of this letter.

If you have any concerns arising from the content of this letter, or there is anything that you do not understand, please do not hesitate to get in touch.

Yours sincerely,

John Barton
General Secretary

INSERT 1

Form Explaining How Your Compensation Payment has been calculated

Name:

Rank/Role: 30 June 2010

(if no longer employed on that date rank/role on the date service terminated)

Employee Number:

Employing Fire Authority:

Date employment with employing fire authority commenced:

[if applicable] Date employment with employing fire authority terminated:

Length of service (years and weeks):

Level of cover provided at 30 June 2010, or if not employed on that date, level of cover provided on the date service terminated:

Length of Service on a retained duty system with another FRA within the reference period (YY/WW):

Amount of Compensation Payment:

INSERT 2

ACCEPTANCE OF OFFER

Dear Sirs

Claims brought by the RFU re: the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (“Regulations”) or the Regulations and Equal Pay Act 1970 (“Act”)

1. I, _____, of _____ FRA, confirm that I have read and understood the content of the letter from John Barton, General Secretary of the RFU, to me dated [insert date] attaching a form setting out how my compensation payment has been calculated.

2. I confirm that I accept the compensation payment in full and final settlement of:
 - (i) *[only the terms and conditions aspect of my Employment Tribunal claim[s] in the [insert detail] Employment Tribunal[s] with case number[s] [insert case number[s]]¹ (“the Claim[s]”), but (for the avoidance of doubt), not such aspect as relates to, arises from, or is connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen’s Pension Scheme or otherwise);]*

 - (ii) any claim that I may have under the Regulations and/or the Act arising out of the NJC terms and conditions of employment up until 30 June 2010 but not of any claim I may have connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen’s Pension Scheme or otherwise); and

 - (iii) any claim that I may have under the Regulations and/or the Act arising out of the salary scheme terms and conditions of employment operated

by my employer up until 30 June 2010 but not of any claim I may have connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen's Pension Scheme or otherwise).

3. *[I also confirm that, the RFU may withdraw the terms and conditions aspect of the Claim[s] from the Employment Tribunal on my behalf and to say that on withdrawal, this aspect of my claim only should be dismissed. This means (for the avoidance of doubt) that any and all aspects of the Claim[s] as relate to, arise from, or which are connected with access to a pension scheme or benefits thereunder (whether in relation to the Firemen's Pension Scheme or otherwise) shall remain entirely unaffected by the terms of this Agreement.]*

Signed.....Dated.....
[NAME]

Employing Fire and Rescue Service as at 30 June 2010

.....

Membership Number

Return to:

**Popularis Ltd
6 Montfort Mews
Leicester
LE1 7EU**

¹ RFU to complete as appropriate before Popularis send out

LETTER 2

Dear

Retained Duty System Eligible Employees: Settlement Terms

URGENT LETTER REQUIRING YOUR RESPONSE WITHIN 21 DAYS OF THE DATE OF THIS LETTER

In response to the RFU's letter setting out the proposed terms of settlement, you have replied stating that you believe that "Non-Standard Circumstances and/or Previous Employment" apply to your case and that you do not therefore agree to accept the offer and (where you have brought an employment tribunal claim) to the withdrawal of the terms and conditions aspect of your claim at the Employment Tribunal on the terms offered.

In my original letter, I described to you the only categories of circumstances which were capable of amounting to "Non-Standard Circumstances and/or Previous Employment" for the purpose of the settlement process.

The RFU has now considered with its solicitors whether the information, and any supporting documentation that you have provided, satisfies the definition of "Non-Standard Circumstances and/or Previous Employment". I have to inform you that the information provided does not satisfy the definition of "Non-Standard Circumstances and/or Previous Employment" for the following reason(s):

- The information that you have provided does not show a continuous period of sickness absence in the period from 1 July 2000 to 30 June 2010 (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B, paragraph 11 of the 6th edition of the Grey Book) of nine months or more;
- The supporting documentation that you provided as evidence for your period of sickness leave in the relevant period does not satisfy the requirements explained in my previous letter;
- Having considered the Breakdown Information provided to you describing how your offer of compensation has been applied, the RFU is unable to conclude that there is any error;
- Having considered the information you supplied in relation to your previous employment, the RFU is unable to conclude that you are entitled to count that previous service for the purpose of your compensation payment.

I must therefore inform you that the RFU does not consider that “Non-Standard Circumstances and/or Previous Employment” apply to your case. We have also written to your employer and Popularis to confirm the decision we have reached.

In these circumstances, we recommend that you accept the terms of settlement already offered.

To accept the terms of settlement already offered, and receive the compensation payment already notified, all that you need to do is complete the acceptance form attached to this letter and return it to Popularis to arrive within 21 days of the date of this letter. This is a strict deadline and you must respond to this letter by not later than **[date]**. To assist with the payment process, Popularis will send a copy of the acceptance form to your employing FRA.

You are, of course, perfectly entitled to reject the offer of settlement made to you. However, that offer of settlement is the product of detailed negotiations with the Employers and the RFU believes that the Compensation Payment on offer is fair in all the circumstances. Accordingly, if Popularis does not receive your completed acceptance form within 21 days of the date of this letter, we will write to you again informing you that we are no longer able to support you with your claim/prospective claim. In such circumstances we shall, if you have issued a claim in the Employment Tribunal, instruct our solicitors to notify the Employment Tribunal that we are ceasing to act as your representative in the terms and conditions part of your Employment Tribunal claim. You will then be free to pursue your claim in the Employment Tribunal yourself, but you will not have the benefit of legal representation provided by the union.

Yours sincerely,

John Barton
General Secretary

RFU member (where no response to letter 1)

LETTER 3

Dear

Retained Duty System Eligible Employees: Settlement Terms

URGENT LETTER REQUIRING YOUR RESPONSE WITHIN 14 DAYS OF THE DATE OF THIS LETTER

I wrote to you recently setting out the terms offered, including a compensation payment (for all matters relating to the Grey Book terms and/or your employing fire authority's salary scheme), for the settlement of your Employment Tribunal claim/prospective Employment Tribunal claim in relation to the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ("PTWR") or the PTWR and the Equal Pay Act 1970 ("the Act"). A copy of that letter is attached for ease of reference.

In that letter, I explained that, in order to receive the compensation payment offered, you needed to complete and return the acceptance form to Popularis within 14 days of the date of that letter. Alternatively, if you believed that "Non-Standard Circumstances", as defined in that letter, or that previous employment with an FRS applied to your case, you needed to complete and return the Non-Standard Circumstances and/or Previous Employment form, together with the accompanying documentation described, within that 14 day period.

Popularis have informed me that it has not received your completed acceptance form or a completed "Non-Standard Circumstances and/or Previous Employment" form.

I must emphasise that if you do not complete and return the acceptance form, then you will not receive the compensation payment that has been negotiated on your behalf.

If Popularis does not receive your completed acceptance form, or a completed "Non-Standard Circumstances and/or Previous Employment" form within 14 days from the date of this letter we will write to you again to inform you that the RFU will cease to represent you in relation to the terms and conditions aspect of your Employment Tribunal claim/prospective claim.

Yours sincerely,

John Barton
General Secretary

RFU member (where no response to letter 3)

LETTER 4

Dear

Retained Duty System Eligible Employees: Settlement Terms

I wrote to you recently to inform you of the terms offered, including a compensation payment (for all matters relating to the Grey Book terms and/or your employing fire authority's salary scheme but excluding access to a pension scheme and/or benefits), for settlement of your existing or prospective Employment Tribunal claim in relation to the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ("PTWR") or the PTWR and the Equal Pay Act 1970 (the "Act"). In my letter I set out the timeframe for acceptance and explained the consequences of failing to respond within that period of time.

We have not had confirmation from Popularis that they have received from you a completed acceptance form or a completed "Non-Standard Circumstances and/or Previous Employment" form.

In these circumstances, I regret to inform you that the RFU is not able to continue representing you in relation to the terms and conditions aspect of your Employment Tribunal claim/prospective claim and you will need to make your own arrangements for the pursuit of this claim. Where you have issued a claim in the Employment Tribunal, we shall now instruct our solicitors to write to the Employment Tribunal informing it of this development and that any future correspondence should be sent to you direct. The RFU will continue to represent you in relation to the pensions side of your claim.

Yours sincerely,

John Barton
General Secretary

“Non-Standard Circumstances and/or Previous Employment” Document

1. “Non-Standard Circumstances”

The RFU strongly recommends that you accept the terms offered unless Non-Standard Circumstances and/or Previous Employment apply to you. The RFU has negotiated with the employers nationally a position where it will only continue to pursue claims if one or more of the following Non-Standard circumstances apply:

- (i) where an individual has had a continuous period of sickness absence within the period from 1 July 2000 to 30 June 2010 (“the Reference Period”) of nine months or more (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B, paragraph 11 of the 6th edition of the Grey Book); and/or
- (ii) where the individual is able to show that the way in which the compensation payment has been applied, using the starting point figures set out above is incorrect; and/or
- (iii) where an individual has been employed by more than one Fire and Rescue Authority (“FRA”) under a retained duty system during the Reference Period and the individual is able to provide documentary proof of their previous service within that period by another FRA.

Sickness Absence

If an individual claims to have a period of continuous sickness absence of nine months within the Reference Period (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to section 5, part B, paragraph 11 of the 6th edition of the Grey Book), then she or he will need to provide to the RFU appropriate supporting documentation confirming the continuous period of sickness absence in the form either of a report (or reports) from a medical practitioner, medical records evidencing the same or Doctor’s Statements under the Statutory Sick Pay (Medical Evidence) Regulations 1985 covering the relevant periods. That supporting documentation should be sent to Popularis with the completed “Non-Standard Circumstances and/or Previous Employment” form attached to this letter. A freepost envelope has been provided for this purpose.

The RFU will then need to share that information with the employing FRA in order to process the claim.

Incorrect Calculation

If an individual believes the information used to apply the compensation payment is incorrect, they should first seek to agree the

information/seek clarification from his/her employing FRA as to the correct figures before using the Non-Standard Circumstances and/or Previous Employment process.

2. “Previous Employment”

If an individual believes that previous employment with a different FRA during the Reference Period should be taken into account in calculating his/her compensation, it will be necessary for him/her to provide documentary evidence proving the dates of previous employment such as a contract of employment with that different FRA on a retained duty system during the Reference Period in the Non-Standard Circumstances and/or Previous Employment form.

3. Non-Standard Circumstances and/or Previous Employment Form

Any individual who claims that Non-Standard circumstances apply to them and/or previous employment with a different FRA during the Reference Period should be taken into account in calculating his/her compensation, and who does not therefore wish to accept the payment offered in full and final settlement of their claim/prospective claim should complete and return the attached “Non-Standard Circumstances and/or Previous Employment” form, showing clearly why she or he contends that Non-Standard circumstances apply to their claim/prospective claim and/or providing details of previous employment with a different FRA during the Reference Period.

Where an individual completes and returns a “Non-Standard Circumstances and/or Previous Employment” form to Popularis, they will not receive the payment referred to on the attached form and the procedure set out below will apply.

4. Non-Standard Circumstances Procedure

If you return the Non-Standard Circumstances and/or Previous Employment Form within the permitted 14 day period, the RFU will then have a further period of 35 days in which to determine whether it agrees that Non-Standard circumstances, as defined, apply and/or whether a period of previous employment with a different FRA during the Reference Period as defined should be taken into account. (If no response is received to the letter setting out the offer of settlement within the specified 14 day period, a final reminder letter will be sent setting a deadline for response of 14 days. If a completed Non-Standard Circumstances and/or Previous Employment form is received within that 14 day period, the RFU will have a further 28 days in which to determine whether it agrees that Non-Standard Circumstances as defined apply). In such circumstances the following process will apply:

If the RFU and the FRA agree that Non-Standard Circumstances apply

- If the RFU agrees that Non-Standard circumstances apply, or a period of previous employment with a different FRA during the Reference Period on a retained duty system should be taken into account, it will have a further 7 days in which to notify the employing FRA.
- The FRA will then have 21 days to decide whether it accepts that Non-Standard circumstances apply or a period of previous employment with a different FRA on a retained duty system during the Reference Period should be taken into account.
- If the employing FRA accepts that Non-Standard circumstances apply, or a period of previous employment with a different FRA during the Reference Period on a retained duty system should be taken into account, it will send to the individual a revised offer , copied to Popularis, which will provide for a payment to that individual of the sick pay that would have been received had the revised Grey Book terms been applied to them and/or any additional sum and/or the corrected Compensation Payment recognising any additional sum in respect of his/her previous employment with a different FRA during the Reference Period.

If RFU or FRA does not agree that Non-Standard Circumstances apply

- If the RFU does not agree that the definition of Non-Standard circumstances is satisfied, or a period of previous employment with a different FRA during the Reference Period on a retained duty system should be taken into account, it will notify the individual and the employing FRA within 7 days of the 35 day period expiring.
- At the same time as being notified of the RFU's decision, the individual will be notified again of the settlement terms offered.
- In the event of non-acceptance of the offer at that stage, the RFU will cease to support the terms and conditions aspect of the individual's claim/prospective claim at the Employment Tribunal. In that situation, the individual will be at liberty to pursue that aspect of their Employment Tribunal claim themselves, but the RFU will not provide support and legal representation.
- If the RFU agrees that Non-Standard circumstances apply, or a period of previous employment with a different FRA during the Reference Period should be taken into account, but the employing FRA disputes this, the employing FRA will notify the individual and the RFU of its decision. In that circumstance, the RFU will assess the situation and may continue to provide support and legal

representation for the terms and conditions aspect of the individual's Employment Tribunal claim/prospective claim.

RETAINED DUTY SYSTEM EMPLOYMENT TRIBUNAL CLAIMS

NON-STANDARD CIRCUMSTANCES AND/OR PREVIOUS EMPLOYMENT FORM

Full name:

Full address:
.....
.....
.....

Employing Fire Authority:.....

Station at which based:.....

Telephone no. (day).....(evening).....

Mobile no.

Email address:.....

Non-Standard Circumstances

Please tick each box which applies to you, and make sure you complete all the details.

I say that "Non-Standard Circumstances" apply to my Employment Tribunal claim because:

1.	<input type="checkbox"/>	In the period from 1 July 2000 to 30 June 2010 ("the Reference Period"), I have had a continuous period of sickness absence (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B, paragraph 11 of the 6 th edition of the Grey Book) of nine months or more;
----	--------------------------	--

If you say that you have had a continuous period of sick leave of nine months or more in the period from 1 July 2000 to 30 June 2010, (excluding any period of paid sickness absence for illness or injury arising out of authorised duty pursuant to Section 5, part B, paragraph 11 of the 6th edition of the Grey Book) please confirm that you have attached to this form the following :

a report, or reports, from a medical practitioner(s) confirming that you were unable to work for a continuous period of sickness of nine months or more due to sickness absence, medical records evidencing the same or copies of Doctors' Statements under the Statutory Sick Pay (Medical Evidence) Regulations 1985 covering the continuous period of nine months or more, and that, in each case, the reports or records show the precise dates of sickness absence (unrelated to an on-duty injury/illness).

Please specify precisely the dates of your period or periods of sick leave:

Start of sick leave	Returned to work
---------------------	------------------

2. The Breakdown Information explaining how the compensation payment has been applied to me is inaccurate because:

i) The start and/or end dates of my period of service with my employing fire and rescue service are incorrect;

The correct dates are: START END

ii) The number of complete weeks of service included in the calculation is incorrect;

The correct number of weeks is:

iii) The percentage cover used to pro-rate the compensation payment is incorrect.

The correct percentage cover is:

If you have indicated that you believe that the Breakdown Information used to apply the compensation payment to you is inaccurate, give details of the steps taken to agree the information with the FRA:

iv) I say that my previous employment with a different FRA during the Reference Period should be considered.

FRA	Start of employment	End of employment

Please also attach documentary evidence proving your dates of employment with your previous FRA e.g.: Contract of Employment, Statement of Pension Entitlement or pension benefit estimate/statement :

<input type="checkbox"/>	Please indicate that you consent to your employing Fire and Rescue Authority or the Retained Firefighters' Union, or its Solicitors, Howes Percival, passing to each other such information in relation to your employment history or information as may be contained on your personnel file as either may request for the purpose of your Employment Tribunal claim/potential claim.
--------------------------	---

.....
Signed

.....
Date

PLEASE RETURN THIS COMPLETED FORM WITHIN 14 DAYS OF THE DATE OF THE COVERING LETTER SETTING OUT THE SETTLEMENT OFFER, TOGETHER WITH ACCOMPANYING DOCUMENTATION TO POPULARIS AT THE FOLLOWING ADDRESS:

**Anne Hock
Popularis Ltd
6 De Montfort Mews
Leicester
LE1 7E**

LOCAL AUTHORITY FIRE & RESCUE SERVICES

DATA FILE SPECIFICATION – FIRE AUTHORITIES

1. The NJC will require each Fire Authority with the exception of London and Merseyside (55 in total) to provide an identified file in **xls** or **csv** format with the following fields.
2. Each file will be saved as LOCAL FRA NAME.XLS or LOCAL FRA NAME.CSV.
3. In the covering email, please **provide contact details** for any queries regarding the data.
4. Please send the file, which should be zipped and password protected, to popularis@blueyonder.co.uk.
5. Please send the password to annehock@popularis.org or text to Anne Hock on 07764 194176

Note: Should a Fire Authority have difficulty in providing all the information on one file because it does not hold all the information in one place, then Popularis is prepared to accept two files subject to the instructions above being applied to each file and responses to all the data fields below albeit spread across two files.

DATA FIELDS:

Field No	Field Title
1	Title
2	Forenames
3	Surname
4	Address 1
5	Address 2
6	Address 3
7	Address 4
8	Address 5
9	Postcode
10	Date of Birth (dd/mm/yy)
11	National Insurance number
12	Substantive Rank/Role as at 30 June 2010
13	If no longer employed on 30 June 2010 (and a Claimant), substantive rank/role on date service terminated
14	Employee Number
16	Employing Fire Authority

17	Date employment with employing fire authority commenced on a retained duty system
18	Date employment with employing fire authority terminated on a retained duty system (if applicable and if a Claimant) or IF still employed on 30/06/2010 enter "30 June 10"
19	Length of Service within the reference period on a retained duty system carried over from previous FRA (YY/WW)
20	Total length of service on a retained duty system in the reference period (YY/WW)
21	% Level of cover provided at 30 June 2010, or if not employed on that date (and a Claimant), % level of cover provided on the date service terminated within the reference period
22	Amount of Compensation Payment
23	Deceased/Retired
24	Compensation includes consecutive service from another FRA YES /NO

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

8 March 2011

CIRCULAR NJC/04/11

Dear Sir/Madam

PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS - AMENDMENTS TO THE SCHEME OF CONDITIONS OF SERVICE (GREY BOOK)

1. Authorities will be aware from circular NJC/03/11 that a settlement has now been identified in the matter of the Employment Tribunal cases brought by the Fire Brigades Union under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations which covers the period from 1 July 2000 to 30 June 2010.
2. In accordance with the outcome of further discussion with the respective legal representatives, a number of amendments to the Scheme of Conditions Service (Grey Book) have been agreed by the National Joint Council in order to ensure Grey Book compliance with the Regulations from that point onwards.
3. It is recognised that individual fire and rescue services may also need to review any local practices e.g. training, and policies to consider whether additional change is needed at local level.
4. This circular deals specifically with the amendments referred to in paragraph 2 above, which are effective from 1 July 2010. Affected paragraphs are listed below with changes shown in *italics*.

Revised 17 March 2011

SECTION 4 - PART B - PAY

Attendance at training centres

5. Existing paragraph 14 is amended to state:
"An employee who is required to attend a course at a training centre shall receive the appropriate basic weekly rate of pay in respect of each week of the course, *pro rated as appropriate. For the avoidance of doubt, the appropriate basic weekly rate of pay for an employee working on the retained duty system will be the same basic weekly rate of pay as a wholetime employee in the same role.*"

Acting up and temporary promotion

6. There is no change in the wholetime position which is reflected in a new paragraph 20:
"For wholetime employees the payment shall be for a minimum of one shift".
7. A new paragraph 21 states:
"*For retained duty system employees who are required to undertake the duties of a higher role for an operational incident payment shall be for:*
 - a. *the full duration of that attendance; and*
 - b. *the full duration of any further attendances (whether or not the employee is required to undertake the duties of a higher role), up to the expiry of the period of continuous cover being provided, subject to that period not exceeding 24 hours from the commencement of the attendance referred to in (1) above.*"
8. A new paragraph 22 states:
"*Further in respect of retained firefighters undertaking the duties of a higher role for any pre-defined period, such as duties referred to in paragraph 16(1) of Part A of this section, payment shall be made in respect of that period only.*"
9. The existing paragraph 20 is *renumbered to paragraph 23.*

Renumbering of existing paragraphs 21 to 32

10. As a consequence of the changes relating to acting-up and temporary promotion above, there are number changes to the remaining paragraphs in Part A:

Existing paragraph 21 *becomes 24*
Existing paragraph 22 *becomes 25*
Existing paragraph 23 *becomes 26*
Existing paragraph 24 *becomes 27*
Existing paragraph 25 *becomes 28*
Existing paragraph 26 *becomes 29*
Existing paragraph 27 *becomes 30*
Existing paragraph 28 *becomes 31*
Existing paragraph 29 *becomes 32*
Existing paragraph 30 *becomes 33*

Existing paragraph 31 *becomes 34*
Existing paragraph 32 *becomes 35*

SECTION 4 - CONDITIONS OF SERVICE FRAMEWORK - PART C - LEAVE

Annual leave for employees on the retained duty system

15. The existing paragraph 6 is replaced by a new paragraph 6:

“A week’s pay during a period of annual leave shall be the average weekly wage as defined in Appendix C, paragraph C.”

Public holiday leave

16. The existing paragraph 13 is amended to state:

“For employees who work on a shift system or the retained duty system, Christmas Day, 26th December and New Year’s Day will be treated as public holidays on whichever days of the week they fall, irrespective of alternative public holidays announced by the Government.

Public holiday arrangements for employees on the retained duty system

17. The existing paragraph 25 is amended to state:

“An employee in the role of Station Manager or below (but not on the flexible duty system) who is required to work on a public holiday shall be paid double the disturbance and activity payments at Part B paragraphs 10 to 13 of this Section (which shall not be pensionable). In addition, the employee shall be granted a day’s leave in lieu in respect of which the employee shall not be required for duty and shall receive 1/7th of their average weekly wage. Average weekly wage shall have the meaning given to it in Appendix C, paragraph C. A volunteer carrying out operational fire fighting duties shall be paid at double the appropriate hourly rate.

End of course leave

18. The existing paragraph 26 is amended to state:

“Fire and rescue authorities should put in place reasonable arrangements for paid leave for employees returning from a residential training course, including retained duty system employees. The amount of leave should have regard to:

- c. the length of the course (including travel time);*
- d. the nature of the course; and*
- e. the employee’s working pattern.*

Trade union facilities

19. The existing paragraph 27 is amended to state:

“The NJC has a strong commitment to joint consultation and negotiation. Fire and rescue authorities shall therefore provide officials of recognised trade unions, regardless of which duty system they work under, with

reasonable facilities necessary for them to carry out their trade union duties, including paid leave to attend meetings of the NJC and other relevant fire and rescue service national committees.

20. The existing paragraph 28 is amended to state:

“Where a part-time employee (including an employee on the retained duty system) attends a joint consultative or negotiating meeting outside of his or her normal working time the time spent at the meeting should be paid or time off in lieu granted. Where a retained duty system employee attends such a meeting and receives payment instead of time off in lieu they shall be paid at the appropriate basic hourly rate for his/her role.

Leave for public duties

21. The existing paragraph 29 is amended to read:

“Paid leave shall be granted to employees (including an employee on the retained duty system where he or she would otherwise have been providing retained cover at that time) undertaking jury service and, in appropriate cases, serving on public bodies for undertaking public duties. Where an allowance is payable for loss of earnings this should be claimed by the employee and repaid to the fire and rescue authority. “

SECTION 4 - CONDITIONS OF SERVICE FRAMEWORK - PART D - MATERNITY, CHILDCARE AND DEPENDENCY

22. The existing paragraph 36 is amended to state:

“For employees on the retained duty system a week’s pay during a period of maternity leave shall have the meaning given to it in Appendix C, paragraph C.”

SECTION 5 - HEALTH ISSUES – PART B – OCCUPATIONAL HEALTH

23. The existing paragraph 16 is amended to state:

“Where an employee on the retained duty system is on authorised sick leave ‘full pay’ shall be calculated on a daily basis. Employees shall receive 1/7th of their average weekly wage per day. Weekly wage shall have the meaning given to it in Appendix C, paragraph C.

24. The existing paragraph 17 is amended to state:

“Where an employee on the retained duty system (or a volunteer carrying out operational firefighting duties) is on authorised sick leave as a result of an illness or injury arising out of authorised duty and can provide satisfactory evidence that, as a direct result of the illness or injury, he or she is suffering a financial loss in respect of his or her usual occupation, ‘full pay’ means the amount of the actual loss (including his or her average weekly wage as defined in Appendix C, paragraph C) subject to the maximum basic weekly rate of an Area Manager.

25. The existing paragraph 18 is amended to state:

:
“For employees on the retained duty system (or volunteers) and for the purposes of paragraph 17 above, ‘authorised duty’ includes occasions on which the employee (or volunteer) is responding directly and promptly to an emergency call. It shall not include travelling to the station for any other purpose. Where the fire and rescue authority is satisfied that the employee (or volunteer) has been injured as a result of returning directly to his or her home or work immediately after attending the station in response to an emergency call the authority may treat the journey as authorised duty. Any decision to regard such a journey as authorised duty shall concern only the question of calculating entitlement to sick pay. It shall not be regarded as determining whether the employee (or volunteer) was on duty for any other purpose.”

SECTION 6 – GRIEVANCE AND DISCIPLINARY

Suspension

26. The existing paragraph 73 is amended to state:

“Full pay for those employees on the retained duty system will be calculated on a daily basis. Employees shall receive 1/7th of their average weekly wage per day. Average weekly wage shall be as defined in Appendix C, paragraph C.”

APPENDIX C

27. Insert new paragraph C:

“For an employee working on the retained duty system where the “average weekly wage” (or “remuneration”) applies this shall mean the employee’s average weekly wage or remuneration in the previous 12 weeks excluding any week in which she or he has been on sick leave or received no pay. Where there has been an increase in the rates of fees or payments during that 12 week reference period, the new rate shall be used to make the calculation as if it applied throughout the reference period. Further, given that the annual retainer will continue to be paid during periods of paid sick leave or other paid authorised absences (subject to any reduction to half payment in accordance with Section 5, Part B, paragraph 10), payment of the retainer should be disregarded when calculating average weekly wage.”

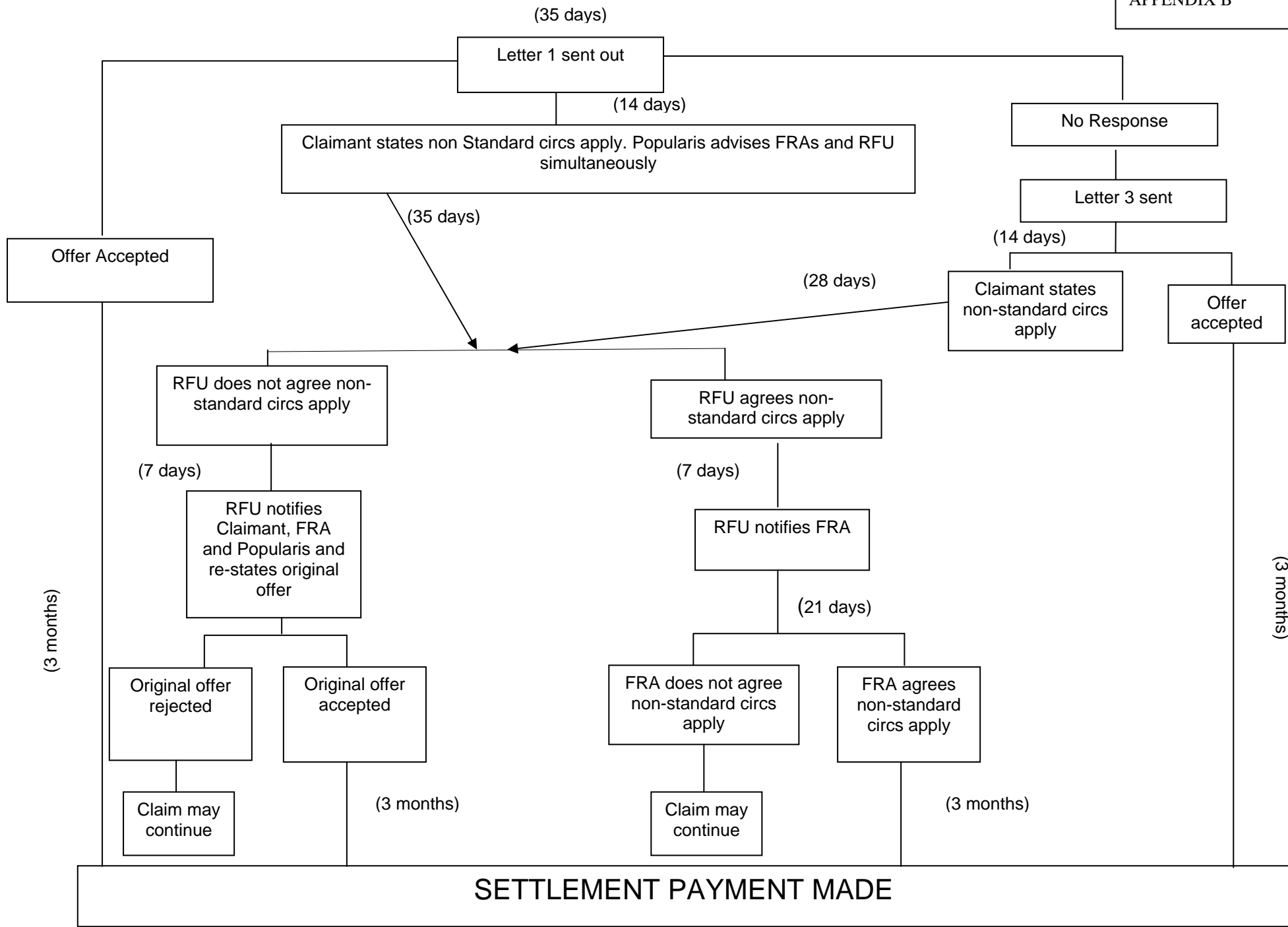
INTERIM AND PROTECTION ARRANGEMENTS SECTION

Medical charges and expenditure

28. The existing paragraph 8 is amended to state:

“A fire and rescue authority shall reimburse an employee (other than one ~~on the retained duty system or~~ in a control-specific role) whose continuous service under this scheme of conditions of service commenced prior to 1st November 1994 any charges incurred under Sections 77, 78 or 79 of the National Health Service Act 1977. An employee who refuses or neglects to undergo a medical examination required by the authority shall not be entitled to such reimbursement.”

Yours faithfully
SARAH MESSENGER
MATT WRACK
Joint Secretaries



(3 months)

(3 months)

(3 months)

(3 months)

(3 months)

SETTLEMENT PAYMENT MADE