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

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**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**

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16 March 2009

**CIRCULAR NJC/3/09**

Dear Sir/Madam

**TECHNICAL ADVISORY PANEL (Lincolnshire, January 2009)**

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 John Gennard, who is assisted by the Joint Secretaries, currently chairs the panel.
4. The Technical Advisory Panel met on 23 January 2009 to consider a referral from Lincolnshire Fire and Rescue Service.
5. A copy of the recommendation, which is applicable only to Lincolnshire Fire and Rescue Service, is attached. .

Yours faithfully  
**SARAH MESSENGER**  
**MATT WRACK**  
Joint Secretaries

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

**TECHNICAL ADVISORY PANEL (TAP)**

**PARTIES: LINCOLNSHIRE FIRE AND RESCUE SERVICE (LSFR)  
FIRE BRIGADES UNION (FBU)**

1. The TAP met at One Birdcage Walk, Westminster, London on 23<sup>rd</sup> January 2009.
2. In accordance with the Grey Book Section 4, Part A, Paragraph 5, the TAP encouraged the parties to make a voluntary agreement in order to settle the difference between them concerning whether the introduction of a Continuous Crewing Duty System and of a Non Continuous Crewing Duty System complies with Section 4, Part A, Paragraph 3, of the Grey Book, namely the four principles of basic working hours of 42 per week, at least two periods of 24 hours free from duty each week, complies with relevant UK and European law and having regard to the special circumstances of individual employees and be family friendly.
3. In the absence of an agreement the TAP is required to make recommendations having regard to the deployment of resources that the Service has determined necessary in order to implement its IRMP and the four principles set out in the Grey Book, Section 4, Part A, Paragraph 3.
4. In the event the parties were unable to reach agreement and accordingly the Independent Chair of TAP is required to make recommendations.
5. The LFRS proposes to introduce two key duty patterns – A five watch and a two watch pattern. In order to minimise the impact on staff working either patterns the two are mutually supportive. This support takes the form of over establishing the two watch stations from 11 to 12 personnel to allow two watches to operate and reduce staff at the shift stations to prevent compulsory rostering off watch. In short what is proposed is one duty system with two distinct variants. The FBU accepted these duty patterns in June 2008 subject to agreement being reached over derogation of daily rest within the Working Time Regulations and over other financial issues. (The June Proposals).
6. In November 2008 a derogation for daily rest was collectively agreed but the LFRS said financial constraints made it impossible to make any additional allowances to its fire fighters. In December 2008 the FBU said they considered the proposed two key duty patterns did not comply with the NJC Scheme of Conditions of Service, Section 4, Paragraph 3, and would not be prepared to agree to operate the duty systems without a financial incentive.

7. The LFRS, in contrast, felt that the proposed new duty patterns complied with the Grey Book Section 4, Paragraph 3 criteria with the exception of the Working Time Regulations that could only be satisfied if the November 2008 derogation was accepted. As this was now no longer acceptable to the FBU the LFRS amended its June 2008 proposed duty pattern to meet the requirements of the Working Time Regulations without derogation. (The December proposals).
8. The difference between, therefore, is the extent to which the June or December 2008 proposed duty systems do, or do not, meet the four principles of Section 4(A), Paragraph 3 of the Grey Book.
9. The Recommendations are as follows:
  - a) The Continuous Crewing Duty System and the Non Continuous Crewing Duty System agreed in June 2008 be implemented with effect from 1<sup>st</sup> March 2009.
  - b) The configuration of duty/rota days within each of the five blocks of leave each consisting of 18 days free duty be given.
  - c) The operation of the two key duty patterns should be subject to review on a joint basis at six and twelve six months. This should include whether the operation of short notice shifts is detrimental towards female employees and if so whether there may be some financial recompense in compensation.
  - d) The derogation for daily rest collectively agreed in November 2008 be implemented on March 2008.
  - e) A one off lump sum payment of an amount in line with that explored on the day of the hearing be paid to the employees required to work the new continuous and non continuous shift patterns in settlement of the FBU claims set out in their letter of 11<sup>th</sup> November 2008.

It will not be possible for the fire and rescue service to implement the above proposals without a collective agreement. I have therefore also considered the management December proposals upon which I would make the following recommendation:

- a) I did not have an opportunity to review the employment contract but assuming there are no contractual issues the system does meet the principles required.
- b) The configuration of duty/rota days within each of the five blocks of leave, each consisting of 18 days free duty be given.
- c) The operation of the two key duty patterns should be subject to review on a joint basis at six and twelve months. This should include whether the operation of short notice shifts is detrimental towards female employees and if so whether there may be some financial recompense in compensation.

Professor John Gennard,  
Independent Chair, Technical Advisory Panel,  
6/2/2009