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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

30 September 2008

CIRCULAR NJC/12/08

Dear Sir/Madam

PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS

Background

1. You will be aware that test cases in two authorities, Kent and Berkshire, were identified in 2001 under the above legislation. Those test cases 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 earlier this year.
2. The judgement of the Tribunal on that occasion was:
 - (i) The Tribunal finds and declares that the Claimants were engaged in broadly similar work as their named comparators.
 - (ii) The Claimants were treated less favourably than their named comparators in respect of access to pension rights and payment for sickness absence.
 - (iii) The Respondent's arguments of justification are dismissed.
 - (iv) The Claimant's claim for increased pay for additional responsibilities is adjourned for 8 weeks."
3. Circular NJC/8/08 advised authorities that the Tribunal had indicated it believed the parties should endeavour to reach a negotiated settlement. Therefore, following

discussion within the respective Sides an approach had been made to Tribunal to allow the parties until September for those negotiations to take place, with the possibility that it may take longer. Tribunal accepted that request and the cases remain stayed.

Current position

4. Whilst there is a willingness on both Sides to resolve these negotiations, it was recognised at today's NJC meeting that this is a complex issue requiring additional time. Accordingly both Sides instructed their legal representatives to approach Tribunal to seek that additional time.
5. It is anticipated that this matter will be returned to at the next meeting of the NJC in December.

Yours faithfully

SARAH MESSENGER

MATT WRACK

Joint Secretaries