Independent Person’s Report, Findings and Conclusions:

Parties: Devon and Somerset Fire & Rescue Service
        Staff Representatives

Independent Person: Mr J. H. Mulholland BA MSc FCIPD

1. By a Minute of Appointment dated 10th May 2007, I was appointed by the Advisory, Conciliation and Arbitration Service to investigate and report on a difference reported by the parties with the following terms of reference:

   The following terms of reference relate only to staff who were employed by the former Devon Fire & Rescue Service:

   To examine and report on the methodology used in the Rank to Role exercise taking into account the grievances of staff including information offered at formal appeals. The nationally agreed Rank to Role process will not be subject to independent review. The report and its findings will be considered by the parties when assessing if any complaints regarding the application of the process are justified. Methods to be used by the reviewer to include examination of paperwork submitted by the parties and interviews (e.g. Validation Panel members) as required to complete the report.

2. I held an introductory meeting with the parties on Wednesday 16th May 2007 at which a number of important matters were agreed as to the nature and conduct of the review which I was to undertake. The details of the matters agreed are set down in the document attached as Appendix 1 to this report. One of the matters then agreed was that the terms of reference which I had originally received from ACAS would be amended by adding the introductory sentence. That is because the staff to whom the matters which I am to investigate were at the time of the relevant events employed by the former Devon Fire & Rescue Service (DF&RS); since then the Devon Service has merged with that of Somerset to constitute the present employer.

3. Two other matters noted in the agreement reached on 16th May merit mention. The first is that, in addition to hearing the submissions of the parties, I should interview members of staff and members of the Validation and Appeals Panels and that the questions to be asked during those interviews would be agreed in advance between the parties and myself. That was done and the questions agreed are set down in part 4 of this report which deals with the interviews. The dates for the hearing and for those interviews were also agreed at that meeting.
4. Prior to the hearing, both parties had submitted to me and exchanged copies of their reasoned statements of case together with a considerable number of ancillary documents. They also submitted and exchanged written responses to each other’s case. The hearing was held on Wednesday 6th June and Tuesday 26th June 2007 and the interviews on the 6th, 7th, 8th, 20th, 21st and 22nd June 2007. Both the hearing and the interviews took place at the headquarters of the Devon and Somerset Fire & Rescue Service, The Knowle, Clyst St. George, Exeter, Devon, EX3 0NW. On the last day of the hearing I asked the Service to send me copies of the minutes of certain meetings but, when I received them, other information was included. The staff representatives immediately objected to its inclusion on the grounds that it was a departure from the agreed arrangements. However, after considering representations from both parties, I decided to invite the staff to submit a response and then took both additional documents into consideration.

5. The employer was represented at the hearing by:

   Mr. Robert Fyfe, Deputy Chief Officer;
   Mr. Steven Pope, HR Manager.

6. The staff representatives at the hearing were:

   Mr. Alex Hanson, Staff Representative;
   Mr. Malcolm Carmichael, Staff Representative.

**BACKGROUND**

7. The present employer, Devon and Somerset Fire & Rescue Service, came into being on 1st April 2007 following the enactment of a Statutory Order of 26th November 2006. There had previously been two separate fire and rescue services for the two counties.

8. Some three years previously a national pay and conditions agreement had been finalised by the National Joint Council for Local Authority Fire and Rescue Services (NJC), and was set down in the sixth edition of the NJC Scheme of Condition of Services (Grey Book) which remains the current agreement. The agreement included a statement of intent for a change in fire and rescue services from a Rank-based organisational structure to a Role-based structure. The means of achieving that organisational change was to become known as the Rank to Role (RtoR) process.
9. The 2003 agreement set down how existing ranks would be assimilated for pay purposes only to the new roles. Pay-assimilated roles were tabulated for all previous whole-time ranks.

10. Since that assimilation, which took effect on 7th November 2003, was for pay purposes only, prior to the anticipated substantive Rank to Role outcome, a process for the substantive assimilation needed to be agreed nationally before it could be undertaken at local level. To that end a national pilot took place in October 2004 with Devon being one of six participating fire and rescue services.

11. Following the pilot, agreement was reached at the NJC in August 2005 which was set down in Circular NJC/09/05. The Circular, however, gave guidance on carrying out the substantive move from rank to role but not a detailed methodology. It was therefore necessary for fire services to ‘flesh out’ the content of the Circular in certain respects.

12. The only trade union represented on the NJC is the FBU. However, at local level, DF&RS recognised two additional unions for uniformed staff, these being the Fire Officers’ Association (FOA) and the Retained Firefighter Union (RFU). Since the FBU was unwilling to participate in joint meetings with the other two unions, separate discussions have had to take place.

13. The original timetable planned for carrying out the substantive assimilation in DF&RS ran from 6th March to 18th June 2006. However, this was later extended, for reasons including the number of appeals which had to be heard, ultimately until 12th December 2006. There were, I was told, 1433 employees in the Service of whom 561 were whole time, 847 retained and 25 control. The ranks of Firefighter, Operational Leading Firefighter and their control equivalents, Fire Control Operator and Leading Fire Control Operator were automatically assimilated to the roles of Firefighter, Crew Manager, Firefighter (Control) and Crew Manager (Control). Accordingly the numbers to be processed through the DF&RS substantive assimilation were 176 whole time, 76 retained and 11 control.

14. It was after the completion of the substantive RtoR assimilation that a number of issues were raised by members of staff which resulted in a letter of complaint from middle management employees. The service sought to resolve the issues through meetings with representatives of the group and this led to an agreement to refer the matter to ACAS so as to have this independent review carried out.
PRINCIPAL SUBMISSIONS MADE BY THE STAFF REPRESENTATIVES

15. The two staff representatives gave details of their length of service, experience and qualifications. They were part of a group of eight representing 92 members of staff whose former ranks ranged from leading firefighter to divisional officer, and who were employed in thirty five different jobs. Of the 92, 66 were members of the FBU, 21 of the FOA and 5 were not trade union members.

16. Although the two staff representatives presenting the case were two of eight Service Delivery Managers the claim that was being made was not their claim but that of the group as a whole.

17. The RtoR was not a job evaluation scheme but a national agreement relating pay to roles. The assimilated pay levels were not estimates of the substantive roles but used merely as an administrative measure to enable the new pay levels to be put into effect.

18. The staff representatives made clear that they intend to use the conclusions and findings resulting from this review as a basis to settle the issues which were the concerns of the staff. They believed that the Service had the same intention.

19. The staff had several major concerns, the first of which related to job descriptions and the role which they had played in the substantive assimilation process.

20. NJC/09/05 stated "An up to date job description is a key element of the process. We would therefore urge Fire and Rescue Services to develop job descriptions for each job..." In September 2005 the HR department had contacted members of staff to update existing job descriptions before the commencement of the RtoR process. In response, during October, November and December 2005, work was carried out to determine new job descriptions and line managers and personnel spent a great deal of time producing, cross-checking and ratifying their contents. In most cases they were verified by line managers. Information from HR was that these would be key in the RtoR process.

21. Despite the importance of using job descriptions stressed in the NJC guidance and the amount of work which had been carried out by personnel and line managers on the updated job descriptions, none of the re-written job descriptions had been agreed and validated for use prior to the commencement of the RtoR process. That was a major failure and detrimental to the transparency of the process.

22. There were many resulting but unanswered questions. Why, when other fire and rescue services had used job descriptions, had Devon not done so? How many job descriptions had been re-written? Why had HR chosen not to use the national format for job descriptions? (It had said that job descriptions would not be written in line with role maps).
23. The disregarding of the updated job descriptions set the tenor of the RtoR process which was one of mistrust and disbelief. If the Validation Panel did not believe the content of the job descriptions, would they believe the evidence provided for assimilation? There were several specific references to the importance of using job descriptions in the validation process set down in the NJC guidance yet that underlying principle had been ignored at the first opportunity.

24. The rationale behind disregarding the updated job descriptions appeared to be that the Validation Panel believed they knew more concerning the type, level and complexity of the work carried out in all jobs than the individual staff and their line managers who had validated the rewritten job descriptions.

25. The Service had claimed that the Validation Panel had used job descriptions but this was contradicted by the FOA representative in regard to the panel meeting which he had attended.

26. Hand written notes made by Validation Panel members in the first days of the process indicated that the panel would only accept job descriptions as evidence if they were up to date and agreed. Since there was no process to validate and agree amended job descriptions, that showed a lack of understanding of the relevance and currency of those available at that time.

27. The second major area of concern to the staff related to the validation process. There was clear guidance concerning it in NJC/09/05 but that had not been adhered to by the Validation Panel in a number of ways.

28. There had been a lack of clarity concerning the evidence which had to be submitted and that which was deemed untrustworthy should have been queried before validation. It had been stated that only element titles had been used yet there was detail regarding each of them which should have been taken into account.

29. Subjective judgements had been made concerning the interpretation of evidence in respect of role map units and elements. The feedback given to staff by validation and Appeals Panel members regarding their interpretation was inconsistent and varied in its approach. Validation Panel members’ handwritten notes (which had only been obtained through a Freedom of Information request) referred to the panel’s not understanding units 8, 10, 11, 17 and 18 specifically.

30. That raised concerns concerning the training, ability and underpinning knowledge of Validation Panel members. The NJC guidance called for a comprehensive understanding of the role maps to assimilate specialist posts. Although panel members had not validated their own submissions there was the opportunity for selective interpretations to be made
affecting jobs immediately above or below their own, thus allowing indirect influence to occur.

31. Despite the NJC guidance and staff being requested to submit more than one role submission for jobs which could fall into one or more roles, many submissions were disregarded by the Validation Panel who chose to assess only the submissions which they perceived to be relevant. Moreover, some members of staff were given contrary advice and directed to submit only one, specific, role submission.

32. The Panel’s handwritten notes indicated that they had considered the potential combined structure with Somerset Fire & Rescue Service, employment costs and the option of changing jobs from uniformed to non-uniformed positions, the latter being a clear departure from the RtoR process. Those notes also showed that the Validation Panel had direct contact with Appeals Panel members before completion of the validation process.

33. The Validation Panel had adopted an inconsistent approach in regard to requesting further information; some divisional officers were required to provide further information so as to achieve a role, others were not afforded that opportunity. Similarly some jobs were considered for reallocation or cessation of duties, or additional responsibility allowances, yet many were not when there was a clear case to do so. That was contrary to the NJC guidance.

34. The optional units were, in some cases, assessed but not scored and ultimately disregarded by both Validation and Appeals Panels, yet their inclusion in the role maps implied that they must have a bearing on the assimilation process. Handwritten notes made by Validation Panel members indicated that they had not known what to do in this matter.

35. There were concerns that the Validation Panel had sat without agreed representation which could only raise suspicions regarding the decisions taken on those occasions. Validations had been carried out without the presence of an FOA representative who had been told that none would be carried out on the relevant dates.

36. The staff had particular concerns about the complete lack of information regarding scoring assessments for the job sizing and role assimilation forms. Information had been repeatedly requested regarding the criteria required to achieve a particular role. It was only after all the results had been published that the limited information was given that not all elements were required to achieve a particular role. That, however, appeared not to have been applied fairly or consistently. A comparison of the operational safety managers’ and fire safety station officers’ marking sheets showed one achieving a role with 7 out of 34 elements, and the other not doing so despite achieving 32 out of 36 elements.
37. There were similar concerns regarding the job sizing forms. Those which had been completed by staff were discarded by the Validation Panel and replaced with new forms completed by the panel themselves. That was fundamentally wrong. The NJC RtoR process clearly allowed individuals the opportunity to submit personally or collectively completed job sizing forms. No guidance had been given on how they should be completed and no explanation given, despite several enquiries, concerning job sizing criteria and how they could be achieved.

38. The quality assurance which had been applied to the RtoR process had been carried out by a member of staff from Somerset County Council. That could not be viewed as independent given the certainty of the combination of the two services and its high profile.

39. The third major area of concern to the staff was the appeal process. There was a significant number of non-role specific issues which raised doubts as to the consistency and fairness with which the process had been applied.

40. It seemed incredible that the Appeals Panel could carry out an informed and robust review without considering the original submissions which had been made to the Validation Panel. By basing their decision to uphold or deny the appeal only on the additional evidence submitted for the appeal, the Appeals Panel denied all appellants a reconsideration of the original Validation Panel decision. That implied that the validation could not be wrong regardless of what the result had been.

41. The advice given to appellants by the Validation Panel and HR Department was in effect ‘You have to take the premise that the Validation Panel is right and prove us wrong’. That attitude set the tenor for the appeal process. A decision had been taken to circumvent the first stage of the appeal procedure which meant that the Validation Panel’s original decision was not reviewed. The circumventing of the first stage of the appeal, which the FOA had never been asked to agree to, meant that appellants were disadvantaged in having to rely on face-to-face interviews with the panel and only the additional information they provided. The Service had contended that there was a ‘culture’ within the Fire Service which justified hearing appeals in this way and circumventing the first stage. Such a ‘culture’ was pure supposition and had not been discussed with the FOA.

42. It was significant that the review of the process carried out by Somerset County Council, the independence of which was queried by the staff representatives, had been carried out before 8th June 2006 and therefore before the change made to the appeal procedure by the Service.
43. A request to the Appeals Panel to provide guidance to appellants on how to present their cases was refused, with appellants being told that it was for them to decide. That lack of guidance and of openness about the process led to inequality of opportunity with appellants being left to present as little or as much as they chose.

44. The optional units were disregarded by the Appeals Panel, despite their inclusion in the role maps, as they had been by the Validation Panel. The use of agreed job descriptions would have alleviated that problem. The exclusion of the optional units indicated a desire to drive down the attainment levels of submissions rather than accepting those units as being as relevant as mandatory units since both are included in the National Occupational Standards.

45. Feedback from Appeals Panel members indicated that they had made subjective judgements regarding the interpretation of evidence in respect of role map units and elements. That raised concerns over their training, ability and underpinning knowledge. NJC guidance demanded “A comprehensive understanding of the role maps... to enable Fire and Rescue Services to allocate specialist posts into a role-based structure”.

46. Validation handwritten notes showed that the Validation Panel had direct contact with Appeals Panel members before the completion of the validation process. Comments made by a Validation Panel member also indicated that the Validation and Appeals Panel were in fact a body unite.

47. The NJC appeal process provided for a review, based on the documentation, to be carried out before a hearing would be held. That process had not been followed and the departure from it was not agreed to by the appellants. They were thus denied one stage in the NJC appeal process. Nevertheless a Validation Panel member had stated in writing that a named Appeals Panel member could ‘turn over’ the Validation Panel’s decision by looking at the written evidence.

48. Following the Appeals Panel hearings, no written evidence had been provided to appellants stating the methodology, reasoning or results of the appeal hearing. The letters to appellants informing them of the results of their appeals merely stated whether they had been upheld or not.

49. A fourth major area of concern was job sizing. The Validation Panel had chosen to change the job sizing forms and complete them themselves. The new forms were different from the originals and those completed by the staff had not been used. Line managers were unable to verify the new forms and this meant that information was lacking. That change had only been made by the Validation Panel during the validation process – that despite there being a national scheme including a job sizing form and a pilot having taken place. Despite numerous requests no guidance had been given before the original forms were completed.
50. It had to be asked why different roles had been given for the same posts in, respectively, Devon and Somerset if the regional toolkit had been used. The posts could not differ due to their very nature yet different job sizes had been awarded. Some job sizes had evidently been given for forecast responsibilities.

51. The staff’s major concerns about job descriptions, the validation and appeal processes and job sizing, together with a number of miscellaneous process issues threw great doubt on the validity of the RtoR process as a whole.

PRINCIPAL SUBMISSIONS MADE BY THE EMPLOYER

52. At the beginning of their submission the two representatives of the Service gave details of their length of service, experience and qualifications.

53. Following the completion of the substantive RtoR assimilation, there had been concerns expressed by members of staff culminating in a letter of complaint by 57 employees. The principal officers, including the Chief Fire Officer, met representatives of that group and made proposals which would resolve many of the issues. However, with the merger of the Devon and Somerset Services, staff sought an independent review which was agreed to. The Service, like the staff representatives, accepted that they would be committed to considering the findings of the independent review.

54. The 2003 National Pay and Conditions Agreement included an intent to adopt a role-based structure developed under the Integrated Personnel Development Scheme, a competency-based system of training based on National Occupational Standards aligned to National Vocational Qualifications. The role-based structure introduced from 7th November 2003 provided the basis for the new pay structure.

55. The 2003 agreement instructed how existing ranks would be pay assimilated to the new roles for all uniformed positions. Although there were fewer roles in the new structure, since there are also two levels A and B, the effect was that there was the equivalent number of roles to the previous ranks.

56. The pay assimilation was an estimate of the anticipated substantive assimilation. The process for that needed to be agreed nationally before it could be undertaken at local level and it was originally intended that this would have been done in a matter of months.
However, when the degree of detail which had to be agreed became evident, a National Pilot was commissioned. That was led by a sub-working group of the NJC, and DF&RS was one of the six participating Services. Trevor French, Secretary of the Devon FBU, and Charlie Huitson, Director of Training and Development, were both members of the Devon panel for the pilot exercise. Later they became members of the Validation and Appeals Panels respectively.

57. National Agreement was not finalised until August 2005 and was included in Circular NJC/09/05. The agreed guidance gave a framework for the substantive move from rank to role but not a detailed methodology. Role maps, consisting of units defined as using the National Occupational Standards, were only agreed for operational and control positions. Those for fire safety and training specialists had been written but not agreed nationally with the FBU. For the substantive assimilation the Service was therefore required to compare all positions with the operational roles.

58. Circular NJC/09/05 did not include a defined protocol for the assessment of job sizing but merely gave guidance which indicated that such aspects of the role as people and resource management, which can differ depending on work locations such as one and two pump stations, should be considered.

59. The Fire and Rescue National framework document, which has great force, calls for the pooling of support resources regionally. Accordingly the HR Regional Practitioners’ Group worked together to produce a common toolkit to be used for the substantive RtoR process and the determination of job sizing. However, there were differing approaches adopted by services within the region and some adopted a pragmatic approach having agreed with the recognised trade unions that jobs would be assimilated without formal analysis having been undertaken.

60. Both Devon and Somerset Services undertook the formal RtoR process but did so separately. Both, however, used the regional toolkit which was in accordance with the national agreement and provided a fair and transparent system including an appeals procedure.

61. The Service committed to involving the FBU in ensuring that job descriptions were up-to-date and that the RtoR substantive assimilation would be undertaken through joint working. The Service also sought to involve the FOA in the assimilation process but the FBU would not agree that this could be done simultaneously. The service, therefore, determined that an FBU member would sit on the RtoR Validation Panel and that the proposed outcomes would be discussed with the RFU and FOA representatives for positions relevant to their members.

62. A List of Frequently Asked Questions concerning the RtoR assimilation was published on the intranet and briefing sessions undertaken through the Service. The trade union
representatives were also invited to the briefing sessions which included the dates of the various stages in the process.

63. The job descriptions and evaluation forms were made available on the intranet. It was agreed with the FBU that staff could complete an evaluation form for their current pay-assimilated role map and also the one above if they considered it more appropriate.

64. In accordance with the NJC Circular every effort was made to engage with the FBU, the RFU and the FOA during the validation process. The RFU were, unfortunately, unable to supply a representative to sit on the Validation Panel and the FOA representatives were only able to be available on a small number of days though this was accommodated.

65. The method to achieve the allocation of an employee to a specific role was by comparing existing job functions against the role map and associated descriptions. To make that comparison it was necessary to update all the job descriptions for uniformed staff, there being 66 different positions with either single or multiple occupancy. For a small number of jobs, including the Service Delivery Managers, these were not fully agreed.

66. Line Managers, who had been briefed on the process, were required to provide submissions for their staff which were to be single submissions for multiple occupancy positions though, if an individual believed they were undertaking activities over and above their colleagues, a separate individual submission was accepted.

67. A Validation Panel was formed to undertake the comparison of job functions with the role maps and it considered all ranks up to the level of Senior Divisional Officer. These positions were all assimilated to a role and a job size. However, the lowest two ranks of Firefighter and Leading Firefighter were automatically assimilated to the role maps of Firefighter and Crew Manager. The equivalent Fire Control ranks of Fire Control Operator and Leading Fire Control Operator were automatically assimilated to Firefighter (Control) and Crew Manager (Control).

68. The Validation Panel met on 21 days to complete the process. Its members were: Senior Divisional Officer Phil Drew, Director of Community Safety (Policy and Enforcement); Divisional Officer Nick Manning, Head of Training Policy; Linda Bailey, Personnel Officer and RtoR Project Manager; and Trevor French, Devon FBU Secretary. FOA representatives Divisional Officer Andy Reveez and Assistant Divisional Officer Chris Bridgeman participated in the panel, those meetings being held separately from the FBU to consider positions conditioned to the Flexible Duty Scheme including those to which their members belonged. Those were at a role of Station Manager and above. Once all the positions had been through the validation process employees were informed of the outcomes.
69. During the validation process, it was found that the generic job sizing forms were not suitable for all levels and a separate form would be required for each role. The forms were agreed with the FBU Secretary who was a member of the Validation Panel. The information from the original job sizing forms was transposed to the new forms which were audited and verified where necessary with Line Managers. The results following the validation stage were as follows: of staff remaining the same, 131 were whole time, 9 control and 32 retained; of staff going up, 43 were whole-time; and of staff going down, 2 were whole-time, 2 control and 44 retained. The number of reduced grades among the retained staff is explained by the fact that the Station Commander posts went down from their pay assimilated level of Station Manager to Watch Manager B on two pump stations and from Watch Manager B to Watch Manager A at one pump stations.

70. The Devon FBU Secretary, who participated throughout the assimilation process as a member of the Validation Panel, was entirely satisfied with the outcomes. He considered that none of the FBU members had any justification not to accept the outcomes.

71. The whole validation process was verified by a representative from the Job Evaluation Section in Somerset County Council. The results of the Validation Panel were accepted by the SSG and SMT who also received the report from the Independent Verifier.

72. When the staff were informed of their substantive RtoR outcome they were told of their right of appeal. An appeals procedure had previously been agreed locally with the trade unions but in view of the number of appeals (100 employees for 41 different jobs in whole time and control and a further 30 retained staff for two different jobs) it did not seem practical to undertake a documentary review before a face-to-face hearing. There was a culture in the Fire Service, as in many organisations, that where a further appeal stage existed it should be utilised. It was therefore proposed that the Appeals Panel should move straight to the face-to-face hearings and this was agreed with the recognised trade unions. It was confirmed to the staff who had appealed that this did not mean that the documentary evidence had been rejected but merely that it was more appropriate for the evidence to be considered at the formal appeal hearing. All staff were told of this before the appeal hearing and no concerns were raised by them.

73. Because there had been delays in issuing the letters confirming the RtoR outcomes the deadline for appeal submissions was extended by a week to 21st July 2006. It was considered appropriate for the appeal hearings to be heard by a panel at a higher level than that of the Validation Panel. Consequently the members of the Appeals Panel were Robert Fyfe, Deputy Chief Officer; Charlie Huitson, Director of Training and Development and Steven Pope, Director of Human Resources. Employees were entitled to have a representative or colleague present at the hearing. The FBU Secretary, having been a member of the Validation Panel, recognised that there would be a conflict of interest if he attended the appeal hearings and he therefore delegated that to another representative, usually Bob Walker. Some appellants brought colleagues with them.
74. Dates for the hearings were arranged and, so as to complete all of them, the period for the hearings was extended from the end of October to 12th December 2006. Appellants were given the opportunity to present any additional evidence relevant to their case. Where appropriate, information was sought by the Appeals Panel to cross-reference evidence which could impact on the outcome of the role or on job sizing and no time constraints were placed on that.

75. Many appellants focussed entirely on how they could justify an increase in their validation rating through either the allocated role or scoring on the sizing. The Appeals Panel, in a number of cases, accepted the additional evidence which resulted in changes to their submission scoring. For some positions this also led to an uplift in their outcome. In many, however, the evidence was either weak for certain units or it would be expected that the job would be undertaken on the existing role map rather than the higher role map claimed. That was particularly so for multiple occupancy jobs where some individuals could be undertaking work beyond that required, either on a voluntary or developmental basis. Since equivalence was one of the criteria for the grounds of appeal, all of the appeals were heard before decisions were made so that any final comparisons could be considered. No concerns were expressed by members of staff about waiting for all appeal outcomes to be made known until December 2006.

76. As a result of the appeals 81 whole-time staff remained the same and 14 went up. Amongst control staff 2 remained the same and 3 went up. Amongst the 92 members of staff who were party to this review, 65 had appealed and 27 had not.

77. The Retained outcomes were not considered at the appeal stage because of ongoing collective discussions with the RFU. As a result of those discussions all Watch Commanders have been made Watch Manager B and discussions are continuing to find an acceptable outcome for the retained officers-in-charge at two pump stations.

78. The RtoR substantive assimilation was one of the most significant changes in the 2003 Agreement. Many whole-time and Control staff benefited from that process and none had their pay reduced. It was undertaken in accordance with national guidance and the toolkit developed by the South West HR Practitioners’ Group. The process was thorough, consistent and applied fairly across the Service. Those who constituted the Validation and Appeals Panels were appropriate to do so and undertook those responsibilities in a meticulous and professional manner.
INTERVIEWS CONDUCTED IN THE COURSE OF THE INDEPENDENT REVIEW

79. At the request of the parties, and as noted in Section 6 of Appendix 1 to this report, I interviewed ten members of staff from amongst the group that had expressed concern about the RtoR exercise, all four Validation Panel members and two of the three Appeals Panel members. It was originally envisaged that each of the interviewees would attend on their own but it was later agreed between the parties that each could be accompanied by a colleague if they wished and almost all chose to be so.

80. Each of the interviews was scheduled for one and a half hour’s duration but a number ran significantly over that time. I had received before the interviews sets of documents which had been used in the RtoR exercise for each of ten agreed roles.

81. All interviewees had received, in advance, copies of the questions which I proposed to put and which had been agreed with the parties. As I had anticipated, those questions prompted a series of follow-up questions in almost all cases.

82. I explained at the beginning of each interview that my purpose, as defined in my terms of reference, was to examine and report on the methodology used in the RtoR exercise and that the interviews would provide valuable information to that end. I emphasised that I was concerned, not with the outcomes of the RtoR exercise, but solely with the process by which it had been carried out.

83. The ten members of staff from the ten agreed roles, together with their accompanying colleagues, were as follows:
   i) Group Fire Control Officer Linda Schrimpf;
   ii) Ops Safety Manager Malcolm Carmichael accompanied by Ops Safety Manager (and Chair of FOA) Andy Reveez;
   iii) Fire Safety Station Officer John Monaghan accompanied by Fire Safety Station Officer Chris Blackburn;
   iv) Recruit Instructor Chris Drury accompanied by Recruit Instructor Jock Massie;
   v) Fire Safety Sub-Officer Martin Bayet accompanied by Fire Safety Sub-officer Steve Purchall;
   vi) BA Instructor Jim Mallin accompanied by BA Instructor Gary Shaw;
   vii) Fire Safety Manager Alex Hanson accompanied by Fire Safety Manager Kevin Parfitt;
   viii) Hydrant Officer Adrian Sellick accompanied by Hydrant Officer Paul Cross;
   ix) ADO Group Commander Steve Widnell accompanied by ADO Group Commander Neil Blackburn;
   x) Fire Control Watch Officer Simon Gould.
84. I interviewed all four of the Validation Panel Members who were as follows: SDO Phil Drew; Director of Community Safety (Policy and Enforcement) and Panel Chairman; DO Nick Manning, Head of Training Policy; Linda Bailey, Personnel Officer and RtoR Project Manager; Trevor French, Devon Branch FBU Secretary.

85. I interviewed two members of the Appeals Panel (the third member having retired from the Service) who were: DCO Robert Fyfe, Appeals Panel Chairman; Steven Pope, DF&RS Director of Human Resources.

86. In the interviews with the ten members of staff from the ten agreed roles I asked the five questions set out in the following part of this report. I invited the accompanying colleagues to supplement the answers given as they deemed it appropriate. It was helpful to my investigation to have both contributions in that way.

87. The total time taken up by all the interviews amounted to some 30 hours. It is neither possible nor desirable to set down all of the detail covered in the whole of that time. I believe that it best serves the review which I have conducted for me to summarise for each of the three groups – members of staff, Validation Panel members and Appeals Panel members – the experiences which they described and the views which they expressed. This I have done in the following sections of this report in relation to each of the agreed questions which I put.

**Interviews with Members of Staff**

**Question:** Would you please describe, to the best of your knowledge, the process which was followed in determining your own Rank to Role.

88. The answers given by the staff to this question were helpful to me in providing information about the RtoR process in greater detail than had been included in the parties’ submissions. Overall, not surprisingly, what emerged in response to this question was a generally consistent account of the process, with variations in relation to each individual’s experience.

89. The same description of the overall process was given by virtually all of the staff. They were aware (by attending briefings or learning from their line manager or by email) that job descriptions were to be updated. They knew that assimilation and job sizing forms, available on the intranet, together with notes for guidance, were to be completed and would be considered by the Validation Panel. They received letters informing them of the Validation Panel’s decisions in their individual cases and of how they could appeal
90. However, in describing that overall process, every member of staff described difficulties which they had experienced or dissatisfaction which they felt in regard to one or more parts of the process. These matters, which I shall return to in relation to the third of the questions which I put to the staff, were most evident in relation to certain stages in the process.

91. The first of these concerned job descriptions. Some staff reported that these had not been discussed with, verified by, or signed by their line managers. Others said that their job descriptions had been written by their line managers without reference to them. Others again reported that the final version of the job description, published on the intranet, differed from that which they had submitted.

92. The second major difficulty which was reported related to the assimilation forms about which similar comments were made to those recorded in the preceding paragraph in regard to job descriptions. In addition at least half of the staff interviewed said that there had been a lack of clear guidance on how to complete the forms and they had found it difficult to do so. There were also reports of difficulty in accessing the forms so as to complete them in their entirety.

93. Dissatisfaction was expressed about staff discovering that the job sizing form which they had completed had been changed by the Validation Panel without their knowledge or agreement.

94. All of the staff who were interviewed had appealed against the Validation Panel outcome either in relation to role or job size. Whilst acknowledging that they had been informed, by letter, of the grounds on which appeals were to be submitted, several reported difficulty in not knowing how they should present their appeal nor what information the Appeals Panel would be looking at. Despite that difficulty, several commented that they were satisfied with the manner in which their appeal hearing had been conducted and that adequate time had been given to them to present their case.

95. The difficulties reported in preparing their appeals were compounded, a majority of the staff reported, by difficulties which they experienced in obtaining feedback concerning the validation. Some had approached Validation Panel Members and others HR and had obtained general feedback but had only later received the details of the markings of their assimilation and job sizing forms. Some further complained that they were unaware of the marks required for their appeal to have succeeded. Similar comments concerning feedback were made in relation to the outcomes of the appeal hearings.

96. Other concerns expressed by some of the staff were: that the first stage of the appeal procedure had been omitted; that they had been given the impression that their appeal was
unlikely to succeed before submitting it; that there was not a trade union member of the Appeals Panel; that they had been told that they could only submit one assimilation form; that they had been unaware that an individual assimilation form could be submitted by one member of a group in the same job; that, having now seen the markings on their forms, they could not understand the role or job size to which they had been assimilated; and, in several cases, that they felt displaced or demoted by the process. (On those latter two points I reminded interviewees that my concern was solely with the process of RtoR and not with the outcomes.)

**Question:** Were you satisfied or in any way dissatisfied with the manner in which that process was carried out?

97. All ten members of staff stated that they were dissatisfied with the manner in which the RtoR process was carried out with several adding that they were ‘very’ or ‘completely’ dissatisfied. One said that he had found it “a very traumatic process”.

**Question:** If you were dissatisfied in any way to which specific part (s) (eg validation, appeal) does your dissatisfaction relate?

98. I have set out below the parts of the process about which staff expressed dissatisfaction, and I have indicated, by the figures in brackets after each, the number of staff expressing dissatisfaction on that specific part.

i). A lack of guidance on how job description forms were to be completed (6);

ii). Job descriptions not having been agreed with line manager, added to by line manager, written with little or no consultation, not signed (6);

iii). Job descriptions not reflecting all the responsibilities of the job or the changed organisational structure (3);

iv). Inadequate advice concerning filling in assimilation/job sizing forms with resulting difficulty in completing (6);

v). Assimilation forms submitted unsigned (3);

vi). Not knowing the marks or scores needed when submitting assimilation forms (4);

vii). Not knowing how the Validation Panel would undertake the assimilation process (5);

viii). The changing of the job sizing forms by the Validation Panel without reference to the staff (4);

ix). A lack of feedback from Validation and/or Appeals Panels (6);

x). A failure, initially, to provide marks and scores achieved; (5)

xi). A lack of guidance on how to present appeals (7);
xii). A failure to follow the process (specifically the use of a Working Group in a first stage of assimilation) which had been indicated in the FAQs (2);
xiii). The omission of the first stage of the NJC appeal procedure (6);
xiv). Being told, incorrectly, that only one assimilation form could be submitted (1) and second forms not being marked by the Validation Panel (3);
xv). The process being operationally biased and failing to reflect the work of specialised roles (6);
xvi). An inability to understand how other, apparently similar, jobs in the organisation had obtained different roles (3);
xvii). A belief that similar jobs in Somerset had been awarded higher roles (7);
xviii). A lack of information concerning the significance of optional units (1);
xix). A belief that all ADOs had been prior assimilated to Group manager A thus rendering appeals for B futile (1);
xx). A failure to communicate an overall plan or structure for RtoR with, instead, ad hoc and piecemeal communications (7).

Question: Are there any further matters you would wish me to be aware of?

99. Because of the range of topics covered by the previous four questions which I put to the interviewees and the time spent on discussing them, there was only a handful of further matters raised in response to this final question.

100. One, however, was raised repeatedly and strongly. A majority of the staff expressed concern about the different roles to which evidently similar or identical jobs had been assimilated in Somerset as against Devon. The same group felt strongly that the process in Somerset should have been delayed, given the imminent merger between the two services, and one RtoR exercise carried out for the combined force. There was also a belief that assimilation forms in Somerset had merely required job holders to enter the numbers of the relevant sections within their job descriptions.

101. Other interviewees expressed the view that the process had developed as it went along with no clear overall structure having been evident from the outset.

102. Some staff pointed out that the role maps, other than those for Firefighter and Crew Manager, contain no reference to safety matters despite their obvious importance in the service. They felt that this failure to take safety matters into account in the roles of more senior jobs disadvantaged those post holders.
Interviews with members of the Validation Panel

103. I interviewed all four members of the Validation Panel, three of whom chose to be accompanied by another member of the panel. They were:
   i) Trevor French, FBU Devon Branch Secretary, accompanied by Nick Manning;
   ii) Phil Drew, Chairman of the Panel and Director of Community Safety, accompanied by Nick Manning;
   iii) Nick Manning, Head of Training Policy, accompanied by Linda Bailey;
   iv) Linda Bailey, Personnel Officer and RtoR Project Manager.

104. As I had done with the staff interviewees, at the beginning of each interview I explained my terms of reference and, in particular, emphasised that the review which I was conducting was concerned with the RtoR process and not with its outcomes.

105. At my request each member of the Validation Panel stated at the beginning of their interview how they became members of the panel. Trevor French served because of the National Agreement calling for the involvement of the representative bodies. Phil Drew had been asked to serve as Chairman by Steven Pope after the SMT had concluded that it would be appropriate for him to do so. Nick Manning had also been asked to serve by Steven Pope because of previous work which he had undertaken on occupational standards and role maps. Linda Bailey had been asked to serve because of her position as Personnel Officer and having been appointed RtoR Project Manager.

106. There was a marked degree of consistency between the answers given by all members of the Validation Panel to my questions. What follows, therefore, summarises what all four told me, except when an individual’s response was noteworthy.

Question: What part did you play in the validation process?

107. The obvious factual answer to that question is that all four served as members of the panel contributing to its deliberations and outcomes. However, I also asked them to describe the nature of their panel deliberations and any particular parts which, individually, they had contributed.

108. They described that, before discussing the role to which a job should be assimilated, they first found that they had to consider the reliability of the information which had been set down in the job descriptions and assimilation forms. They found some to be unreliable. Not all submitted were accurate, up-to-date and valid. Sometimes the job had been ‘undersold’ but more often ‘oversold’.
109. The panel chairman told me that perhaps as many as 20% of the submissions were unreliable in this way and, because so much hung on role determination, he had considered whether the panel could proceed given this difficulty. In the event they had done so and found the presence of the FBU representative helpful in that regard.

110. When they found submissions to be unreliable the Validation Panel had not returned the forms but had sought further information by, for example, approaching the relevant line managers or discussing with representatives of groups. The latter had been done in regard to Station Managers and Watch Managers whose job descriptions had, in effect, been identical. The panel believed that these matters had been resolved to the advantage of the staff concerned, the panel taking the stronger submissions.

111. The Validation Panel members had been unaware, when appointed, that they would find it necessary to address the reliability of the information submitted before embarking on their basic responsibility of assimilating jobs to roles. The additional stage in the process had added to the total time required.

112. The Validation Panel members had not been given terms of reference, as such, before embarking on their task but had worked to the documents in Circular NJC/09/05 supplementing them where they found it necessary.

113. In discussing the forms submitted so as to determine the appropriate role, Linda Bailey read the assimilation forms aloud, element by element, Trevor French had the job descriptions in front of him and read the numbered paragraphs which he believed fitted, and all members had sets of occupational standards in front of them. There would then be a discussion on a particular element and then Linda Bailey would enter ‘yes’ or ‘no’ to indicate whether that particular element had been achieved. In absolutely all cases job descriptions had been used.

114. Discussion would continue on each set of forms until consensus was reached so that the role decided on would be unanimously agreed by the panel.

115. For a job to be assimilated to the role which had been applied for, a majority of the units had to be met but the Panel were fundamentally concerned with matching words on the assimilation form and the job description with the role map, following the flow chart in the National Guidance. Because Occupational Standards were generic, a degree of interpretation was needed and the panel had, therefore, to consider how they applied in a particular example.
The panel had not known, before embarking on its task, how many units were needed for a role nor how many elements in a unit for it to be achieved, this varying according to the role map. In regard to units the panel had adopted the ‘best fit’ approach recommended in the National Guidance so as to be fair to individuals. With regard to elements the panel decided, as they went along, that two thirds or more were needed to meet a unit. It was not possible to give a succinct description of how the ‘best fit’ approach had been applied since cases differed.

There had been very little guidance in the national document concerning job sizing. Virtually no quantification had been provided to determine whether the job size to be awarded should be ‘A’ or ‘B’. The Validation Panel had, therefore, to determine those matters themselves.

The panel had used a job sizing form which had been used by Wiltshire and then, having been modified, by Somerset. The panel, however, had found it necessary to further modify the form since it did not reflect the size and diversity of the Devon Service. The change to the form had been agreed with Trevor French, FBU Secretary as well as a panel member, but not with the other trade unions.

All of the job sizing was carried out after all of the jobs had been assimilated to roles. The panel developed certain criteria as determinants in job sizing, such as the number of staff managed, but the staff were unaware of the criteria used. Nor had staff been informed of the change made to the job sizing form by the panel. A scoring system had been developed and agreed amongst the panel members and this had been used in considering the determinants.

As with the assimilation of jobs to roles, the panel had discussed job sizing until consensus was reached and decisions had therefore been unanimous. When there were submissions for two roles, if the panel unanimously concluded that one had been met, then the second was not considered.

Question: What do you understand to be the purpose of the validation process?

The essential purpose of the validation process was to apply the National Agreement by using NJC guidance to assimilate people from rank to role. The Panel did not have terms of reference as such but had not felt a need for them. They had, however, found it necessary to supplement the NJC Guidance. In the light of their own respective backgrounds and experience they had felt secure in carrying out their task demanding though it was.

All members of the Validation Panel emphasised that neither budgetary nor organisational considerations had entered into their discussions, contrary to certain unpleasant accusations.
which had been made. The RtoR exercise was one of the biggest things to hit the service and, for three years before the substantive assimilations had been carried out, staff had often talked about Occupational Standards and role maps.

**Question:** What document(s) did you understand you were to follow in carrying out the validation process?

123. The members of the Panel stated that the documents to be used were: Circular NJC/09/05; National Occupational Standards; Job Descriptions; Assimilation and Job Sizing forms; and Role Maps. There had also been protocols which had been developed by the panel themselves and which were used as necessary.

**Question:** What steps were taken, before or during the Validation Panel meetings, to ensure that this was done?

124. All of the relevant documents were used in the assimilation and job sizing discussions with the appropriate set of papers being used in each case. The meetings had been conducted in such a way as to ensure that this was done.

**Question:** Was the process carried out, to the best of your knowledge, in a way which complied with the details given in the documentation?

125. The process was carried out in compliance with the documents previously mentioned. The Panel had found it necessary, however, for reasons already explained, to develop their own job sizing form and certain protocols. There had been difficulties in assimilating non-operational posts, because the national standards, though available, could not be used, and some posts could not be assimilated.
Interviews with members of the Appeals Panel

Question: What part did you play in the appeal process?

126. There were three members of the Appeals Panel who were DCO Robert Fyfe, Charlie Huitson, Director of Training and Development and Steven Pope, Director of Human Resources. Mr. Huitson having retired, I interviewed the other two members of the Panel.

127. The three Appeals Panel members were appointed by senior colleagues. The membership had not been put to the trade unions but they had not expressed any concerns about that.

128. DCO Fyfe, who chaired the Panel, had sought at the outset of the hearings to ensure that appellants felt comfortable and had no concerns. After introducing panel members and stating the purpose of the hearing, he had explained to all appellants why the paper review had not been carried out as part of the appeal process. The panel had sought to be open-minded and had allowed sufficient time for the appellants to state their cases fully. The panel then deliberated privately, sometimes recalling the appellant and the accompanying colleague so as to ask further questions. At the end of the hearing DCO Fyfe had told them how they would be informed of the outcome.

129. Mr. Pope had served as detailed note keeper for the panel and also recorded the results, subsequently informing appellants of the outcome. He had also arranged the hearings. The notes had not been intended for the staff but some were later released under Freedom of Information.

130. The decision to dispense with the first stage in the NJC model appeal procedure had been agreed by all three panel members and agreed, by phone, with the three representative bodies. The letter sent to employees, inviting them to an appeal hearing, had attached to it the Service’s appeal procedure as originally intended including the two stages. However, at the beginning of each hearing, the change in procedure had been pointed out. No objections had been raised by appellants.

131. The sheer volume of appeals had created difficulties and the period for submitting them had been extended as a consequence. There had been some confusion over whether new evidence should be submitted for the appeal. Most staff did so, though not all, and some had asked for more time to complete their written evidence. It was usual for appellants to read that evidence at the hearing.
Question: What document(s) did you understand were to be used in carrying out the appeal process?

132. The documents used by the Appeals Panel were the appeal procedure, modified by dispensing with the first stage; the relevant job description; the additional written information supplied by the appellant; the assimilation form marked by the Validation Panel; the job sizing form and Validation Panel score sheet, where relevant; and the relevant role map.

Question: What steps were taken, in hearing the appeals, to ensure that this was done?

133. The panel had ensured, before a hearing began, that all relevant documents were available. They had then all been considered by the three members of the panel and their discussion, after the appellant and accompanying colleague had left, continued in each case until agreement was reached. All decisions, therefore, were unanimous.

Question: Was the process carried out, to the best of your knowledge, in a way which complied with the details given in the documentation?

134. Appeals were conducted in conformity with the modified appeals procedure which was itself based upon the NJC model.

135. Discussion of each case had always been based upon the documentary evidence which the panel had before it and no other considerations. Budgetary and organisational matters had never entered into the panel’s deliberations.

Question: If it was not, please indicate, with specific reference to the wording of the document(s) any way in which you believe the process was not followed?

136. The only departure from the process was the omission of the first stage appeal which has already been referred to. There was no procedure provided as to how hearings were to be conducted and that was something which the panel had determined themselves. Similarly, it had been necessary to inform appellants, in response to their queries, as to the information which could be provided for the hearings.

Question: Are there any further matters you would wish me to be aware of?

137. It had been claimed that appellants had to ‘prove the Validation Panel wrong’ but that had not been the case. Nor had there been any collusion, as had been alleged, between the Service and the FBU, nor between the Validation and Appeals panels which had functioned independently of each other. The presence of Bob Walker of the FBU at most hearings had been very helpful.
138. A request had been put to the Somerset F&RS to put their Rank to Role process on hold but they had given reasons why they had felt unable to do so.

CONSIDERATIONS

139. My terms of reference require me "To examine and report on the methodology used in the Rank to Role exercise..." At the beginning of the first day of the hearing I agreed with the parties that "the methodology used" would cover all aspects of the way in which the RtoR exercise was carried out in DF&RS. I made clear to the parties that I would be addressing two fundamental questions. The first was whether the process followed conformed to what had been prescribed and the second was whether the exercise was carried out in a way which treated staff fairly and reasonably.

140. My terms of reference further state that “The nationally agreed Rank to Role process will not be subject to independent review”. That nationally agreed process is set down in NJC/09/05. Since it is thus specifically excluded from the review I shall not be assessing the quality of what it contains but I shall be assessing whether its provisions have been applied correctly since that document provides the basis for the entire RtoR exercise.

141. The methods which I used in conducting the review included, as required by my terms of reference, an "examination of paperwork submitted by the parties and interviews". In addition to the very considerable quantity of documents submitted in advance by the parties I also received numerous additional documents, sometimes presented by interviewees and sometimes at my request. In particular, in the course of my interviews with Steven Pope, Linda Bailey and Alex Hanson, I requested documents which provided me with invaluable detailed information about the RtoR exercise.

142. I have summarised, in the preceding section of this report, the important findings of the interviews which I conducted with members of staff and of the Validation and Appeals Panels. At the beginning of the interviews with the members of staff I emphasised that, in the findings which would result from my review, I would not address the outcomes of the process but, as required by my terms of reference, the process itself.

143. The first issue which I must consider is that of job descriptions. They featured at the beginning of the RtoR process and the first of the major concerns expressed by the staff representatives related to them.
144. There is no doubt concerning the importance of using job descriptions in the RtoR process. That is made crystal clear in NJC/09/05. In the ‘Joint Statement on Rank to Role’, Appendix A of that document, it is stated that “An up to date and relevant job description is a key element of the process”. In the important ‘Guidance on Allocating a Job to a Role’ there are references to job descriptions in the first three numbered stages of the process which is to be followed.

145. It was no doubt for these reasons that DF&RS took steps, at the outset of the RtoR process, to update existing job descriptions. These had last been updated globally in 1998. Accordingly, in September 2005, Linda Bailey took steps to ensure that was done. She explained to line managers, usually in face-to-face meetings but in some cases by email, what was needed. Line managers were asked to discuss the job descriptions with post holders, so as to update them, but they were not requested to sign and date the resulting version. The updating of all the job descriptions proved to be a lengthy task.

146. The concerns expressed to me by the staff concerning the job descriptions fall within two broad headings. The first, to which I will return later, concerned their use by the Validation Panel. The second, which I will now consider, is whether the process of updating the job descriptions was satisfactory.

147. For job descriptions to be “a key element” in the process, the information which they contain must be up-to-date, accurate and complete. It is therefore essential that the contents are discussed and agreed between the line manager and the post holder. It is clear from my interviews with members of staff and from the written report of the Validation Panel that this had not been done in a significant number of cases.

148. In my interviews with them, members of staff expressed a number of concerns on this matter. In addition to the underlying complaint that job descriptions had not been agreed, some staff believed that their line manager, with his own Rank to Role assimilation in mind, had taken back responsibilities which they had been undertaking.

149. The failure to ensure that all job descriptions had been agreed between line managers and post holders was bound to create a degree of doubt and uncertainty in the minds of affected post holders. That state of affairs could and should have been easily avoided.

150. An explicit instruction should have been given that all job descriptions were to be signed by the line manager and post holder, coupled with a statement that any which were not so signed would be returned and not considered in the RtoR process. I was told that it was not the ‘culture’ in the service for job descriptions to be signed in this way. Given the importance of the issue in the RtoR process, as...
made clear in the national guidance, I believe it would have been appropriate for that culture to have been changed.

151. I recognise that for jobs with multi-occupancy it was neither practical nor desirable to have all post holders sign the common job description. For such jobs the group could have been invited to nominate a post holder to represent them, as one perhaps of a small group who would have discussed and agreed the job description with their line manager, with the nominated post holder then signing it on their behalf. In some cases this was done.

152. Despite not having been instructed to submit agreed and signed job descriptions, the fact that a significant number were submitted without discussion and agreement and, in some cases, are still disputed, constitutes a failure on the part of the line managers responsible.

153. The updating of the job descriptions was one part of assembling the necessary documentation to enable the substantive assimilation to take place. Two forms had to be completed, the assimilation forms and job sizing forms, the latter only for roles to which job size applies.

154. It was essential to the process that all of the information in these forms was accurate and complete. Several things were done to seek to ensure that. On 2nd March 2006 Linda Bailey sent an email to all line managers informing them that they would be “required to help those you line manage to complete a job assimilation and job size form for the Rank to Role exercise”. She also invited them to attend one of five briefings which had been arranged, and she offered, should they be unable to attend on any of those dates, to make alternative arrangements so that the line managers would receive the necessary information.

155. The job assimilation and job sizing forms were made available on the intranet. In addition there was a document entitled ‘Guidance Notes for Completion of Rank to Role Forms’ and ‘Explanatory notes for elements’. All of these were to be downloaded and used in completing the forms. At the end of both the assimilation and job sizing forms there are boxes for the post holder and line manager to date and sign and print their names alongside their signatures.

156. A few months before the forms were made available, in December 2005, a document drawn up by the Regional HR Group giving answers to Frequently Asked Questions (FAQs) had been published on the intranet by being added to the personnel index. On 26th March 2006 a document entitled ‘Rank to Role Information’ giving explanatory comments on aspects of the RtoR process was sent to all uniformed staff, other than retained, by Linda Bailey.

157. One of the most important documents in the entire process was the ‘Guidance Notes for Completion of Rank to Role Forms’. Its importance derives from the fact that it was the basic guidance given to all staff for completing the forms which were to provide the bulk of
the evidence for their substantive assimilation. Moreover, those forms are not simple to complete, especially for the first time, and the related EFS Management NOS, which could be downloaded and which give details of what is required to meet units and elements, can run to a daunting 80 or so pages. The provision of that documentary evidence, and its subsequent consideration by the Validation Panel, were two of the fundamental stages in the whole RtoR process as carried out in the DF&RS.

158. I find the Guidance Notes to be far from satisfactory, particularly given their crucial importance. They are less than satisfactory both in terms of format and content. They consist of a page and a half of solid text without sections, headings or highlighting. The simple use of such features would have made them much more ‘user friendly’. For example, since there were evidently a number of steps to be completed in sequence by the person filling in the forms, that could helpfully have been indicated in a numbered sequence.

159. In terms of content, the Guidance Notes failed to explain the relationship between job descriptions (‘the key element’) and the forms, other than the curiously permissive statement “Direct reference to your job description is acceptable”. They do not say how the job descriptions will be used. The Guidance Notes also failed to use the names of the two forms (unlike the more helpful ‘Rank to Role Information’), failed to explain the relationship between the two and failed also to state that, for some roles, the job sizing form is not relevant. As early as the third paragraph there is a reference to the particular position of station officers’ personal pay protection which would, more sensibly, have appeared at the end or as a footnote. It would have been especially helpful to recipients to have included, perhaps in the form of a flowchart, an explanation of the total process and the stages within it. (I note that the FOA, at an Industrial Relations Committee meeting on 11th May 2006, “registered their concerns” about “the lack of a document project plan and process”.)

160. I was told that the Guidance Notes had not been written by DF&RS but emanated from the Regional Working Group and had minor insertions made so as to fit the Devon situation. I find it surprising that such a document came from that source.

161. There are, however, two related statements in the Guidance Notes which are important, clear and unambiguous. The first is “Your manager will countersign the form to confirm it is correct” and the second “Print the completed form(s) and sign where indicated. Pass to your line manager for counter-signing and forward to Linda Bailey at SHQ”.

162. I have already commented on the fact that there was no requirement for post holders and line managers to sign job descriptions. In contrast – and most understandably given the
importance of the forms – an explicit requirement to sign the assimilation and job sizing forms is included in the Guidance Notes. This dual signing of the forms would have enabled the Validation Panel, when considering them, to be assured of their accuracy and reliability. It would also, crucially, have confirmed that the contents were agreed between the line manager and the post holder.

163. In fact that requirement, despite its obvious importance, was disregarded by a significant proportion of line managers which the Chairman of the Validation Panel estimated could have been as many as 20%. As with job descriptions, I believe that the appropriate course of action would have been to return unsigned forms and to refuse to accept them until completed properly in that way. The Validation Panel’s report, written by its Chairman, records that "Many forms submitted had either not been signed or had been signed by someone other than the direct line manager". More seriously still the report notes that "Many line managers had signed off staff submissions as being accurate where quite clearly in some cases they were not." This constituted a serious failure by those line managers to act as directed and so ensure the integrity of the RtoR process.

164. This failure is evident in relation to both the assimilation and job sizing forms. I was given one job sizing form, said to have been completed by the post holder, but then ‘enhanced’ by the line manager. That form is signed and dated (but without a printed name) by the line manager; it is not signed by the post holder.

165. Within the sets of papers submitted to me by the parties for the ten selected jobs there were thirteen assimilation forms. Two were completely unsigned, three signed by the post holder only, and two by the line manager only. Thus only six out of thirteen had been completed correctly. Of the eleven job sizing forms, three were completed unsigned, and one signed by the line manager only, so that seven out of eleven were completed correctly. A tabulated summary sheet, helpfully supplied to me by Linda Bailey, evidently confirms the Validation Panel Chairman’s estimate; of 154 individual submissions (for 66 jobs) only 124 ‘were signed off’ meaning that 30, almost 20%, were not.

166. During the course of the interviews I was given a number of explanations for this failure to sign the forms. Most related to differences, often strongly held, between line managers and post holders. Where those differences existed, they should have been resolved through established procedures rather than being left to fester and create ill-will between the parties and arouse understandable suspicions about the RtoR process. That would undoubtedly have extended the already lengthy period which that process required but it would, nevertheless, have been the better course of action.
167. There were three fundamental stages in the RtoR process as carried out in the DF&RS. These were: the provision of the information essential for assimilation purposes; the carrying out of the substantive assimilation by the Validation Panel; and the hearing of appeals. I have already considered the first of these and will now turn to the second.

168. The substantive assimilation was carried out by the four members of the Validation Panel. That was not, however, what the staff had been told would take place. The FAQs, published in December 2005, told the staff that there would be "A Working Group... trained in how to assimilate the roles" which would "make a recommendation to the Rank to Role Panel as to the role that they believe your post should be assimilated to." I was told that the FAQs, unaltered, remained on the intranet at the time when I was conducting the review. The 'Rank to Role Information' document, published in March 2006, in the section headed 'The Process' makes no reference to the Working Group but appears to imply its function as set down in the FAQs by the reference made to the Validation Panel. The task of that panel is stated, in the 'Rank to Role Information' document, to be one of looking "at any anomalies that may have appeared" which would then "need to be investigated". That is not the task which the Validation Panel later undertook.

169. On the final day of the hearing I asked whether the dispensing with the Working Group had been agreed with the three trade unions and was told that it had at the respective Industrial Relations Committees. I therefore asked for copies of the relevant minutes to be posted to me. However, when I received the minutes, they did not include such agreement. A covering letter acknowledged that that was so but claimed that the FBU were party to the decision by virtue of their representation on the Validation Panel. The letter also stated that "There were no concerns raised by the Representative Bodies in relation to this change of approach".

170. The NJC ‘Joint Statement of Rank to Role’ states that "employer and employees’ representatives should work together within Fire and Rescue Services to achieve solutions that best fit their needs and is (sic) fair to individuals". Such working together should have included reaching and recording agreement with the three trade unions about such a significant change to the published process. I do not find the FBU’s membership of the Validation Panel a sufficient indicator of their agreement nor do I accept that a lack of expressions of concern by the representative bodies necessarily implies agreement.

171. It was important, also, for the staff to have been clearly informed of this significant change. Steven Pope’s letter, accompanying the minutes to which I have already referred, contended that, since the ‘Rank to Role Information’ document makes no mention of the Working Group "It is evident from this that the Working Group is no longer a consideration and does not form part of the process". I do not find that argument persuasive. The failure to refer to the Working Group does not communicate explicitly that it has been dispensed with. Moreover, as I
have already explained, the wording of the ‘Rank to Role Information’ document appears to imply its continued functioning. The FAQs should have been updated and a message posted on the intranet explaining the nature and effects of the change and the reasons for it. Neither of those things was done.

172. Once the decision had been taken to dispense with the Working Group, the task of carrying out the substantive assimilation fell to the Validation Panel. I was initially puzzled, as I told the parties, by the panel’s name; to validate is ‘to confirm, corroborate, substantiate’ (OED). The panel’s role was not to confirm decisions already taken but to make those decisions. I believe the name results from the fact that its task, as originally defined, had been to confirm (or not) the decisions of the Working Group. It would have made for greater clarity, since terminology in these matters is not unimportant, for the name to have been changed to Assimilation Panel.
I note that the national guidance does not refer to ‘validation’ or ‘assimilation’ but throughout uses the term ‘allocation’.

173. The task which the Validation Panel had to undertake was an onerous one. There were many reasons why that was so. Once was the sheer number of roles to be assimilated. Another was the fact that, as the panel’s own report states "The Guidance on Rank to Role issued in the NJC Circular was very basic" with the result that the panel itself had to determine a number of matters lacking in the Guidance. A further reason was the unreliability of a significant proportion of the information submitted to the panel which I have already considered and which presented the panel with a major difficulty. (It is small wonder that the panel’s chairman, faced with all this, questioned whether their task was manageable.)

174. The panel dealt with that last difficulty, not by referring forms back to the originators, but by asking questions of line managers and post holders, sometimes in groups, to seek to establish the necessary, full and accurate information. I have no doubt that they did so carefully and consistently but it is not a task which they should have had to undertake. They should instead have been able to rely on the accuracy and completeness of the information supplied. That they could not do so is a further consequence of the failure of line managers to undertake properly tasks which they had been given in the RtoR process. There should have been a stipulation that unsigned forms would not be considered but returned to the originators.

175. I asked the members of the Validation Panel whether they had been given terms of reference to work to and was told they had not. They were required to work in accordance with the NJC documents but finding them to be “very basic” needed to supplement them in a number of ways. They therefore drew up the local procedures and protocols which were later attached to their report.
176. By far the most important matter which the Validation Panel had to determine was their method and rationale so as to "determine the most appropriate role map" (the words given in point 5 of the NJC Guidance) when considering each individual submission. That was necessary because the NJC Guidance is of a general nature reflecting the fact that RtoR is not a job evaluation scheme. Job evaluation schemes, so as to minimise subjectivity, provide methods of working which include, for example, factors, weightings and scores. It is notable that in all the NJC documents nothing is quantified, with the sole exception of the number of appliances referred to in job sizing.

177. The NJC flow chart ‘Allocating a Job to a Role’ illustrates that point. Those carrying out the allocating are directed firstly, to “compare job functions to most likely role map” and then, if there is "a straightforward match" the task is complete and the job allocated to its particular role. However, when there is not a straightforward match the direction given is to “determine most appropriate role map” after having identified units, elements and functions which do not match. There is no indication of the proportion or percentage of matching which is required to "determine the most appropriate role map”.

178. The Validation Panel decided to resolve this matter by adopting what they called the ‘best fit’ approach. That phrase comes from the NJC ‘Joint Statement on Rank to Role’. It is in the sentence which I have already quoted in a different context “... employer and employees’ representatives should work together within Fire and Rescue Services to achieve solutions that best fit their needs and is (sic) fair to individuals.” The Validation Panel members told me that they had developed their method of achieving the ‘best fit’ as they became experienced in undertaking their task and that they had returned to reconsider some submissions in the light of their ongoing experience. They also told me, when I requested one, that they could not provide a clear, succinct statement on how the ‘best fit’ approach operated. The staff representatives correctly observed, in their written response to the post-hearing additional information, that “There was no written guidance ever produced to assist in applying a ‘best fit’ approach.”

179. This lack of quantification in the NJC Guidance inevitably raised questions in the minds of the staff. That is exemplified in an email from Alex Hanson to Steven Pope of 13th July 2006 in which he asked "Can you please provide me details of how many and which units are required to be satisfied by a submission to retain the role of Area Manager. Can you also please clarify if every element within a unit must be gained in order to satisfy that unit”. It was Linda Bailey who replied the following day stating: “The mandatory units from the Area Manager’s role map (which are not contained in the Group Manager) which you are not achieving are EFSMS and EFSMB. You do not need to hit every element but would be expected to meet the majority. Ultimately it will be for the Appeals Panel to determine”. ‘Majority’ is a term capable of widely differing interpretations.
180. There was a further, related, concern voiced by the staff representatives to do with the two highest level roles. The role maps for Group Manager and Area Manager, including Control, list, respectively 9 and 11 units and then each, below the heading ‘Optional’, lists a further five. There are three units in the Area Manager’s role map (EFSM5, EFSM8 and EFSM20) which are not in the Group Manager’s and one unit which is in the Group Manager’s role map (EFSM10) which does not appear in the Area Manager’s. The optional units are identical for both role maps except for one word in the final unit, the Group Manager’s EFSM24 being to “Co-ordinate projects” whereas the Area Manager’s EFSM25 is to “Manage projects”.

181. The term ‘optional’ appears only in the Group Manager’s and Area Manager’s role maps and the use of the optional units is clearly explained in s.4 of the Introduction to the role maps in the national guidance. I was aware, however, that other units in those two role maps had been referred to within DF&RS as ‘mandatory’ and I therefore asked the meaning and origin of the term which does not appear in the national guidance. The parties were unable to explain how it had come to be used, when I questioned them on the last day of the hearing, but the Service told me that, for those two roles, as for the others, a ‘best fit’ approach had been used which meant that not all units were mandatory. It was no doubt because of this confusion that Steven Pope, in his letter to me after the hearing, included an explanation of why the three units in the Area Manager’s role map which are additional to those in the Group Manager’s “become mandatory to achieve Area Manager”. Nick Manning’s email of 28th June 2006 to Kevin Parfitt and others and Linda Bailey’s of 14th July 2006 to Alex Hanson (each demonstrating a readiness to be helpful) both refer to these specific units as “mandatory”. The staff representatives’ written response to Mr. Pope’s letter expresses some disagreement over part of his reasoning. Before receiving Mr. Pope’s letter I had not found, nor had I been referred to any document which states that these three additional units are mandatory. The uncertainty in the minds of the staff on this issue is understandable and this is a further illustration of the need for care in the use of terminology.

182. I believe that the ‘best fit’ approach adopted by the Validation Panel was a reasonable method of discharging their difficult core task, given the incomplete nature of the NJC Guidance. In coming to that view I have borne in mind that there existed, within the panel members, considerable experience in such matters as job evaluation and National Occupational Standards which were relevant to their task and that one member of the Validation Panel was an FBU officer who had served on the pilot exercise. At the same time I readily understand the questions that the unwritten and undefined ‘best fit’ approach inevitably raised in the staff’s minds and the difficulties which Linda Bailey, in particular, faced in seeking to answer them.

183. I was a little surprised to be told that the Validation Panel, when it had received submissions from a member of staff for two roles, did not mark the second when the first was agreed to be a fit. In the interests of completeness, and because the member of staff had taken the
time to write both, I believe there would have been benefit in considering and marking both even though the outcome may well not have been affected.

184. The Validation Panel faced a difficulty in relation to job sizing also because of the lack of quantification in the NJC documents. Virtually no quantitative measures are given, as the Validation Panel Chairman pointed out to me, to differentiate between job sizes in the same role. A single, simple example is given relating to watch/station managers and the number of appliances, but that is only one of nine factors given as examples which may be taken into account. That required the Validation Panel to devise its own method of measurement.

185. The job sizing forms completed by the staff were ones designed by the Wiltshire Fire Brigade on behalf of the region. However, these had been amended by Somerset’s Brigade, when they undertook job sizing, and the DF&RS Validation Panel amended them further. Thus the forms used by the panel were not as submitted by the staff but had the information transferred to them from the staff’s submissions.

186. I believe the Validation Panel had good reason for changing the job sizing form as they did since it evidently enabled them to incorporate a scoring system which they used in determining the outcome. That change was agreed by all panel members including the FBU member. However, the staff only learned of the change of form, the scoring system, and the fact that the forms which they had completed were not used, after the event. It would have been wiser to have communicated it at the time and, even though it was essentially a procedural matter, to have obtained the formal agreement of the three representative bodies. The failure to do either of those things inevitably raised questions and suspicions in the minds of some staff. As I indicated earlier, when considering job descriptions and assimilation and job sizing forms, it is important that all information used has been seen and agreed by the post holder.

187. There are two further matters which I must consider in relation to the Validation Panel. The first is the assertion, made by the staff representatives, that the panel had not used job descriptions when determining outcomes. The second is the belief by some staff that budgetary and organisational considerations had influenced the panel’s decisions. By definition such considerations must be excluded from the process.

188. I do not doubt that job descriptions were used throughout by the Validation Panel. That was confirmed by all four panel members including the FBU member who had them in front of him during the panel’s deliberations. From his very limited attendance the FOA member gave a different account. I cannot be certain of the explanation for that but believe that it may be because the base documents used by the panel were the assimilation and job sizing forms with the job description
being essentially a comparator for checking purposes. The evidence that the forms were used in that way throughout is compelling.

189. The belief held by some staff that organisational and budgetary considerations could have influenced the Validation Panel’s decisions related, no doubt, to such facts as the then impending merger with the Somerset Service and the known outcomes of their RtoR exercise. However, having considered all the relevant evidence, I am convinced that such considerations did not influence the panel’s members and that they acted with integrity in discharging their task throughout.

190. Concerns were expressed to me by several staff whom I interviewed about the particular difficulty of assimilating non-operational staff to roles. That difficulty was referred to in the Validation Panel’s report which pointed out that the role maps had been written to reflect the roles of operational staff. Although separate role maps and national occupational standards had been drafted for Fire Safety and Training these had not yet been agreed nationally and so could not be used. It would have been preferable for national agreement to have been reached on these before the RtoR process was embarked upon and it is regrettable that that did not happen.

191. The Validation Panel concluded that, in several cases, posts were found to be so specialised that they could not be assimilated using the RtoR process. I was told that those posts have been referred for a managerial decision which left the post holders, at least temporarily, in limbo. I understand the strength of feeling expressed by the staff concerning this issue as a whole.

192. Once the Validation Panel had completed the substantive Rank to Role assimilation, staff were informed by letters dated 22nd June 2006 of the outcomes. The letters stated either that “Your substantive post has moved upwards as a result of this process” or that “Your substantive post has not moved as a result of this process” or “Your substantive post has moved downwards as a result of this process”. The letters also included the details of the old rank, the pay assimilated role and the new substantive assimilated role, the movements upwards or downwards being from the pay assimilated role. Those letters contained no further information about the Validation Panel’s decisions.

193. Not surprisingly, staff who had not been given the roles to which they aspired, immediately began to seek feedback about their own cases and another of the major concerns expressed by the staff representatives related to the arrangements for feedback. Staff approached individual Validation Panel members to discuss their own cases and, it is clear, the panel members sought to be helpful in providing information in response. Following pressure from staff it was agreed to release marked assimilation and job sizing forms although this had evidently not been intended originally.
194. I find the manner in which feedback was given less than satisfactory. It was inappropriate for individual Validation Panel members to be asked to provide feedback, helpful though they sought to be, and this appears to have placed them sometimes in invidious positions. The manner in which feedback was given, with only partial information at first, evidently failed to satisfy at least some members of staff. All of those difficulties could have been avoided had there been a method of feedback agreed in advance and communicated to staff. It would have been appropriate for such a method to have included supplying copies of the marked forms. I find it surprising, especially since there had been a pilot study and a review of arrangements by the Regional Team, that such a system of feedback had not been put in place.

195. Providing feedback in that way would have demonstrated openness about the process to the staff. It would also have assisted them in planning their appeals. It is the appeal process and the functioning of the Appeals Panel which I must now consider.

196. A model appeal procedure is included in the NJC Guidance. It gives employees the right of appeal, sets out the grounds on which appeals may be made, and sets down the periods within which appeals must be lodged and, as far as possible, heard. The appeal process, in that model procedure, is specified to be in two stages, the first a review of the decision by a nominated senior manager and the second, when the first appeal is unsuccessful, at an appeal hearing. The model procedure does not indicate who will hear that second stage appeal nor, if it is to be heard by a panel, what the composition of the panel should be.

197. When staff were sent their letters on 22nd June 2006 informing them of the Validation Panel’s decisions, a DF&RS appeal procedure was attached. That procedure was based upon the national model with additional details. The additional details included the dates by which the written appeals were to be submitted and when they would be considered together with the names of the three members of the Appeals Panel.

198. The two stages of appeal provided for in the national model procedure, the review of documentation and a hearing, were retained in the DF&RS procedure communicated to staff. When letters acknowledging the receipt of appeals were sent to the staff who had submitted them on 11th July 2006, they were once again informed that there would be first, a documentary review, and then, if that appeal were unsuccessful, a hearing by the Appeals Panel. That position, however, was to change.

199. The appellants were informed, in a further letter dated 7th August 2006, that the documentary review stage had been dispensed with. The letter, from Steven Pope, stated that the Appeals Panel “having considered the documentation that has been supplied... has chosen to move to the next stage with a full hearing of the Appeals.” He added that the
panel had "not rejected the documentary submissions but consider that it would be more appropriate for the evidence to be considered at the formal appeal hearing."

200. Other than the letter of the 7th August there appears to have been no other written communication concerning this change to the appeal procedure. A revised procedure, incorporating the change, might have been published but was not. There was no communication to staff in general about the change. I was told that it had been agreed, by phone, with the trade unions and that the change was pointed out and explained at the beginning of every appeal hearing.

201. I have serious reservations about this departure from the model procedure which is included in the national guidelines and also about the manner in which the decision was made. The right to appeal is of fundamental importance in employment relations and accords with the principles of natural justice. To diminish that right, by removing one of two stages, could possibly have disadvantaged some appellants. For those reasons and, equally, because the two stages are provided for in the national guidance, I believe the decision to dispense with the first was unwise.

202. My reservations about the manner in which the decision was taken are two-fold. It was the Appeals Panel itself, as explained in Steven Pope’s letter of 7th August, which ‘chose’ to dispense with the first stage. The members of the panel, I was told, were appointed by senior management. They do not include a trade union member despite the fact that to have done so would have been in accordance with the national guidance statement that “employer and employees’ representatives should work together”. Had the change to the procedure been agreed with the three trade unions and formally minuted, instead of being discussed by phone, the position could have been different but that evidently was not done. The national model appeal procedure allows, in section 8, for variation to be made in individual fire and rescue services but, significantly, only to “timescales” and “by mutual agreement”.

203. The DF&RS appeal procedure sets down the four grounds, on one or more of which the appeal must be made (these taken from the national model procedure), and states that “all appeals must be in writing and must state the grounds of appeal”. It also states that the employee “may be accompanied by a member of their representative trade union or a colleague at the appeal hearing and will be given the opportunity to present any further evidence to support the appeal”. The staff representatives and staff interviewees expressed concern about not knowing the nature of the “further evidence” which they should supply and also about not knowing how the appeal hearing would be conducted.

204. Had there been a formal feedback procedure of the kind which I have stated would have been advantageous, the first of these two matters would have been largely addressed. In
the event, however, I believe that most appellants eventually managed to obtain the relevant information. With regard to the second matter, I note that a procedure for the conduct of hearings is not included in the national model, nor in the regional toolkit, nor in the DF&RS procedure. It would have been helpful to the Appeals Panel as well as to appellants had one been agreed and published in advance.

205. However, so far as the procedure which was adopted for the hearings is concerned, I find the process described to me by the members of the Appeals Panel to have been inherently fair and not to have disadvantaged appellants. The procedure was explained to appellants at the outset. It is also clear that appellants were allowed adequate time to state their case and several of the interviewees indicated to me their satisfaction on that score. I accept the panel members’ statements that they had the relevant marked forms from the Validation Panel at each appeal hearing.

206. The outcome of the appeals were all communicated to appellants at the same time in letters from Steven Pope dated 12th December 2006. The letters gave the outcomes of the appeals but no indication of the grounds on which the decision had been made nor of any marks or scores. Staff representatives voiced concern about a lack of feedback from the appeal hearings.

207. Some unsuccessful appellants sought feedback and did so usually, it appears, by approaching Steven Pope. I have no doubt that Steven Pope sought to be helpful in responding to those approaches but I have the same reservations about this as I expressed previously in relation to the approaches made to the Validation Panel members about their decisions. Had there been a pre-arranged method of informing the outcome by supplying the marked sheets personal approaches could have been avoided.

208. I must finally consider, in relation to the Appeals Panel, three concerns expressed by staff representatives and also by some of the staff whom I interviewed. The first was that budgetary and organisational influences could have affected the Appeals Panel’s decisions and the second that the Validation and Appeals Panels were ‘a body unite’. Thirdly, the ability of DCO Fyfe to chair the Appeals Panel impartially, when he had budgetary responsibilities, was called into question.

209. From my interviews with the Appeals Panel members as well as from other evidence, I have no doubt that the Appeals Panel did not take into account either budgetary or organisational factors in reaching its decisions but that those decisions were based solely on their judgements of the cases. I similarly have no doubt that the Validation and Appeals Panels worked independently of each other and that their respective decisions were based on their separate consideration of the evidence before them. It was appropriate that the Appeals Panel was chaired by a senior officer, and any such officer would inevitably have budgetary
responsibilities. Such responsibilities do not prevent any such officer from acting with integrity when hearing appeals and I have no doubt that DCO Fyfe and the other Appeals Panel members acted in that way.

210. There is one final concern which I must consider. That is to do with the comparisons which staff made between roles in DF&RS and those in Somerset. Some expressed the belief that higher roles had been awarded in Somerset for what they saw as the same jobs. I understand those concerns but I also understand the response given to the staff which was that the differing responsibilities had to be taken into account.

211. I was told that an approach was made to the Somerset F&RS asking them to defer their RtoR exercise pending Devon’s but that they had felt unable to do so. Since the amalgamation of the two services was imminent I believe it would have been in the interests of the new combined service for one unified RtoR process to have been carried out. That would not have been easily undertaken but could have avoided some, at least, of the difficulties which I have been investigating and addressing in this review. That would have been to the benefit of the new, combined Service and its staff.

212. The papers submitted to me by the staff representatives included copies of handwritten notes made, I was told, by members of the Validation and Appeals panels during their sittings and obtained under FOI. I stated at the hearing my reservations about accepting such notes as evidence. They are written for the individual writer’s personal use, often as an aide memoire to assist in the ensuing discussion, and are easily open to misinterpretation. Equally, from a practical point of view, I have not felt a need to refer to them given the volume of other evidence presented to me.

213. DF&RS, in its submission to me, referred to a ‘regional toolkit’ which could be used for the substantive assimilation and job sizing. I was surprised, therefore, not to have received a copy of it in the papers submitted to me before the hearing. However, having requested and received a copy, it became evident that only the templates for the assimilation forms were used from the ‘toolkit’, these forming the basis of the DF&RS forms.

214. I was told by several of those whom I interviewed that there had been some most unfortunate consequences following the RtoR process. Personal allegations have been made, some individuals’ integrity called into question and, in some cases, longstanding friendships broken. It is vitally important for the peace of mind of those concerned, as well as in the interests of morale and employment relations within the former DF&RS and for the essential service which it provides to the public, that closure can be achieved on this whole episode. I know, from the many interviews which I conducted, that that feeling is widely shared. My final observations, which follow, are made specifically in an attempt to assist that process.
215. I was immensely impressed with the professionalism of all those whom I interviewed, staff, Validation and Appeals Panel members. I do not doubt the integrity of any one of them. How then could there have been such strongly held differences and how could they have been expressed with such strength of feeling?

216. Part of the answer to those questions lies in the nature and great importance of the RtoR process. It was described to me as being the biggest event ever to have occurred in the DF&RS. The roles allocated affect not only future salary levels but career progression and individuals’ self-esteem. Whereas some Services chose to apply RtoR by a simplified, ‘pragmatic’ approach, DF&RS chose, to their credit, to apply it in the full professional manner envisaged nationally. That was a major undertaking which placed great demands on the service and on those who were asked to undertake specific tasks in the process. In terms of the difficult validation and appeals stages, the RtoR process was, I have no doubt, undertaken diligently, professionally, and honestly. There were, however, certain significant shortcomings in other respects which I have identified in the course of my considerations. In total they understandably created doubts and suspicions in the minds of some staff and there were some things which could have been done better or should have been done differently. It is natural that some staff should feel that, without those shortcomings, some outcomes might have been different. What is crystal clear is that there was no collusion or conspiracy or anything else of an improper kind in the entire process. I believe that the most important single outcome of this independent review should be that all concerned should accept that and act accordingly.

217. I have already referred to the fact that my terms of reference require me to reach findings and conclusions about the RtoR process but not to make recommendations in the light of those findings and conclusions. That is now a matter for the parties to address.

218. In my 34 years as an arbitrator and mediator this has been one of the most complex and challenging cases which I have handled. The issues have presented major difficulties, and no little stress, for the Service and its staff. With their co-operation throughout I have been able to amass and understand the necessary evidence so as to reach, what I am satisfied, are true findings and sound conclusions.

219. I wish to thank all of the staff whom I met and the representatives of the parties for the courtesy which I was shown at all times. The interviewees answered my questions clearly and fully and the representatives of the two parties presented their cases clearly and helpfully. I thank them also for that.
SUMMARY OF FINDINGS AND CONCLUSIONS

In the preceding, Considerations section of my report, I have reviewed the copious evidence and arguments put to me by the parties as well as that deriving from the interviews with staff and panel members. In doing so I have explained how I have reached my findings and conclusions. What follows is a summary of those findings and conclusions. By findings I mean essentially findings of fact whereas conclusions are my own judgements related to those facts.

1. The National Guidance on the RtoR process, set down in NJC/09/05, contains the clear and emphatic statement that "An up-to-date and relevant job description is a key element of the process". In September 2005 line managers were asked to update existing job descriptions and discuss them with post holders.

2. A significant proportion of job descriptions submitted to the Validation Panel had not been agreed between the post holder and the line manager and, in some of those cases, the contents were disputed.

3. That lack of agreement on job descriptions sowed seeds of doubt and suspicions about the RtoR process in the minds of some staff.

4. The format of the job descriptions does not include a section in which the signatures of the post holder and line manager were to be entered and there was no instruction requiring that to be done.

5. Line managers should, nevertheless, have ensured that all job descriptions had been discussed and agreed with post holders before they were submitted.

6. The Validation Panel concluded that a significant proportion of the job descriptions presented to them were inaccurate and therefore sought to address and remedy those inaccuracies.

7. It was most undesirable that the Validation Panel had to undertake that task.

8. These difficulties could and should have been avoided by instructing that all job descriptions were to be signed by the line manager and the post holder to indicate their agreement as to the contents and, further, stipulating that unsigned forms would not be accepted.

9. The ‘Guidance Notes for Completion of Rank to Role Forms’ are far from satisfactory, especially given their importance and the not inconsiderable difficulty for the staff in completing the forms for the first time. A different format and clearer, more explicit content could have avoided some of the ensuing difficulties.
10. Both the assimilation and job sizing forms contain final sections where the line manager and post holder are to sign, print their names in block capitals, and date. The Guidance Notes contain a clear instruction that that is to be done.

11. Despite that clear instruction a significant proportion of assimilation and job sizing forms, perhaps as many as 20%, were not signed as required.

12. The failure of those line managers to ensure that the forms were completed in that way impacted on the integrity of the RtoR process and increased the doubts and suspicions in the minds of some staff.

13. The Validation Panel, believing a significant proportion of the forms to be inaccurate, sought to remedy those inaccuracies.

14. The Validation Panel should not have had to undertake that task and it was most undesirable that they had to do so.

15. Only forms which had been signed by post holders and line managers to indicate their joint agreement on the contents should have been considered by the Validation Panel. Unsigned forms should not have been considered but, instead, returned for completion.

16. The failure of line managers to act as instructed in this way had an adverse effect on the RtoR process. That could and should have been avoided by stipulating that unsigned forms would not be considered.

17. The remit of the Validation Panel was not as had been originally communicated to staff and was changed from one of validating decisions already taken to one of carrying out the substantive assimilation. That change was not formally agreed with the three representative bodies.

18. That change should have been formally agreed with the representative bodies and then clearly and fully communicated to the staff as a whole.

19. The National Guidance on substantive assimilation does not include any quantification of the number of units and elements which have to be met to achieve particular roles. Nor does it provide any quantification, other than one simple example, in relation to job sizing.
20. The Validation Panel consequently had to develop a system for carrying out its fundamental task of assimilation. This they did by seeking to establish the ‘best fit’ in each case.

21. The ‘best fit’ approach was a reasonable method, given the incomplete nature and substance of the NJC guidance, but it inevitably raised questions in the minds of staff, some of which could not be fully answered. That further increased doubts and suspicions in the minds of the staff concerned.

22. The Validation Panel replaced the job sizing forms which had been completed by the staff with ones which they reasonably devised for scoring purposes. However, that understandable change was not communicated to the staff until after the event.

23. The change in the job sizing forms should have been formally agreed with the representative bodies and its nature and the reasons for it then communicated to the staff.

24. Job descriptions, contrary to what the staff representatives claimed, were used throughout by the Validation Panel but essentially as comparators to be used against the more important assimilation forms.

25. The Validation Panel did not take budgetary or organisational considerations into account in making their decisions.

26. There were particular difficulties, in some cases not overcome, concerning the assimilation of non-operational jobs. This resulted from the lack of nationally agreed role maps and national occupational standards for such jobs and caused understandable frustration on the part of the staff affected.

27. The arrangements for feedback about the Validation Panel’s decisions were less than satisfactory and took place on an ad hoc basis.

28. There should have been a pre-arranged and published scheme setting out how feedback would be given which should have included details of the scores which had been awarded. Such an arrangement would have enabled appellants to prepare in an informed way for their appeals.

29. The national model procedure, set down in the national guidance, includes a two-stage appeal process. The published DF&RS appeals procedure included those two stages. That was then changed when the Appeals Panel itself chose to dispense with the first stage. That decision was not formally agreed with the three trade unions.
30. Such a change should only have been made after being formally agreed with the three representative bodies. It should then have been explicitly communicated to the staff explaining the nature of the change and the reasons for it.

31. The decision to change the appeal procedure in that way was of questionable wisdom and may have disadvantaged some appellants.

32. The procedure followed at the Appeals Panel hearings was inherently fair and adequate time was allowed for all appeals.

33. The Appeals Panel did not take budgetary considerations into account in reaching their decisions, nor did they take organisational factors into account except in relation to the issue of equivalence referred to in ‘d’ of the grounds for appeal set down in the procedure.

34. A request was made to the former Somerset F&RS to defer their RtoR exercise until the amalgamation of the two services had taken place. That request was not acceded to.

35. It would have been preferable, and could possibly have avoided some of the difficulties which this review has been addressing, for a single RtoR exercise to have been carried out for the entire Service after amalgamation.

36. In overall terms the review has revealed significant shortcomings in the arrangements for the RtoR exercise in DF&RS. At the same time it has shown that two of the fundamental stages, those of validation and appeal, were carried out diligently, professionally and honestly.

14th August 2007

J. H. Mulholland
Independent Person