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**NATIONAL JOINT COUNCIL  
FOR LOCAL AUTHORITIES'  
FIRE BRIGADES**

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**To: Chief Fire Officers/Firemasters  
Chief Executives/Clerks to Fire Authorities  
Chairs of Fire Authorities**

**Members of the National Joint Council**

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26th August 2004

**CIRCULAR NJC/05/04**

Dear Sir/Madam

**STAGES 2 AND 3 PAY SETTLEMENTS AND  
SIXTH EDITION OF THE GREY BOOK**

1. The National Joint Council has today reached formal agreement on the immediate full implementation of Stages 2 and 3 of the pay award set out in the Fire Service Pay and Conditions Agreement of June 2003 (see circular NJC/01/03) and the application with immediate effect of the provisions of the revised Grey Book **attached** to this circular.
2. This agreement requires the following action:
  - (a) Immediate payment, in respect of the period 7th November 2003 to 30th June 2004 inclusive, of the rates of pay in the columns headed "Full Stage 2 award" in Appendices A to D and F to J of circular NJC/01/04.
  - (b) Immediate payment, backdated to 1st July 2004, of the Stage 3 rates of pay (but see paragraph 3 below). The rates will be set out in a circular that will follow in the next few days.
  - (c) Application with effect from today's date of the terms of the attached sixth edition of the Grey Book, which replaces in its entirety the fifth edition of the Grey Book (but see paragraphs 4 and 5 below).
3. The disturbance fee paid to employees on the retained duty system will be reviewed, following a joint survey that will be undertaken shortly, to ensure that employees receive the intended financial benefits of the revised pay structure (because the revised structure does not include additional payments for

redirections). Circular EMP/22/04 confirms that the interim arrangements currently in place will continue to apply for the time being.

4. The constitution of the NJC at Section 1 will be replaced by the new constitution when this has been agreed.
5. The discipline procedure at Section 6 will not apply for the time being but will come into immediate effect on the abolition of the Fire Services (Discipline) Regulations 1985.
6. Further work has still to be undertaken on joint advice on the substantive move from rank to role (Circular NJC/15/03). A joint working party has completed the first stage of their work and as a result a pilot project will commence shortly in a number of fire and rescue services.

Yours faithfully

**MIKE WALKER**  
**ANDY GILCHRIST**  
**Joint Secretaries**

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

**SCHEME OF CONDITIONS OF SERVICE**

**SIXTH EDITION  
2004**

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# PREFACE TO THE SIXTH EDITION

## 2004

1. The role of local authority fire and rescue services in the United Kingdom is the reduction in the loss of life, injury, economic and social cost arising from fires and other hazards. The service is responsible for:

Risk reduction and risk management in relation to fires and some other types of hazard or emergency.

Community fire safety and education.

Fire safety enforcement.

Emergency responses to fires and other emergencies where it is best fitted to act as the primary agency responsible for the rescue of people including road traffic accidents, chemical spillages and other large-scale incidents such as transport accidents.

Emergency preparedness coupled with the capacity and resilience to respond to major incidents of terrorism and other chemical, biological, radiological and nuclear threats.

2. The National Joint Council for Local Authority Fire and Rescue Services (the NJC) is the body responsible for the supervision, from a national point of view, of all questions affecting the conditions of service of employees (other than those in Brigade Management roles) of fire and rescue services established under the Fire Services Acts 1947-59. To this end the NJC's principal role is to reach agreement on a national framework of pay and conditions for local application throughout the fire and rescue service in the United Kingdom. The NJC is committed to the local democratic control of fire and rescue services to the community.

3. The NJC's overall aim is to support and encourage the delivery of high quality services by a competent, well-developed, motivated, and diverse workforce, with security of employment. The following principles are fundamental to the achievement of this aim:

Equality in employment and employee relations, the removal of discrimination and the promotion of equality as a core principle that underpins service delivery.

The highest standards of health and safety at work consistent with providing a front-line, life-saving emergency service.

The provision of a fire and rescue service that can be adapted to meet the local needs of the community, employers and employees.

Stable industrial relations achieved by consultation and negotiation between fire and rescue authorities as employers and recognised trade unions.

4. The NJC has a strong commitment to joint consultation and negotiation, with a view to reaching agreement, between fire and rescue authorities and recognised trade unions at all levels. To this end the NJC encourages employees to join independent, certificated, recognised trade unions. The NJC believes that co-operation between

employers, employees and the trade unions will help ensure successful service delivery.

5. The NJC wishes to refer to the joint nature of the decisions incorporated in this scheme of conditions of service and to remind fire and rescue authorities of the value of affording opportunities to employees, through their accredited representatives, for consultation on matters included in the scheme, where such consultation is appropriate. The NJC hopes that the scheme will provide a sound basis for harmony throughout the fire and rescue services in the United Kingdom.
6. This sixth edition of the scheme accordingly represents the national terms and conditions of employment of uniformed employees (other than those in Brigade Management roles) of the fire and rescue services of all local authorities in the United Kingdom, and of volunteers carrying out operational firefighting duties, as supplemented from time to time by local agreements and provisions. The sixth scheme replaces in its entirety the provisions of the former scheme of conditions of service agreed by the NJC.
7. Any questions concerning the interpretation of this scheme of conditions of service should be referred to the NJC.

# SECTION 1 - CONSTITUTION

## Title

1. The Council shall be known as the National Joint Council for Local Authorities' Fire Brigades (hereinafter referred to as "the Council").

## Scope

2. The Council shall have within its scope uniformed employees of fire authorities in the UK below the rank of assistant chief fire officer/assistant firemaster.

## Membership

3. The Council shall consist of members appointed as follows:

**Employers' representatives**  
National Organisation of Employers of Local Authorities' Fire Brigades 30

**Employees' representatives**  
Fire Brigades Union 27

4. If either of the organisations referred to in paragraph 3 hereof fails to appoint the number of representatives provided for by the constitution, such failure to appoint shall not vitiate the decisions of the Council or its committees. In the event of any member of the Council being unable to attend any meeting of the Council or of its committees, the organisation represented by such member shall be entitled to appoint another representative to attend in his or her place.

## Retirement of members

5. Members of the Council shall retire on 30th September each year and shall be eligible for reappointment.

## Casual vacancies

6. On the occurrence of a casual vacancy a new member shall be appointed by the organisation in whose representation the vacancy occurs. Any such new member shall sit until the end of the period for which his or her predecessor was appointed.

## Functions

7. The function of the Council shall be to make arrangements to secure the largest possible measure of joint consideration and agreement on conditions of service of those persons within its scope, and the settlement of differences between fire authorities and members of brigades within its scope. It shall be permissible for the Council to take any action that falls within the foregoing definition.
8. The term "conditions of service" shall be construed as including in particular:
  - (i) ranks, pay and allowances;
  - (ii) hours of duty and leave;

- (iii) maintenance of discipline;
- (iv) procedure for appeals against dismissal or disciplinary action (including dismissal on disciplinary grounds) other than questions of discipline affecting individuals;
- (v) welfare arrangements.

### **Standing sub-Committee**

9. The Council shall appoint from its number a Standing sub-Committee, which shall be constituted as follows:

***Employers' representatives***  
 National Organisation of Employers of 9  
 Local Authorities' Fire Brigades

***Employees' representatives***  
 Fire Brigades Union 9

10. Reports of the Standing sub-Committee shall, unless the Council so determines, be submitted to the Council for approval, which may be given with or without modification.

### **Other sub-committees**

11. The Council may appoint such other sub-committees as it considers to be necessary, with such duties and powers as it may define. The reports of such sub-committees shall, unless the Council so determines, be submitted to the Council for approval, which may be given with or without modification.

### **Procedure**

12. (i) ***Advisers***  
 Either side of the Council or of any sub-committee thereof may invite the attendance of any person whose knowledge would be of assistance to it, but such person shall not have power to vote.
- (ii) ***Independent Chair***  
 The Council shall appoint annually an Independent Chair. The Chair shall preside at all meetings of the Council, the Standing sub-Committee and, where the Council so decides, other sub-committees appointed by the Council. The Independent Chair shall not have a vote.
- (iii) ***Vice-Chair***  
 The Council shall appoint annually from its number a Vice-Chair. The appointee shall alternate between the two sides. The Vice-Chair shall preside in the absence of the Independent Chair at any meeting. In the absence of both the Independent Chair and Vice-Chair at any meeting, a Chair for such meeting shall be elected from those members present.
- (iv) ***Officers***  
 Each side of the Council shall appoint a Secretary or Secretaries, who shall act as Joint Secretaries. Those so appointed shall also act as Joint Secretaries of the Standing sub-Committee. They may or may not be members of the Council. In the event that a joint secretary is a member of the Council he or she shall have a vote. The Employers' Secretary shall also be appointed Treasurer to the Council. The Council may appoint an auditor.

(v) **Meetings**

There shall be an annual meeting of the Council as soon as possible after 30th September at which a statement of representatives appointed to serve on the Council and the Standing sub-Committee shall be submitted. Ordinary meetings of the Council and the Standing sub-Committee shall be held as often as may be necessary. The Independent Chair shall call a special meeting of the Council if so requested by not less than one-third of the total number of members of either side of the Council. The requisition and notice summoning any special meeting shall state the nature of the business proposed to be transacted thereat and no other matters shall be discussed. A special meeting shall take place within fourteen days after receipt of the requisition by the Independent Chair.

(vi) **Voting**

The voting on the Council or its sub-committees shall be by show of hands or otherwise as the Council or the sub-committee shall determine. No resolution shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Council or sub-committee as the case may be (except where the resolution concerns an amendment to the constitution in which case the procedure set out in paragraph 14 hereof will apply).

(vii) **Quorum**

The quorum of the Council shall be a majority of the full representation on each side. In the absence of a quorum the Independent Chair shall vacate the chair and the business then under consideration shall be the first business to be discussed either at the next ordinary meeting or, if the meeting was a special meeting, at a further special meeting to be held within fourteen days after the date fixed for the first special meeting. The quorum of the Standing sub-Committee and any other sub-Committee shall be a majority of the full representation on each side.

(viii) **Notice of meetings**

The notices of meetings of the Council and its sub-committees shall provide full particulars of the business to be transacted thereat and shall be sent to members at least seven days before the date of the meeting.

(ix) **Minutes**

Within twenty-one days after each meeting of the Council and of any sub-committee the Joint Secretaries shall send a copy of the minutes of the proceedings of the meeting to each member of the Council, and these shall be ratified, subject to any amendment, at the next meeting of the Council or sub-committee as the case may be.

### **Settlement of differences**

13. If the Council fails to reach agreement upon any matter contained in paragraph 8 hereof, that matter will automatically be referred to ACAS for conciliation. Both sides of the Council will participate in the process of conciliation and act in good faith. Where conciliation fails to produce a settlement, either side of the Council may request arbitration through the services of ACAS. Following such a request from one side of the Council, the other side shall fully participate. In such circumstances, it follows that both sides have voluntarily agreed to take part in the arbitration process whenever it is invoked and have agreed in advance to be bound by the decision of the arbitrator.
14. In the event that either side has any doubt about whether or not the failure to agree relates to arbitrable issues, and this is not resolved through negotiation or conciliation, then the question of whether or not such issues are arbitrable, taking full account of all

agreements between the sides, will be put to an arbitrator provided by ACAS. The decision of the arbitrator on such an issue will be binding on both sides.

### **Finance**

15. The expenses of the Council (including its sub-committees), but not any expenses incurred by members in attending meetings, shall be shared equally by the two sides.

### **Amendment of constitution**

16. (i) This paragraph forms an integral part of the constitution and may itself be amended in accordance with the procedures set out in this paragraph.
- (ii) Any proposal to amend this constitution must be circulated to members of the Council at least three months before the meeting at which it is to be moved. No proposal to amend this constitution will be regarded as carried unless it has the support of at least two-thirds of the members present and voting at the meeting at which it is moved.

### **Status**

17. The status of this constitution is that of a collective agreement between representatives of the fire authorities in the UK and representatives of the employees of fire authorities within the scope of the Council. As such it is intended by the parties to form a collective agreement as defined in Section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992.

## SECTION 2 - FAIRNESS AND DIGNITY AT WORK

1. Employers have clear responsibilities in supporting and facilitating fairness and dignity at work. In this context the NJC strongly encourages fire and rescue authorities to:
  - (1) develop equal opportunities and work/life balance in employment;
  - (2) ensure that equality is a core principle that underpins service delivery, training opportunities and employee relations;
  - (3) remove all discrimination; and
  - (4) take a positive approach to the development of a diverse workforce.
2. In support of these principles the NJC affirms that:
  - (1) employees should be afforded equal opportunities in employment irrespective of gender, race, national or ethnic origin, religion or belief, age, sexuality, marital status or disability (subject to any justifiable occupational requirements);
  - (2) fire and rescue authorities should ensure that discriminatory practices are identified and removed and non-discriminatory practices introduced in all areas of employment including recruitment, training, development and promotion; and
  - (3) lawful positive action initiatives should be taken to achieve and maintain a more representative workforce.
3. Further guidance on best practice in these areas will be issued by the NJC from time to time.
4. Employees have clear responsibilities actively to support their employer in providing a working environment free from bullying, harassment and victimisation. The NJC recommends that each fire and rescue authority's policies in this area should include clear statements on the standards of behaviour expected of individuals and that all employees are aware of their responsibilities to others. A model policy developed by the NJC can be found at Appendix A.
5. Fire and rescue authorities, employees, managers and trade union representatives will need to work together to achieve these objectives. Authorities should take into account the need for such trade union participation in deciding reasonable facilities for representatives participating in joint fairness and dignity at work initiatives as part of their recognised trade union duties.
6. The NJC recognises that helping employees to reconcile work, family and other responsibilities can be a key feature in making equal opportunities and work/life balance a reality. To this end a number of fire and rescue authorities have introduced flexible working arrangements such as job sharing, part-time working and career breaks. The NJC welcomes such developments and encourages the adoption of such measures by all fire and rescue authorities.
7. Employees have the right to expect their religious faith to be respected by both their employer and fellow employees. Fire and rescue authorities should recognise that an employee's faith may require the wearing of specific forms of headwear or facial hair and therefore provide appropriate personal protective equipment in such cases. Authorities may also wish to ensure that appropriate faith facilities, such as prayer rooms, are made available.
8. The requirement to attend residential training courses can pose particular difficulties for employees with family responsibilities. Fire and rescue authorities are encouraged to consider alternative methods of delivering training and/or contributing in some way

towards additional care costs incurred by employees, particularly where the parental income is such that hardship would otherwise arise.

9. Fire and rescue authorities should introduce a voluntary register of employees' interests that invites employees to declare membership of any organisation that is not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules or membership or conduct.

## SECTION 3 - ROLES AND RESPONSIBILITIES

1. The roles of fire and rescue service employees are those defined within the Integrated Personnel Development System and set out in accredited occupational standards determined by the Emergency Fire Services Vocational Standards Group. The roles used shall be as the fire and rescue authority considers necessary and specific activities within those roles will be determined by the authority to meet the local needs of the service based on risk.

### Competence and pay

2. Rates of pay are based on defined stages of development leading to demonstration of competence in the employee's role. These stages are:

#### Training

For the roles of Firefighter and Firefighter (Control) the training stage is the point at which an employee is in full-time training and is not yet performing the role in its appropriate context. An employee in this position will receive the trainee rate of pay.

#### Development

The development stage is where an employee is working under supervision in the role and is being assessed against the different functions that make up that role. An employee at this stage, before demonstrating competence in the full requirements of the role, will receive the development rate of pay.

#### Competent

After all applicable functions have been assessed as having been achieved, the employee will have demonstrated "competence" in his or her role and will receive the appropriate competent rate of pay.

3. The time that it will take for an employee to demonstrate competence will depend on the specific requirements of employees, accessibility to assessment and the opportunities available. The basis of the approach is to tailor development to meet individual and organisational needs, so the progress of each individual must be considered in the context of these variables. It can, however, be reasonably expected that the majority of employees on any duty system should demonstrate competence within the following timescales:

Firefighter	Three years from entry to the service
All other roles	Eighteen months from entering the programme

4. The defined roles of employees are:

Firefighter	Firefighter (Control)
Crew Manager	Crew Manager (Control)
Watch Manager	Watch Manager (Control)
Station Manager	Station Manager (Control)
Group Manager	Group Manager (Control)
	Area Manager

5. Fire and rescue authorities can use whichever roles they consider necessary. Specific activities within roles will be determined by the authority to meet the local needs of the service based on its Integrated Risk Management Plan. The rates of pay for the

training (in the case of Firefighter and Firefighter (Control)), development and competent stages for each role are set out in circulars issued by the NJC.

6. The units of competence that form each of these roles are laid down in the NJC document – *Fire and Rescue Services Rolemaps*. Fire and rescue authorities can require any reasonable activity to be carried out by an individual employee within his or her role map. These role maps reflect fire and rescue service responsibilities incorporated into local Integrated Risk Management Plans in order to:

Apply a risk-based approach to fire cover and to all its activities in deciding how best to use its resources.

Focus on reducing the level of fire and other emergencies.

Develop and maintain effective partnerships with a range of agencies in the public, private and voluntary sectors where these can deliver cost-effective improvements in community safety.

Adopt safe systems of working to secure the health and safety of both its staff and the general public.

Minimise the impact of the incidents it attends and of its response at those incidents on the environment.

7. As with all other units in a role map, a fire and rescue authority can require an employee to carry out driving duties. Where the fire and rescue authority does not require an employee to drive or, for genuine reasons, the employee is unable to drive he or she shall be regarded as competent in the role subject to having demonstrated competence in all other applicable functions in the role map.

## **SECTION 4 - CONDITIONS OF SERVICE FRAMEWORK**

### **PART A - HOURS OF DUTY AND DUTY SYSTEMS**

1. All working arrangements will operate on the basis that employees will undertake the duties appropriate to their role and be deployed to meet the requirements of the fire and rescue authority's Integrated Risk Management Plan. This may include a requirement to work at different locations. Full-time and part-time employees on any duty system are free to undertake retained duties where appropriate.
2. The conditions of service of part-time employees will be the same as those of full-time employees (pro-rata where appropriate) unless otherwise stated.
3. Duty systems will need to meet the requirements of the fire and rescue authority's Integrated Risk Management Plan. Any proposed system should be discussed with the recognised trade unions and be based on the following principles:
  - (1) Basic working hours should average forty-two per week (inclusive of three hours of meal breaks in every twenty-four hours) for full-time employees. Hours of duty should be pro-rata for part-time employees.
  - (2) There should be at least two periods of twenty-four hours free from duty each week.
  - (3) It should comply with relevant United Kingdom and European law, including the Working Time Regulations 1998, and Health, Safety and Welfare at Work legislation.
  - (4) It should have regard to the special circumstances of individual employees and be family friendly.
4. Where, following discussion, there is no agreement between the fire and rescue authority and recognised trade union over a proposed duty system (and it does not accord with the principles of any of the existing national duty systems at paragraphs 7 to 16 below) the difference can be referred by either party to the NJC's Technical Advisory Panel. The Panel will be chaired by an Independent Expert (appointed on a three-yearly basis by the NJC), who will be assisted by the Joint Secretaries.
5. The Panel will seek to broker an agreement between the parties, but where that is not possible it will make recommendations. The Panel's recommendations will ensure that the duty system follows the four principles set out at paragraph 3 above and is compatible with the deployment of resources that the fire and rescue authority has determined is necessary to implement its Integrated Risk Management Plan. This process will be concluded within one month of reference to the Panel, or longer with the agreement of the parties. The parties will decide their responses to any recommendations from the Panel within fourteen days of receipt.

#### **Existing national duty systems**

6. The following duty systems shall continue to operate until replaced or supplemented locally by new systems under the terms of paragraphs 3 to 5 above.

#### *Shift duty system*

7. The hours of duty of full-time employees on this system shall be an average of forty-two per week. The hours of duty of part-time employees shall be pro-rata. The rota will be based on the following principles:

- (1) Each period of twenty-four hours shall be divided into a day shift and a night shift.
- (2) The night shift shall not be less than twelve hours.
- (3) There shall be at least two complete periods of twenty-four hours free from duty each week.
- (4) Leave days shall change week by week in a regular progressive manner.
- (5) No rota system shall include continuous duty periods of twenty-four hours.
- (6) Three hours shall be specified for meal breaks in every twenty-four hours. The timing of these periods is at the discretion of the authority. Account shall be taken of meal breaks interrupted by emergency calls.

*See explanatory note at Appendix C.*

#### *Day-crewing duty system*

8. The hours of duty of full-time employees on this system shall be an average of forty-two per week. The hours of duty of part-time employees shall be pro-rata. The rota will be based on the following principles:
  - (1) An average of thirty-five hours per week shall be worked at the station.
  - (2) An average of seven hours per week shall be on standby at home. Employees are required to respond to any emergency call received during this standby period.
  - (3) Employees on this system may be requested to undertake retained duties outside the hours at (1) and (2).
  - (4) There shall be at least two complete periods of twenty-four hours free from any duty each week.
  - (5) One hour per day shall be specified as a meal break. Account shall be taken of meal breaks interrupted by emergency calls.

#### *Day duty system*

9. The hours of duty of full-time employees on this system shall be an average of forty-two per week. The hours of duty of part-time employees shall be pro-rata. The rota will be based on the following principles:
  - (1) The normal working day shall cover the period of normal office hours.
  - (2) There shall be nine working days per fortnight, which shall fall on Mondays to Fridays.
  - (3) One hour per day shall be specified as a meal break.
  - (4) Where work (such as lectures and inspections of clubs) must necessarily be undertaken outside the normal working day, equivalent time off in lieu should be given during the normal working day.

#### *Flexible duty system*

10. This duty system applies only to employees in the roles of Station Manager and above.
11. The hours of duty of full-time employees on this system shall be as set out in paragraph 12 below. The hours of duty of part-time employees shall be pro-rata. Employees on this system shall perform two types of duty:
  - (1) Managerial duty, which is rostered for operational command, managerial, supervisory and/or specialist duties appropriate to the employee's post (managerial duty is also known as 'positive hours').
  - (2) Standby/call-out duty, which is rostered so that the employee is available on call for the urgent performance of managerial duty and to perform those duties if called upon.

12. The rota will be based on the following principles:
  - (1) The sum of the rostered managerial duty hours and the rostered standby/call-out duty hours, the latter divided by four, shall be forty-eight per week on average over a cycle not exceeding eight weeks.
  - (2) No rota shall contain more than five consecutive periods of twenty-four hours during which a duty of either type is performed.
  - (3) In any two-week period commencing on a Monday there shall be at least two pairs of rota leave days.
  - (4) Any period of standby/call-out duty shall be all or part of a period of twenty-four hours duty (starting at the normal starting time) and shall be rostered immediately before or immediately after a period of positive hours, unless it is an entire period of twenty-four hours standby/call-out duty.
  - (5) On any day on which managerial duty is performed, the hours for that duty shall be rostered consecutively except where an evening duty is required in addition to a normal day duty (for these purposes one meal break in each period of twenty-four hours will be treated as a period of managerial duty).
  - (6) Travelling time to or from a rostered evening commitment of managerial duty shall itself count as managerial duty.
  - (7) Rota leave shall be rostered no less frequently on a Saturday or Sunday than any other day of the week.
  - (8) The total sum of managerial hours shall not average more than forty-two per week.
  - (9) The sum of the weekly hours of both types of duty shall not exceed seventy-eight on average.
  
13. An employee on the flexible duty system may:
  - (1) in exceptional circumstances, be allowed periods of 'short leave' during which he or she may be completely detached from duty, out of touch and beyond recall, subject to the approval of his or her line manager, which shall not unreasonably be withheld; and
  - (2) have freedom of movement, during periods of standby/call-out duty, in and around the area within which his or her normal duties are performed and subject to the arrangements for him or her to be notified of incidents occurring within his or her standby/call-out area.
  
14. An employee on the flexible duty system shall be notified of the geographical area within which he or she will be required to be based for the performance of standby/call-out duty.
  
15. Transfer onto the flexible duty system will be voluntary. In view of the pension implications, employees will not be transferred from the flexible duty system against their will, except as a result of a disciplinary reduction in role to a level where there are no posts in that fire and rescue authority on the flexible duty system.

#### *Retained duty system*

16. The hours of availability of employees on this duty system shall be agreed between the fire and rescue authority and individual employees. An employee on this duty system shall be required to attend for duty as follows:
  - (1) At the station to which the employee is attached for training, development and maintenance duties for an average of two hours per week (or three hours at the discretion of the fire and rescue authority).
  - (2) Promptly at the station to which the employee is attached in response to an emergency call at any time during the employee's period of availability.

- (3) At any incident or other occurrence or at any other station for standby duties during the employee's period of availability.
- 17. The duties and hours of availability of volunteers carrying out operational firefighting duties shall be agreed between the fire and rescue authority and individual volunteers.

## **PART B - PAY**

### **Rates of pay**

1. Rates of pay are set out in circulars issued by the NJC.

*See Appendix B for protected fifteen-year long-service payments and interim minimum promotion increments.*

2. The pay entitlement of an individual employee shall be determined by:
  - (1) The employee's role.
  - (2) Whether the employee is in the training (for the roles of Firefighter and Firefighter (Control)), development or competent stage for his or her role.
  - (3) Whether, for roles above Crew Manager and Crew Manager (Control), the employee is in the A or B job-size category.

### **Flexible duty system supplement**

3. An employee on the flexible duty system shall be paid a pensionable supplement of 20% of basic pay.

### **Retained duty system payments**

4. The payments at paragraphs 5 to 16 below apply to employees on the retained duty system.

*See Appendix B for pay protection for employees on the retained duty system.*

### *Annual retainer*

5. Subject to meeting the requirements at paragraph 14 of Part A of this section, an employee shall be paid the annual retainer set out in circulars issued by the NJC. The annual retainer for an employee providing full cover (which is defined as cover of at least 120 hours per week) is 10% of the appropriate annual basic pay.
6. Where an employee provides cover for less than 120 hours per week the fire and rescue authority may set a lower annual retainer subject to it being no less than 75% of the annual retainer of an employee providing full cover.
7. The annual retainer for an employee providing cover as part of the day-crewing duty system shall be 5% of the employee's full-time annual basic pay.
8. Where an employee fails to attend at the station to which he or she is attached for training, development and maintenance duties the annual retainer may be reduced proportionately.

### *Disturbance payment*

9. An employee who is called out to an incident and reports promptly to the station shall receive the disturbance payment set out in circulars issued by the NJC.

### *Payment for work activity*

10. All work activity shall be paid at the appropriate basic hourly rate set out in circulars issued by the NJC. Work activity includes those duties at paragraph 16 of Part A of this section together with any other pre-arranged work undertaken by the employee.
11. An employee who has been called out to an emergency incident and forms part of the crew shall receive a minimum of one hour's pay. Where the employee remains on duty for more than one hour and fifteen minutes he or she shall receive two hours' pay. Where the employee remains on duty for more than two hours he or she shall then be paid for complete periods of fifteen minutes.
12. An employee who has been called out to an emergency incident but does not form part of the crew shall receive a minimum of half an hour's pay. Where the employee remains on duty for more than one hour and fifteen minutes, he or she shall receive two hours' pay. Where the employee remains on duty for more than two hours, he or she shall then be paid for complete periods of fifteen minutes.

### *Compensation for remuneration lost*

13. A fire and rescue authority may compensate an employee for remuneration lost from his or her usual occupation where, because of the peculiar circumstances of that occupation, his or her retention on duty beyond a certain time involves a loss disproportionate to the time that he or she was retained.

### *Attendance at training centres*

14. An employee who is required to attend a course at a training centre shall receive the appropriate basic weekly rate of pay in respect of each week of the course.
15. Where the employee incurs a loss of remuneration from his or her usual occupation that exceeds the amount payable under paragraph 14, he or she shall be paid the amount of such excess, subject to the total payment not exceeding the maximum basic weekly rate for a Station Manager.
16. These provisions also apply to volunteers who undertake operational firefighting duties.

*See Appendix B for protected long-service bounty payments.*

### **Employees on the day-crewing duty system who undertake retained duties**

17. An employee on the day-crewing duty system who undertakes retained duties shall be paid an annual retainer of 5% of his or her full-time annual basic pay together with the disturbance and work activity payments at paragraphs 9 to 12 above.

### **Volunteer firefighters**

18. A volunteer carrying out operational firefighting duties shall be paid at the appropriate basic hourly rate set out in circulars issued by the NJC.

### **Acting up and temporary promotion**

19. An employee who is required to undertake the duties of a higher role shall be paid the basic hourly rate for the development phase of that role. If the employee has

demonstrated competence in the higher role payment will be at the competent rate. The payment shall be for a minimum of one shift.

20. It is necessary for an employee who acts up or is temporarily promoted to have:
  - (1) demonstrated competence in his or her current role;
  - (2) demonstrated the potential to develop beyond his or her current role; and
  - (3) successfully completed the relevant assessment process for the higher role.

*See Appendix B for interim arrangements regarding acting-up and temporary promotion.*

### **Additional responsibility allowance**

21. An employee may be paid an allowance or allowances to reward additional skills and responsibilities that are applied and maintained outside the requirements of the role but within the job function. Payments will be based on the requirements of the fire and rescue authority's Integrated Risk Management Plan and may include payment for skills' shortages where these are directly applicable to the delivery of the Integrated Risk Management Plan.
22. The maximum payable to any individual employee will be determined locally. Additional responsibility payments are temporary and non-pensionable and may be withdrawn following reasonable notice from the fire and rescue authority.

### **Overtime**

23. Payment for overtime applies to employees in the roles of Watch Manager and below (and, in the case of casual overtime, to Station Managers not on the flexible duty system) and shall be at time and a half, or double time on a public holiday. An employee who requests it may be granted time off in lieu at the appropriate enhanced rate, subject to the exigencies of the service, rather than receive overtime payment.
24. Overtime rates of pay apply to employees on the retained duty system only where they work in excess of forty-two hours in a seven-day period.

#### *Pre-arranged overtime*

25. Employees are free to volunteer to work pre-arranged overtime for no more than twenty-four hours per month, averaged over a six-month period.
26. Pre-arranged overtime will not be used to make up any planned shortfall in the overall staffing levels set out in the fire and rescue authority's Integrated Risk Management Plan.
27. Part-time employees will be entitled to enhanced overtime rates only at those times and in those circumstances that full-time employees would qualify.
28. The arrangements for the application of pre-arranged overtime shall be the subject of consultation between the fire and rescue authority and recognised trade unions.

#### *Casual overtime*

29. An employee who works overtime as a result of a requirement to remain on duty at an operational incident shall be paid as follows:
  - (1) Each period of overtime shall be treated separately.

- (2) No payment shall be made for any period less than fifteen minutes.
  - (3) A period of fifteen minutes or more and up to one hour shall be treated as one hour.
  - (4) Where the period exceeds one hour, payment shall be made for complete periods of fifteen minutes.
30. Where an employee on the flexible duty system is detained at an operational incident beyond his or her normal rostered duty time and requests compensatory time off in lieu that request shall not unreasonably be refused.

**Payment for recall to duty as a result of a serious incident**

31. Recall to duty to assist at a serious incident shall be on a voluntary basis and in line with arrangements determined locally following consultation between the fire and rescue authority and recognised trade unions.
32. An employee who is recalled to duty shall be paid for a minimum of three hours. Employees in the role of Group or Area Manager shall be paid at the maximum rate applicable to a Station Manager. Where the period of recall exceeds three hours payment shall be made for complete periods of fifteen minutes. All payments shall be at double time.

## PART C - LEAVE

### General

1. The leave year shall run from 1st January to 31st December. The timing of all leave shall be subject to the exigencies of the service.

### Annual leave for employees not on the retained duty system

2. The paid annual leave entitlement for full-time employees is set out below. The entitlement for part-time employees shall be pro-rata.

	<b>Scale A</b>	<b>Scale B</b>	<b>Long service</b>
Area Manager	35 days	2 days	3 days
Group Manager Group Manager (Control) Station Manager Station Manager (Control)	28 days	5 days	3 days
Watch Manager Watch Manager (Control) Crew Manager Crew Manager (Control) Firefighter Firefighter (Control)	25 days	5 days	3 days

#### **Scale A leave**

Off-duty days that fall within a period of annual leave count as scale A leave.

*See Appendix B for protected leave entitlement for former Station Officers.*

#### **Scale B leave**

Scale B leave may be taken at the request of the employee on any duty day, including successive days, subject to the exigencies of the service.

#### **Long-service leave**

Long-service leave applies to employees who, at the start of the leave year, have at least five years' continuous full-time or part-time service under this scheme of conditions of service. (Previous service on the retained duty system prior to becoming a full-time or part-time employee shall be included on the basis of three years counting as one year's full-time or part-time service and six years counting as two years' full-time or part-time service.) Long-service leave may be taken at the request of the employee on any duty day, including successive days, subject to the exigencies of the service.

### Annual leave for employees on the retained duty system

3. The paid annual leave entitlement is four weeks, or five weeks for an employee who, at the start of the leave year, has at least five years' continuous service on the retained duty system. A week's leave means a period of seven consecutive days free from duty. The taking of such leave in part weeks or individual days shall be a matter for agreement between the fire and rescue authority and recognised trade unions.

4. While the timing of leave is subject to the exigencies of the service, any request to take leave at the same time as the employee's usual employer requires him or her to take leave should not unreasonably be refused.
5. Periods of annual leave should be disregarded when assessing an employee's compliance with his or her contractual obligations under the retained duty system.
6. A week's pay during a period of annual leave shall mean the employee's average weekly remuneration in the previous twelve weeks (excluding any week in which he or she has been on sick leave or received no pay), taking all payments into account.

**General provisions regarding annual leave**

7. Leave not taken during the leave year shall be forfeited except that the employee may, at the discretion of the fire and rescue authority, take all or part of the outstanding leave by 31st March of the following year.
8. An employee may anticipate annual leave on the understanding that if he or she voluntarily leaves before the end of the leave year any leave taken in excess of his or her proportionate entitlement may be treated as unpaid leave and pay adjusted accordingly.
9. The leave entitlement of an employee who joins or leaves a fire and rescue authority, or attains five years' continuous service, during the leave year shall be proportionate to the employee's service in that year.
10. Payments in lieu of any leave accrued but not taken in the current leave year shall be made in cases of termination of employment. In the case of death this amount shall be paid into the employee's estate.
11. Maternity leave shall be regarded as service for the purpose of calculating annual leave entitlement.

**Public holiday leave**

12. Employees in England, Wales and Northern Ireland shall, subject to the exigencies of the service, be entitled to a day's leave on the following public holidays:
 

Good Friday	Late Summer Holiday
Easter Monday	Christmas Day
Spring Bank Holiday	26th December
First Monday in May	New Year's Day
13. For employees who work on a shift system, Christmas Day, 26th December and New Year's Day will be treated as public holidays on whichever days of the week they fall, irrespective of alternative days announced by the Government.
14. For employees who normally work on a rota that does not include weekend working, whenever any or all of Christmas Day, 26th December or New Year's Day falls on a Saturday or Sunday, the alternative public holidays announced by the Government will apply.
15. Employees in Scotland shall, subject to the exigencies of the service, be entitled to a day's leave on the following days:

New Year's Day  
First Monday in May  
Local Autumn Holiday  
Christmas Day

and four other days determined by the fire and rescue authority in consultation with the recognised trade unions.

16. Paragraphs 13 and 14 apply to employees in Scotland insofar as Christmas Day and New Year's Day are concerned.

#### **Public holiday arrangements for employees not on the retained duty system**

17. For the purposes of paragraphs 18 to 24 below a public holiday means the period of twenty-four hours from midnight to midnight.
18. An employee in the role of Station Manager or below (but not on the flexible duty system) who is required to work on a public holiday shall be paid at double time for those hours (which shall not be pensionable) and be granted a day's leave in lieu.
19. An employee in the role of Station Manager on the flexible duty system who is required to work on a public holiday shall be granted one and a half days' leave in lieu.
20. An employee in the role of Group or Area Manager who is required to work on a public holiday shall be granted a day's leave in lieu.
21. An employee whose off-duty day is on a public holiday, or who is on annual leave or ordinary maternity leave, shall be granted a day's leave in lieu.
22. An employee who is on sick leave on a public holiday shall be deemed to be on public holiday leave and shall not be granted a day's leave in lieu.
23. The days in lieu referred to at paragraphs 18 to 21 above should be taken within twelve months of the public holiday. A day's leave in lieu means one shift off duty for each shift worked. Days in lieu may be taken at the request of the employee on any duty day, including successive days, subject to the exigencies of the service.
24. Payments in lieu of any lieu days accrued in the previous twelve months but not taken shall be made in cases of termination of employment. In the case of death this amount shall be paid into the employee's estate.

#### **Public holiday arrangements for employees on the retained duty system**

25. An employee who is called out to an emergency incident on a public holiday shall be paid double the disturbance and activity payments at paragraphs 10 to 13 of Part B of this Section. A volunteer carrying out operational firefighting duties shall be paid at double the appropriate hourly rate.

#### **End-of-course leave**

26. Fire and rescue authorities should put in place reasonable arrangements for leave for employees returning from a residential training course. The amount of leave should have regard to:
  - (1) the length of the course (including travelling time);
  - (2) the nature of the course; and
  - (3) the employee's shift pattern.

### **Trade union facilities**

27. The NJC has a strong commitment to joint consultation and negotiation. Fire and rescue authorities shall therefore provide officials of recognised trade unions with reasonable facilities necessary for them to carry out their trade union duties, including paid leave to attend meetings of the NJC and other relevant fire and rescue service national committees.
28. Where a part-time employee attends a joint consultative or negotiating meeting outside of his or her normal working time the time spent at the meeting should be paid or time off in lieu granted.

### **Leave for public duties**

29. Paid leave shall be granted to employees undertaking jury service and, in appropriate cases, serving on public bodies or undertaking public duties. Where an allowance is payable for loss of earnings this should be claimed by the employee and repaid to the fire and rescue authority.

### **Special leave**

30. Additional special leave with or without pay beyond the specific provisions of this section may be granted in special circumstances (such as compassionate reasons) at the discretion of the fire and rescue authority.

## PART D - MATERNITY, CHILDCARE AND DEPENDENCY

### Maternity provisions

1. As equal opportunities employers, fire and rescue authorities acknowledge that more and more women are coping with the responsibilities of work and home. To this end fire and rescue authorities are committed to creating a positive working environment in which all employees are respected, provided with progression opportunities and can make the most of their abilities within a team.
2. Pregnant employees should expect to be treated in a way that is sensitive to their circumstances and should not in any way be singled out for inferior treatment. Pregnancy should be regarded as part of everyday life and any health and safety implications can be adequately addressed by the usual procedures for the management of health and safety.
3. Nothing in the following provisions, which are minima that may be enhanced locally, should be construed as providing anything less favourable than statutory rights.

### *Obligations on the employer*

4. Fire and rescue authorities should have in place policies that reflect these provisions and any local enhancements. Copies of such policies should be openly available to employees.
5. Pregnant women and new mothers have a statutory entitlement not to be exposed to risks that could harm either themselves or their unborn child. Fire and rescue authorities are reminded that:
  - (1) The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, where reasonable, suitable rest facilities for pregnant woman and nursing mothers. This is expanded upon in the Health and Safety Executive guidance *New and Expectant Mothers at Work: A Guide for Employers*.
  - (2) The Management of Health and Safety at Work Regulations 1999 require employers to carry out a risk assessment in respect of new or expectant mothers. Temporary adjustments in working arrangements may be required as a result.
6. Fire and rescue authorities are advised that, when pregnancy is suspected, medical advice should be sought immediately as to whether the employee can continue to perform her current duties. At the point when her doctor advises her that she can no longer perform her current duties, or work her current pattern of hours, the employee should be consulted immediately over appropriate changes. In either case she shall continue to receive her normal pay (for employees on the retained duty system this shall be calculated in accordance with paragraph 34 below). Similarly, on her return to work following the birth and normal maternity leave, there may be a period during which a change in duties or pattern of working hours would be appropriate, again depending on medical advice, in which case the member's normal pay would continue to apply.
7. Pregnant employees will normally remain on their watch, or in their department, unless this is deemed inappropriate following an individual risk assessment.
8. On receipt of the employee's notification of the intended date of commencement of maternity leave, the fire and rescue authority shall, within twenty-eight days, inform the

employee of the day on which the maternity leave period will cease and of the date of return to work.

#### *Obligations on the employee*

9. In order to maximise the effectiveness of health protection through an individual risk assessment an employee should notify the fire and rescue authority as soon as possible after she becomes aware of her pregnancy. In any event, an employee shall notify the fire and rescue authority at least twenty-one days before her absence begins or as soon as is reasonably practicable:
  - (1) That she is pregnant and the expected week of childbirth (EWC). The fire and rescue authority may ask the employee to produce a certificate from a registered medical practitioner or a certified midwife stating the EWC.
  - (2) The date that her absence will commence, in writing if requested by the fire and rescue authority.
  - (3) That she intends to return to work, if that is the case. The authority may ask for this to be confirmed in writing. (This provision applies only to employees who qualify under paragraph 18 below).
10. As the pregnancy develops the employee should inform the fire and rescue authority, in writing if required, of any advice or recommendations received from her doctor. This may include advice that should be considered as part of the individual's risk assessment, such as night work being inadvisable for health and safety reasons.

#### *Ante-natal care*

11. Pregnant employees are entitled to paid time off to attend for ante-natal care, including relaxation and parentcraft classes. The fire and rescue authority may request evidence of appointments.
12. Fire and rescue authorities may wish to give sympathetic consideration, subject to the exigencies of the service, to reasonable time off for partners to attend ante-natal, relaxation and parentcraft classes.

#### *Maternity leave*

13. An employee who has less than twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to remain absent for up to twenty-six weeks. The employee may then take further leave without pay at the discretion of the fire and rescue authority.
14. An employee who has at least twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to twenty-six weeks' ordinary maternity leave with pay (see paragraph 18 below) and up to twenty-six weeks' additional maternity leave.
15. Maternity leave shall commence no earlier than eleven weeks before the EWC. Where maternity leave has not commenced by the time of the birth it shall start on the day of the birth.
16. Additional maternity leave commences on the day following the last day of ordinary maternity leave.

### *Maternity pay*

17. An employee who has less than a year's continuous local government service at the beginning of the eleventh week before the EWC shall be entitled to Statutory Maternity Pay (SMP).
18. An employee who has completed at least a year's continuous local government service at the eleventh week before the EWC shall be entitled to the following:
  - (1) For the first six weeks of absence, nine-tenths of a week's pay offset against SMP, or Maternity Allowance (MA) for employees not eligible for SMP.
  - (2) Where she has declared an intention to return to work, half a week's pay for the subsequent twelve weeks, without deduction except by the extent to which the combined pay and SMP (or MA and any dependants' allowances if she is not eligible for SMP) exceeds full pay.
  - (3) For the remaining eight weeks, SMP if she is eligible.
  - (4) Where she does not intend to return to work, SMP for the subsequent twenty weeks.
  - (5) Payments under (2) shall be on the understanding that the employee shall return to work for at least three months, which may be varied by the fire and rescue authority on good cause being shown. In the event of her not returning to work, the fire and rescue authority may require her to refund all or part of the payments made. Payments made to the employee by way of SMP are not refundable.

### *Right to return to work*

19. Subject to paragraph 20 below, the employee shall have the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those that would have been applicable if she had not been absent. For this purpose 'job' means the nature of the work that she is employed to do and the capacity and place in which she is so employed.
20. Where it is not practicable by reason of redundancy for the authority to permit an employee to return to her work as defined in paragraph 19 above, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
21. Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (such as a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence. The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.

### *Exercise of the right to return to work*

22. An employee who qualifies for leave under paragraph 13 above shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her ordinary maternity leave. This notice period may be reduced with the consent of the authority.

23. An employee who qualifies for leave under paragraph 14 above shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her additional maternity leave. This notice period may be reduced with the consent of the authority.
24. If an employee returns to work before the end of a maternity leave period without having provided the necessary notice under paragraphs 22 or 23 above, the fire and rescue authority may postpone her return to a date that will ensure that the authority has received twenty-one days' notice, or to the end of the relevant maternity leave period if that is sooner.
25. Where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect an employee to return at the end of her maternity leave or on the date notified under paragraph 22 or 23 above, she may instead return when work resumes or as soon as reasonably practicable thereafter.
26. An employee should attend a health check with the occupational health unit before returning to operational firefighting duties.

*Relationship with sickness, leave and public holidays*

27. Maternity leave will not be treated as sick leave and will not therefore be taken into account in calculating sick leave entitlement.
28. An employee who is unable to return to work on the expected date due to sickness will still be regarded as having returned to work. The sickness should be notified and certified in the same way as any other period of sickness under paragraph 21 of Section 5 Part B.
29. Maternity leave shall be regarded as service for the purpose of calculating annual leave entitlement.
30. An employee who is on ordinary maternity leave on a public holiday shall be granted a day's leave in lieu of that public holiday.

*Premature birth*

31. Where a baby is born prematurely the fire and rescue authority should consider the case on its merits and use its discretion to take any appropriate action, which may include extending maternity leave.

*Death or still birth of a child*

32. These maternity provisions continue to apply where a baby dies or is stillborn after twenty-four weeks' pregnancy. Where a miscarriage occurs before twenty-four weeks the fire and rescue authority should give sympathetic consideration based on the individual circumstances and grant special leave or sick leave as appropriate. The authority's decision should have regard to the needs of the employee and medical opinion.

### *Definition of a week's pay*

33. For employees not on the retained duty system a week's pay means the amount payable to the employee under the current contract of employment for working her normal hours in a week.
34. For employees on the retained duty system a week's pay during a period of maternity leave shall mean the employee's average weekly remuneration in the previous twelve weeks (excluding any week in which they have been on sick leave or have received no pay), taking all payments into account.

### *Definition of childbirth*

35. Childbirth means the birth of a living child or a stillbirth after a pregnancy lasting at least twenty-four weeks.

### **Maternity support leave (incorporating paternity leave)**

36. An employee with less than twenty-six weeks' continuous local government service at the fourteenth week before the EWC and who is the child's father, the expectant mother's partner or the expectant mother's nominated carer shall be entitled to a week's paid maternity support leave (which shall equate to seven consecutive days free from duty). A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
37. An employee who has at least twenty-six weeks' continuous local government service at the fourteenth week before the EWC shall in addition be entitled to a further week's leave (to be taken immediately following the first week) paid at the Statutory Paternity Pay (SPP) rate.
38. These provisions also apply to an adoptive mother or father who is not taking adoption leave.
39. Pay for maternity support leave shall be offset by SPP.

### **Adoption leave**

40. An employee who meets the following criteria is entitled to up to twenty-six weeks' ordinary adoption leave followed by up to twenty-six weeks' additional adoption leave:
  - (1) The employee has been newly matched with a child for adoption by an adoption agency.
  - (2) The employee has at least twenty-six weeks' continuous local government service ending with the week in which he or she is notified they are to be matched with a child for adoption.
  - (3) Where a couple is adopting jointly, the employee is the adoptive parent (mother or father) chosen by the couple to take adoption leave.
41. During the first week of ordinary adoption leave the employee will be entitled to full pay, offset by Statutory Adoption Pay (SAP). For the remainder of the ordinary adoption leave period the employee will be entitled to SAP if eligible. Additional adoption leave will be unpaid.

42. Leave may commence from either the date of the child's placement (whether this is earlier or later than expected) or a fixed date that can be up to fourteen days before the expected date of placement.
43. The employee shall notify the fire and rescue authority of his or her intention to take adoption leave within seven days of being notified by the adoption agency that he or she has been matched with a child for adoption, unless that is not reasonably practicable. The notification must state when the child is expected to be placed with the employee and when the employee wants the adoption leave to start.
44. The employee must advise the fire and rescue authority at least twenty-eight days in advance if he or she wishes to alter the adoption leave start date.
45. The fire and rescue authority will respond to the employee within twenty-eight days of receiving his or her leave plans, setting out the date on which the authority expects the employee to return to work if the full entitlement to adoption leave is taken.
46. The employee must provide documentary evidence of the adoption where requested by the fire and rescue authority and of his or her entitlement to SAP.
47. An employee who intends to return to work at the end of his or her full adoption leave entitlement is not required to give any further notification to the fire and rescue authority.
48. An employee who wishes to return to work before the end of the adoption leave period must give twenty-eight days' notice to the fire and rescue authority. If such notice is not provided the authority may postpone the return until twenty-eight days from the notice being received.

### **Parental leave**

49. An employee who has successfully completed initial training (or has at least a year's service if that is sooner) and who is one of the following shall be entitled to up to thirteen calendar weeks' unpaid parental leave (eighteen weeks if the child has a disability) in parts or in a block following the birth or adoption of a child:
  - (1) The mother of the child.
  - (2) The father of the child if he was married to the mother at the time of birth or is registered as the child's father.
  - (3) The father (if not covered by (2)) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act 1985. This is done either by a court order or an agreement between the mother and father that complies with legal requirements.
  - (4) A guardian appointed under Section 5 of the Children Act 1989.
  - (5) An adoptive parent.
  - (6) Any other nominated carer where the fire and rescue authority is satisfied that that person is taking parental responsibility.
50. The employee must give the fire and rescue authority reasonable notice (a minimum of twenty-one days) when leave is to be taken.
51. Where there are pressing operational reasons the fire and rescue authority may postpone parental leave for no longer than six months from the start of the period requested. (Pressing operational reasons include circumstances where a replacement cannot be found during the notice period for a post that has to be filled or where a significant number of employees have applied for parental leave at the same time).

Where the authority requires such postponement, the situation should firstly be discussed with the employee. The employee must then be advised, in writing, no later than seven days after giving notice to take leave, of the reason for the postponement and the new dates for leave. The length of leave should be equivalent to the employee's original request. If no agreement can be reached after consultation the authority will determine the appropriate dates. Leave cannot be postponed where the employee has given twenty-one days' notice prior to the beginning of the EWC to take the leave immediately after the birth. In the case of adoption, leave cannot be postponed (except in exceptional circumstances) where the employee has given twenty-one days' notice of the expected week of placement.

52. The periods during which leave must be taken are:
- (1) In the case of leave following the birth of a child, by the child's eighth birthday.
  - (2) In the case of adoption, within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner.
  - (3) In the case of a child with a disability, by the child's eighteenth birthday, though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.
53. At the end of parental leave the employee is guaranteed the right to return to his or her current post if the leave was for a period of four weeks or less. If the leave was for a longer period the employee is entitled to return to his or her current post or, if that is not practicable, a similar post that has the same or better status, terms and conditions as the current post.
54. Where parental leave lasts for four weeks or less and follows additional maternity leave the employee is entitled to return to the same post as she would have been entitled to return to after her additional maternity leave. If the parental leave is for a longer period than four weeks she can return to the same post as she would have been entitled to return to at the end of her additional maternity leave, unless it is not reasonably practicable to keep that post open. If that is the case, she is entitled to a similar post that has the same or better status, terms and conditions as the old post.

### **Flexible working**

55. In order to assist in managing the balance between work and family life, employees with children under the age of six, or eighteen in the case of a disabled child, have the right to apply to the fire and rescue authority to work flexibly. The authority has a duty under the Employment Rights Act 1996 (as amended by the Employment Act 2002) to consider such requests seriously in line with a set procedure, and will be able to refuse requests only where there are clear business grounds for doing so.

### **Time off for dependants**

56. For the purpose of these provisions a dependant means:
- (1) The employee's spouse.
  - (2) A child of the employee.
  - (3) A parent of the employee.
  - (4) A person who lives in the same household as the employee, otherwise than by reason of being his or her employee, tenant, lodger or boarder.
57. In some cases, such as illness or injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance or to make provisions for care, such as where the employee is the primary carer or the only person who can help in an emergency.

58. An employee is entitled to take a reasonable amount of unpaid time off during his or her working hours in order to take action that is necessary to care for a dependant. Examples of such circumstances are:
- (1) To provide assistance on an occasion when a dependant falls ill, gives birth (this does not include taking time off after the birth to care for the child) or is injured or assaulted.
  - (2) To make arrangements for the provision of care for a dependant who is ill or injured.
  - (3) In consequence of the death of a dependant.
  - (4) To deal with an incident that involves an employee's child and which occurs unexpectedly in a period during which an educational establishment that the child attends is responsible for him or her.
  - (5) To deal with unexpected termination or disruption of care arrangements.
59. Where time off is taken in any of the above circumstances the employee is required to inform the fire and rescue authority as soon as is reasonably practicable of the reason for, and anticipated length of, his or her absence. There may be exceptional circumstances where an employee returns to work before it is possible to contact the authority. In such cases, the authority should still be advised of the reason for absence on return.

## **PART E - ALLOWANCES AND REIMBURSEMENTS**

### **Reimbursement of expenditure**

1. An employee (including a volunteer carrying out operational firefighting duties) who necessarily incurs approved additional expenditure in the course of his or her work in respect of travel, meals, overnight accommodation or compulsory relocation shall be reimbursed such expenditure, subject to the production of receipts or other appropriate evidence, or paid a locally agreed allowance.
2. In appropriate circumstances, the fire and rescue authority may consider making a cash advance to the employee prior to such expenditure being incurred.

### **Out-of-pocket allowance**

3. An employee who attends a residential training course (other than a recruits' training course) as a student shall be entitled to the overnight out-of-pocket allowance set out in circulars issued by the NJC.

### **Reimbursement of fines and costs**

4. Where an employee is prosecuted for an offence under the Road Traffic Acts committed whilst on duty the fire and rescue authority, where it considers him or her to be personally blameless or where there are strong extenuating circumstances, may reimburse all or part of the costs awarded against the employee including the cost of any legal assistance, the amount of the fine and any additional costs charged by the court.

### **Driving licences**

5. The cost of a driving licence issued under the Road Traffic Acts may be reimbursed to an employee who is required to drive fire and rescue service vehicles on duty.

### **Car allowances**

6. Employees who are required to use their own cars for the efficient performance of their duties shall, for authorised journeys, be paid the mileage rates (and lump sum allowances for essential users) set out in circulars issued by the NJC. The fire and rescue authority may determine whether the use is casual or essential and the cubic capacity of car considered appropriate, the latter subject to the following:
  - (1) Where an authority authorises the use of a car in excess of 1450cc then the allowance payable shall be for the category 1200 to 1450cc.
  - (2) The 451 to 999cc allowance shall apply only where an employee actually uses a car in that category.
  - (3) Where an essential user on the flexible duty system actually uses a car in excess of 1199cc then the allowance payable shall be for the category 1200 to 1450cc.
7. Essential users are those whose duties are of such a nature that it is essential for them to have a car available whenever required. Casual users are those for whom it is desirable that a car should be available when required.
8. Where an essential user's car is not in use as a result of either a mechanical defect or the absence of the employee through illness the lump sum payments should be paid

for the remainder of the month in which the car is first out of use and for a further three months thereafter. For the following three months half of the lump sum should be paid.

9. Where an essential user's car is off the road for repairs the fire and rescue authority shall reimburse the cost of travel by other means of transport.
10. An employee who is required to have communications equipment fitted to his or her car shall be paid the single fixed compensation payment set out in circulars issued by the NJC.
11. These provisions apply only where employees are required to use their own cars. Locally determined arrangements will apply where employees are provided with a car by the fire and rescue authority or through a leasing scheme.

#### **Accommodation, rent, fuel and light allowances**

12. A fire and rescue authority may provide residential accommodation to an employee and may also provide free fuel and light. Where the authority charges rent for such accommodation a suitable independent avenue of appeal should be available to the employee.
13. A fire and rescue authority may pay a rent and/or fuel and light allowance to an employee on the day-crewing duty system who undertakes retained duties. An employee who is paid such an allowance shall also be paid a compensatory grant equal to the income tax paid in the previous tax year on both the allowance and on any previous compensatory grant received.
14. An employee who leaves the service shall be paid the whole of the compensatory grant due to him or her at that date. In the case of death this amount shall be paid into the employee's estate.

#### **Loss of or damage to private property**

15. A fire and rescue authority may reimburse an employee in respect of loss of or damage to private property, including cash, sustained while on duty.

#### **Mess managers' allowance**

16. An employee who undertakes the duties of mess manager or deputy mess manager may be paid a locally determined allowance.

# **SECTION 5 - HEALTH ISSUES**

## **PART A - HEALTH, SAFETY AND WELFARE**

### **General principles**

1. The NJC recognises the importance of health, safety and welfare in the workplace and is committed to achieving standards of excellence in the fire and rescue service. The wide variety of hazards encountered in the service needs to be controlled through appropriate training and the systematic application of preventive and protective measures in a risk assessment framework.
2. Fire and rescue authorities have a duty to comply with legislation governing the health, safety and welfare of employees. This includes the conditions under which employees work, the provision and maintenance of necessary protective clothing and equipment, the communication of relevant health and safety information, and the provision of appropriate facilities, including training, for health and safety representatives. Local policies and procedures should also cover the following issues, on which the NJC has developed guidance:
  - (1) good hygiene practices;
  - (2) first aid;
  - (3) facilities for pregnant women and nursing mothers;
  - (4) headwear;
  - (5) facial hair;
  - (6) HIV/AIDS;
  - (7) needlestick injuries and hepatitis; and
  - (8) management of stress.
3. Employees have a duty to take care of themselves and others affected by their activity at work and to co-operate with the fire and rescue authority's actions, policies and guidance on health, safety and welfare.
4. Fire and rescue authorities are encouraged to provide appropriate workplace facilities for female employees in line with the Workplace (Health, Safety and Welfare) Regulations 1992 .

### **Uniform and personal protective equipment**

5. Employees shall be provided free of charge with any appropriate uniform, clothing or equipment, which shall remain the property of the fire and rescue authority. Such provision shall follow an assessment under Regulation 6 of the Personal Protective Equipment at Work Regulations 1992 of any risks to health and safety and shall include the protective clothing and equipment at paragraph 7 of the Guidance to the Regulations and any other items identified by the risk assessment.

### **Spectacles for use on the fireground**

6. Fire and rescue authorities shall supply or reimburse the approved cost of spectacles for use on the fireground (see paragraphs 10-13 of Fire Service Circular 9/1996).

### **Employees working with display screens**

7. Fire and rescue authorities have a duty to comply with the Health and Safety (Display Screen Equipment) Regulations 1992 where employees work with display screens.

## **PART B - OCCUPATIONAL HEALTH**

### **General principles**

1. The NJC recognises the link between a fit and healthy workforce and the provision of an efficient and effective fire and rescue service. Authorities are encouraged to provide facilities to enable employees to maintain and/or improve their levels of fitness as part of an overall health and fitness culture. Authorities should provide a professional occupational health service, which recognises the need to maintain appropriate confidentiality and has regard to any special religious and cultural issues, such as the gender of medical practitioners. The aim of such a service should be to prevent and/or minimise work-related and other forms of ill health or injury and to assist employees in maximising and maintaining their fitness for work and their welfare. It should, amongst other things:
  - (1) Advise, support and counsel employees on work-related and other issues, including stress, that may impact on their health and welfare.
  - (2) Support staff who experience health problems, including rehabilitation back into the workplace.
  - (3) Seek to maintain employees in a fit and healthy state for the performance of their duties.
  - (4) Enable employees to maximise their attendance at work and length of service.
  - (5) Identify, monitor, and advise on health risks in the workplace.
  - (6) Provide periodic health medical examinations and advice, education, and guidance on health, fitness and welfare matters.

### **Medical examinations**

2. Where the fire and rescue authority believes that an employee's medical condition could prevent him or her from carrying out his or her duties, the employee may be required to undergo a medical examination.
3. An employee on sick leave may at any time be required by the fire and rescue authority to undergo a medical examination.
4. If an employee refuses or neglects to undergo a medical examination required by the fire and rescue authority or, in the opinion of the authority acting on medical advice, has caused or substantially aggravated any illness or injury by neglect or default, or has refused or neglected to co-operate fully in any medical treatment that the authority considers necessary, he or she shall be entitled only to such paid sick leave as the authority may determine.

### **Medical charges and expenditure**

5. A fire and rescue authority shall reimburse an employee any charges incurred under Sections 77, 78, or 79 of the National Health Service Act 1977 where these arise directly from an illness or injury arising out of authorised duty.
6. A fire and rescue authority may, to such extent as it thinks fit in the interests of efficiency, reimburse an employee any charges or expenditure (beyond those at paragraph 5 above) in respect of medical treatment.

*See Appendix B for protected conditions for employees in post before 1st November 1994.*

### **Cancer screening**

7. Reasonable paid time off shall be granted to employees for the purpose of being screened for cancer.

### **Prohibition of outside employment**

8. An employee (other than one on the retained duty system) shall not hold any other office or employment for gain or reward or carry on any trade or business without the express permission of the fire and rescue authority, which may be granted subject to any restrictions or conditions the authority thinks fit.

### **Sick leave**

9. These provisions are intended to supplement Statutory Sick Pay (SSP) and Incapacity Benefit (IB) in order to maintain normal pay during any period when an employee is entitled to full pay.
10. An employee on authorised sick leave shall be entitled to full pay for six months in any twelve-month period. Thereafter the fire and rescue authority may reduce pay by up to half for six months.
11. An employee on authorised sick leave as a result of an illness or injury arising out of authorised duty shall be entitled to full pay for twelve months. Thereafter the fire and rescue authority may reduce pay by up to half for six months.
12. Fire and rescue authorities have the discretion to extend the period of sick pay in exceptional cases.
13. The period during which sick pay shall be paid and the rate of sick pay in respect of any period of absence shall be calculated by deducting from the employee's entitlement on the first day the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence.
14. Absence in respect of normal sickness shall be recorded separately from absence in respect of illness or injury arising out of authorised duty. Periods of absence in respect of one shall not count against the other for the purpose of calculating sick pay entitlement.

### *Calculation of and deductions from sick pay*

15. Where an employee is on authorised sick leave 'full pay' means an amount which, when added to SSP and IB receivable, is equivalent to the contractual earnings that would be paid during a period of normal working including, for an employee on the day-crewing duty system who undertakes retained duties, the annual retainer and up to four weekly payments in a calendar year for routine training, development and maintenance sessions.
16. Where an employee on the retained duty system is on authorised sick leave 'full pay' means the annual retainer and up to four weekly payments in a calendar year for routine training, development and maintenance sessions, subject to the production of a doctor's statement.
17. Where an employee on the retained duty system (or a volunteer carrying out operational firefighting duties) is on authorised sick leave as a result of an illness or

injury arising out of authorised duty 'full pay' means the employee's average weekly remuneration in the previous twelve weeks, taking all payments into account. Where the employee can provide satisfactory evidence that, as a direct result of the illness or injury, he or she is suffering a financial loss in respect of his or her usual occupation 'full pay' means the amount of the actual loss (including his or her average weekly remuneration from the fire and rescue authority in the previous twelve weeks) subject to the maximum basic weekly rate of an Area manager.

18. For the purpose of paragraph 17 above 'authorised duty' includes occasions on which the employee (or volunteer) is responding directly and promptly to an emergency call. It shall not include travelling to the station for any other purpose. Where the fire and rescue authority is satisfied that the employee (or volunteer) has been injured as a result of returning directly to his or her home or work immediately after attending the station in response to an emergency call the authority may treat that journey as authorised duty. Any decision to regard such a journey as authorised duty shall concern only the question of calculating entitlement to sick pay. It shall not be regarded as determining whether the employee (or volunteer) was on duty for any other purpose.
19. In no circumstances shall sick pay be calculated in such a way that, when added to SSP and IB receivable, it exceeds normal pay. In calculating 'half pay' any SSP or IB receivable shall be disregarded except where the resulting amount, when added to SSP or IB, exceeds normal pay.
20. An employee shall declare to the fire and rescue authority any entitlement to benefit related to his or her sickness and any subsequent alteration in circumstances on which such benefit is based.

#### *Notification and certification of sickness*

21. Entitlement to sick pay shall be conditional on the employee fulfilling the following obligations:
  - (1) That notification is made immediately to the person identified for this purpose by the fire and rescue authority.
  - (2) That further notification as to the nature and probable duration of the injury or illness is made as required by the fire and rescue authority.
  - (3) That a doctor's statement is submitted to the fire and rescue authority not later than the eighth calendar day of absence.
  - (4) That subsequent doctor's statements are submitted as necessary.
  - (5) That in cases where the doctor's statement covers a period exceeding fourteen days or where more than one statement is necessary the employee shall, before returning to work, submit to the fire and rescue authority a final statement as to his or her fitness to resume duties.
  - (6) That, on returning to work, the employee signs a statement detailing the reasons for all absences up to and including seven days.

#### *Reimbursement of cost of doctor's statements*

22. Where, for the purpose of qualifying for sick pay, a fire and rescue authority requires a doctor's statement from an employee the authority shall reimburse the cost of such a statement.
23. It is recognised that an employee on the retained duty system may have difficulty in complying with the requirement to produce a doctor's statement. Fire and rescue authorities are therefore encouraged to take a flexible approach by, for example, accepting photocopies.

#### *Sickness during annual and public holiday leave*

24. An employee who falls sick whilst on annual leave or who is absent on account of sickness when his or her annual leave falls due shall be regarded as being on sick leave provided such absence is covered by a doctor's statement. In this event the employee may be permitted to take all or part of the outstanding leave at a later date, normally before the end of the current leave year or, in exceptional circumstances, not later than 31st March of the following year at the discretion of the fire and rescue authority.
25. Where an employee is on sick leave on a public holiday he or she shall be deemed to be on public holiday leave and shall not be entitled to a day's leave in lieu later.

#### *Medical examination*

26. An employee shall, when required, submit to an examination by a medical practitioner nominated by the fire and rescue authority subject to the appropriate provisions of the Access to Medical Reports Act 1988. The authority shall meet any costs associated with the examination.

#### *Effect of neglect or default*

27. If an employee refuses or neglects to undergo a medical examination required by the fire and rescue authority or, in the opinion of the authority acting on medical advice, has caused or substantially aggravated any illness or injury by neglect or default, or has refused or neglected to co-operate fully in any medical treatment that the authority considers necessary, he or she shall be entitled only to such paid sick leave as the authority may determine.
28. If, in the opinion of the fire and rescue authority acting on medical advice, the absence from duty is due to an illness or injury that is wholly attributable to the employee holding any other office or employment for hire or gain, or carrying on a trade or business, or participation in sport as a profession he or she shall be entitled only to such paid sick leave as the authority may determine.

#### *Independent medical opinion*

29. Where there is a divergence of opinion between the fire and rescue authority's medical adviser and the employee's treating medical practitioner over either the employee's fitness for duty or, for the purpose of calculating sick pay entitlement, the question of whether an illness or injury has arisen out of authorised duty, an independent medical opinion should be sought to resolve the matter.
30. The fire and rescue authority and the employee should agree an independent person to provide such an opinion, whose appointment should be made solely on relevant medical credentials. Where an appointment cannot be agreed because of differences over the question of a person's independence, the matter shall be referred to the NJC Joint Secretaries for decision.

#### *Continuation of sick leave pending medical appeal*

31. Where an employee (other than one on the retained duty system or in a control-specific role) is dismissed on medical grounds and appeals against the dismissal under the terms of Rule H(2) Schedule 9 Part 1 of the Firefighter's Pension Scheme Order 1992

his or her period of notice shall be extended if necessary so that the result of the appeal is known before his or her service is terminated.

32. Where an employee on the retained duty system is dismissed on medical grounds he or she shall be granted a similar right of appeal to an independent medical referee as that provided under Rule H (2) Schedule Part 1 of the Firefighter's Pension Scheme Order 1992 and his or her period of notice shall be extended if necessary so that the result of the appeal is known before his or her service is terminated.

#### *Third party damages*

33. Where an employee is absent as a result of an accident the fire and rescue authority shall advance to the employee a sum in lieu of and equivalent to sick pay if damages may be receivable from a third party in respect of such accident. The employee shall be requested to include in any claim for damages against a third party a sum equivalent to the said allowance and, where an element for loss of earnings is included in any award, shall reimburse to the authority a sum representing the total amount of such allowance or the proportion thereof represented in the damages received.

#### *Contact with infectious diseases*

34. In the case of contact with infectious or other diseases the employee should not stay away from duty if he or she feels well but should report the fact to the appropriate person in the fire and rescue authority. An employee who is prevented from attending work because of contact with an infectious disease shall be entitled to full sick pay and the period of absence on this account shall not be reckoned against the employee's entitlement to sick pay.

## **SECTION 6 - GRIEVANCE AND DISCIPLINARY**

In operating these grievance and disciplinary procedures, both employees and managers should recognise the significant change in culture involved and the importance of appropriate training and development.

### **INDIVIDUAL GRIEVANCE PROCEDURE**

#### **Informal stage**

1. Employees should be informed that if they have a grievance relating to their employment they should discuss it with their line manager.

#### **Formal stage**

2. If the employee is not satisfied with the reply they may proceed to the next stage. At this stage the grievance must be set out in writing. Also at this stage a representative of their union or a fellow employee may if they wish accompany them and take up the matter on their behalf.
3. The line manager should hear the grievance within seven days. Where the decision that gave rise to the grievance was made at a higher level, the grievance will initially be heard at that level. The employee will be given a written decision with reasons within seven days, explaining the decision.

#### **Appeal stage**

4. If the employee remains dissatisfied with the decision they may appeal within seven days in writing. This appeal should be heard within seven days by the next highest level of management who have the authority to review and change the original decision. Their decision with reasons must also be in writing. The employee will be given a written decision with reasons within seven days explaining the decision.
5. If the employee is dissatisfied with the decision of the Appeal described at paragraph 4 and the issue has been identified as being one of a serious nature then the grievance shall be reviewed at the corporate level appropriate to the issue (see paragraph 8 of guidance).

#### **Time limits**

6. The time limits referred to above may be varied by mutual agreement.

### **GRIEVANCE PROCEDURE - GUIDANCE**

#### **Preamble**

1. The individual grievance procedure is intended to cover the range of concerns, problems and issues which individuals may raise with their employer. It fulfils the statutory requirements, which are set out in the annexes to the ACAS Code of Practice on Grievance and Disciplinary Procedures. Other legal considerations are set out in Appendix A to the procedure.

2. The grievance procedure applies to current employees. Ex-employees are not entitled to use the grievance procedure except as described in the Employment Act 2002, see Annex B of the ACAS Code of Practice.
3. Grievances will normally be raised with the line manager and it is the responsibility of the employer to ensure that employees know who their line manager is. Where grievances are about serious problems such as allegations of bullying, harassment, racism or other unlawful discrimination which suggest major problems, for example of culture or management style, then the appropriate corporate level of the employing authority shall be involved in the appeal (see paragraph 8 below). It is the responsibility of both employer and employee to ensure that grievances are heard fairly, consistently, speedily and at the appropriate level (see paragraph 2 below). The procedure must be made available to all employees so that any grievances they may have can be properly considered.
4. Where separate procedures exist for dealing with grievances on particular issues (for example, the right to request flexible working) these should be used instead of the normal grievance procedure.
5. Employees should be encouraged to seek help with setting out their grievance (for example from representatives of recognised unions). As required under the Disability Discrimination Act 1995 employers must make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves because of a disability.
6. In line with the statutory procedures, employees have the right to be accompanied by a trade union representative or fellow employee at the hearing.
7. Where a grievance involves difficulty in reconciling work and caring responsibilities, managers shall make every effort, subject to the exigencies of the service, not to implement any proposed change until the grievance has been resolved.
8. Grievances should be raised within 3 months of the management decision causing the grievance, unless otherwise agreed.

### **Informal stage**

- 1 Employees should aim to resolve most grievances quickly and informally by discussing them with their line manager. Where the grievance is a complaint against the line manager with whom the grievance would normally be raised, the employee can approach that person's manager or another manager at the same or similar level of authority. If employees are not satisfied with the outcome of this initial informal stage, they may move to the next stage of a formal hearing.

### **Formal stage**

2. If a grievance cannot be settled informally, it should then be raised formally in writing with the appropriate level of management. Normally, this will be the line manager. Again, where the grievance is a complaint against the line manager with whom the grievance would normally be raised, the employee can approach that person's manager or another manager at the same or similar level of authority.

3. On receiving a formal grievance, a manager should invite the employee to a meeting which should be held in good time<sup>1</sup> and inform them that they have the right to be accompanied by a representative (which could be either their union representative or a fellow employee). They should agree a time and place for the meeting with the employee. It is important that the meeting is not interrupted and that the employee feels their grievance is being treated seriously and in confidence. If an employee's representative cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than seven days after the date originally proposed by the manager. This seven-day time limit may be extended by mutual agreement.
4. The employee will be given a full opportunity to explain their complaint and say how they think it should be settled. If a point is reached in the meeting where it is not clear how to deal with the grievance or further investigations are necessary the meeting should be adjourned to get advice or make further investigations. The manager should give the grievance careful consideration before responding.
5. Where the manager who would normally deal with the grievance cannot be available, another manager should be appointed to hear the grievance.
6. The manager should respond in writing to the employee's grievance in good time explaining the reason for their decision and should let the employee know that they can appeal against the manager's decision if they are not satisfied with it.

### **Appeal stage**

7. If the employee informs their manager in good time and in writing that they are unhappy with the decision after the formal grievance hearing, the manager should arrange for an appeal hearing to be conducted in good time. The appeal will be to a manager at a more senior role who has the practical authority to review and change the original decision. This level of authority may depend on the nature of the decision e.g. whether it simply involved application of existing policy or was a decision introducing or changing policy. The employee should be given a written decision and explanation on their appeal as soon as possible and in good time.
8. In addition, as noted in the preamble above, serious cases such as allegations of bullying, harassment, racism or other unlawful discrimination which suggest major problems, for example of culture or management style, will (where the matter remains unresolved) require a further hearing to be conducted by the corporate level of the employing authority which is appropriate to the issue. For example, the appropriate level will be that which both appreciates the wider importance and significance of the issue and has the authority to deal with it.
9. As with the previous stage, the employee should be given a written decision and explanation on their appeal as soon as possible and in good time.

### **Special considerations**

10. Where either the authority or the recognised union determine that the matter is a collective issue, it may, at any stage, be transferred to stage one of the local negotiation procedure set out in Part C of Section 5.

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<sup>1</sup> Throughout this guidance and procedure "in good time" means as soon as possible and in any case within 7 days unless otherwise agreed.

11. Complaints about discrimination, bullying and harassment in the workplace are sensitive issues. As indicated above, these should merit special attention and it may be helpful for separate procedures, which must meet the relevant statutory requirements, to be developed.
12. It is important to ensure that everyone in the organisation understands the grievance procedures, including the statutory requirements and that managers and employee representatives are trained in their use. Employees must be given a copy of the procedures or have ready access to them, for instance on a noticeboard, and they should be included as part of the induction process.
13. Managers and union representatives should take the time to explain the detail of grievance procedures to employees.

### **Keeping records**

14. It is important, and in the interests of both parties, to keep written records during the grievance process. Records should include:
  - the nature of the grievance raised;
  - a copy of the written grievance
  - the manager's response;
  - action taken;
  - reasons for action taken;
  - whether there was an appeal and, if so, the outcome; and
  - subsequent developments.
15. Copies of meeting records should be given to the employee including any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) some information may be withheld.

### Other legal considerations

1. It is important that employers and employees follow the statutory grievance procedure where it applies. The employee should (subject to the exemptions described in Annex C to the ACAS Code) at least have raised the grievance in writing and waited 28 days before presenting any tribunal claim relating to the matter. A premature claim will be automatically rejected by the tribunal although (subject to special time limit rules) it may be presented again once the written grievance has been raised. Furthermore if a grievance comes before an employment tribunal and either party has failed to follow the procedure then the tribunal will normally adjust any award by 10 per cent or, where it feels it just and equitable to do so, by up to 50 per cent, depending on which party has failed to follow the procedure. In exceptional cases compensation can be adjusted by less than 10 per cent or not at all.
2. Wherever possible a grievance should be dealt with before an employee leaves employment. A statutory grievance procedure (“the modified grievance procedure” described in Annex B to the ACAS Code) applies where an employee has already left employment, the standard procedure has not been commenced or completed before the employee left employment and both parties agree in writing that it should be used instead of the standard statutory procedure. It is recommended that the modified procedure described in Annex B is used in such cases. Under the modified procedure the employee should write to the employer setting out the grievance as soon as possible, and not later than three months, after leaving employment and the employer must write back setting out its response within five working days unless otherwise agreed.
3. It should be noted that the appeal stage is part of the statutory procedure and if the employee pursues an employment tribunal claim the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal.
4. Individuals also have the right to raise very serious grievances under the provisions of the Public Interest Disclosure Act 1998. This Act provides protection to employees who raise concerns about certain kinds of wrongdoing in accordance with its procedures.
5. Records should be treated as confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data.

## **DISCIPLINARY PROCEDURE**

### **Introduction**

1. This procedure applies in cases of conduct, unsatisfactory work performance and poor attendance. For further details please refer to the guidance. The guidance covers the scope of the procedure; the requirement to undertake an appropriate investigation; the stages of the procedure; the sanctions available to the employer; the rights of the employee; and the appeal mechanism; etc.
2. The basis of this procedure is that the principle of natural justice applies, at every stage, in a framework which also ensures fairness for both employees and managers. A guiding principle of the procedure is to obtain improvement and remedy problems.
3. Employees have a statutory right to be accompanied by a fellow employee or trade union official at all formal stages of the procedure.

### **Informal stage**

4. This is an informal discussion with the line manager. The separate formal stages of initiating action, investigation, hearing and decision are not relevant at this stage. The informal approach means that minor problems should be dealt with quickly and confidentially. The line manager will speak to the employee about their conduct, attendance or performance and may put this in writing although it would not form part of the disciplinary record.
5. At the informal stage the manager should ensure that employees are clear of the expected outcomes and the process by which they will be achieved.

### **First formal stage**

6. An employee's line manager, at Watch Manager level or above, may initiate the disciplinary process and investigate. Where, following a disciplinary meeting, the employee is found guilty of misconduct; the usual first step would be to give them a warning.
7. A warning must give details and an explanation of the decision. It should warn the employee that failure to improve or modify behaviour may lead to further disciplinary action, and advise them of their right of appeal. A warning should be disregarded for disciplinary purposes after six months.
8. Where the issue is one of unsatisfactory performance or unsatisfactory attendance, please refer to the guidance.
9. A warning may only be given to an employee by their Station Manager or above.

### **Second formal stage**

10. Where there is a failure to improve or change behaviour in the timescale set at the first formal stage, or where the offence is sufficiently serious, the sanction may be no greater than a final written warning. This sanction may only be issued after a further investigation and hearing.
11. A final written warning must give details and an explanation of the decision. It should warn the employee that failure to improve or modify behaviour may lead to dismissal or

to some other sanction, and advise them of their right of appeal. A final written warning should be disregarded for disciplinary purposes after eighteen months. Where a lesser sanction is issued, the same right of appeal applies.

12. A final written warning may only be given to an employee by their Group Manager (or equivalent) or above.

### **Third formal stage**

13. Where employees continually fail to improve, or where the offence is sufficiently serious, there should be an investigation and hearing. The sanctions available may include dismissal. Alternatively, the outcome may be a sanction less than dismissal (see guidance for details). Employees must be told they have the right to appeal and details of the appeals process.
14. Any sanction up to dismissal may only be given to an employee by their Area/Brigade Manager.

### **Gross misconduct**

15. Acts which constitute gross misconduct, are those resulting in a serious breach of contractual terms and thus potentially liable for summary dismissal. It is still important to establish the facts before taking any action. Please refer to the guidance for further information.

### **General issues**

16. Other general issues to be aware of include the following:
  - Grievance during a disciplinary procedure.
  - Disciplinary action against trade union representatives.
  - Criminal offences.
  - Suspension.

Further details are given in the Guidance.

## **DISCIPLINARY PROCEDURE GUIDANCE**

### **1. Introduction**

#### **1.1 Preamble**

1. The disciplinary procedures will be made available to all employees, for instance on a notice board and in the staff handbook and will be referred to in contracts of employment. Management will do all they can to ensure that every employee knows and understands the procedures, including those employees whose first language is not English or who have trouble reading. This will be done as part of each employee's induction process.
2. The procedure, which reflects and improves on the statutory provisions and the ACAS Code on Disciplinary and Grievance Procedures, is designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance. The aim is to ensure consistent and fair treatment for all employees in the organisation. Disciplinary procedures are a legal requirement in certain circumstances (see Appendix A).

3. The procedure should be supplemented locally by more detailed guidance, for example on the conduct of hearings. Every effort should be made to jointly agree such guidance.
4. All managers, at every level, who may be involved in disciplinary action shall be fully trained and competent in the operation of the procedure. Responsibility for the appropriate level of disciplinary action must be in accordance with the relevant role map, the role of the manager and levels of delegated authority.
5. The basis of this procedure is that the principle of natural justice both applies, and is clearly seen to apply, at every stage. The aim is to ensure that appropriate action can be taken without unnecessary delay, but in a framework which also ensures fairness for both employees and managers.
6. The guiding principle of the procedure is that, in every case except dismissal, the aim is to obtain improvement and remedy problems. Each case shall be treated on its merits in the light of the particular circumstances involved.
7. On issues of conduct the procedure may be initiated at any stage depending on the seriousness of the case. Where issues concern unsatisfactory performance and/or attendance the stages in the procedure would normally be followed in sequence and account should be taken of the Personal Development Record (PDR).
8. On issues of incapacity at work brought on by mis-use of alcohol or drugs, separate remedial procedures should be considered as an alternative.

## 1.2 Scope

9. This guidance covers the scope of the procedure (conduct, attendance and job performance); the requirement to undertake an appropriate investigation; the stages of the procedure; the sanctions available to the employer; the rights of the employee; and the appeal mechanism; etc.
10. The disciplinary procedure is designed to cover behaviour which is contrary to that necessary for ensuring a safe and efficient workplace, and for maintaining good employment relations. Such behaviour could include, but is not limited to:
  - bad behaviour, such as fighting or drunkenness
  - unsatisfactory work performance
  - harassment, victimisation or bullying
  - misuse of company facilities (for example e-mail and internet)
  - poor timekeeping
  - unauthorised absences
  - repeated or serious failure to follow instructions
11. Acts which constitute gross misconduct are those resulting in a serious breach of contractual terms. Examples of gross misconduct might include:
  - theft or fraud
  - physical violence or bullying
  - deliberate and serious damage to property
  - serious misuse of the Authority's property or name
  - deliberately accessing pornographic, offensive or obscene material
  - unlawful discrimination or harassment
  - bringing the Authority into serious disrepute
  - serious incapacity at work brought on by misuse of alcohol or illegal drugs
  - causing loss, damage or injury through serious negligence
  - a serious breach of health and safety rules
  - a serious breach of confidence

### **1.3 Time limits**

12. Time limits applicable to the different stages of the procedure are set out in the guidance below. These may be varied by mutual agreement.

### **1.4 Initiating formal disciplinary action**

13. For apparent cases of misconduct, where, in the judgement of the line manager the issue is one which would not result in a formal sanction greater than a written warning, the disciplinary procedure may be initiated by the line manager, who will ensure that an investigation will be conducted by themselves or another appropriate manager.
14. Where, in the line manager's judgement, the sanction could be greater than a written warning, the procedure should be initiated by a manager not lower than the Station Manager who will ensure that an investigation will be conducted by themselves or another appropriate manager.
15. Where there are issues of performance including poor attendance, account should be taken of the outcome of the review of the PDR, which is designed to offer support and assistance. In these cases the disciplinary process should only be used where actions to remedy unsatisfactory performance, based on the developmental PDR, are not proving effective.

### **1.5 Investigation**

16. An investigation should be carried out to establish the facts promptly. It is important to keep a written record for later reference. Having established the facts, the manager will decide whether to drop the matter or deal with it in accordance with the procedure, which may include reference back to the informal stage. Where necessary technical expertise relevant to the case should also be made available.
17. Where the employee is to be interviewed as part of an investigation they should be advised of the purpose of the meeting in advance and that they may be accompanied. When making these arrangements this should not frustrate the investigation.

### **1.6 Information for the employee before a disciplinary hearing**

18. In advance of any disciplinary hearing the manager will write to the employee. The letter should contain enough information for the employee to fully understand the case against them with all relevant details (e.g. dates, times, location, etc.) and the reasons why this is not acceptable. If the employee has difficulty reading, or if English is not their first language, the manager should explain the content of the letter to them orally. The letter should also invite the employee to a hearing at which the problem can be discussed, and it should inform the employee of their right to be accompanied at the meeting (see Para 1.10). The employee will be given copies of any documents that will be produced at the hearing.
19. At all stages employees shall be fully informed.

### **1.7 Hearings**

20. The timing and location of the hearing should where practicable be agreed with the employee and/or their representative. The length of time between the written notification and the hearing should be long enough to allow the employee and/or their representative to prepare and shall in any event be not less than:

seven days for first formal stage  
ten days for the second stage  
twenty-one days for the third stage

21. The manager should hold the hearing in a private location and ensure both that there will be no interruptions, and that the employee feels the issue is being treated confidentially.
22. At the hearing, the process will be explained to the employee. The case against the employee will be stated including the evidence. The employee and/or their representative will be given every opportunity to set out their case and answer any allegations that have been made. The employee will also be allowed to ask questions, present evidence and/or information, call witnesses, and character witnesses where appropriate and be given an opportunity to raise points about any information provided by witnesses.
23. An employee and/or their representative who cannot attend a hearing should inform the manager in advance, as soon as possible. If the employee fails to attend through circumstances outside their control, and unforeseeable at the time the hearing was arranged (e.g. illness), the manager should arrange another hearing. A decision may be taken at a hearing in the employee's absence if they fail to attend the rearranged hearing without good reason. An employee's representative may attend on their behalf, if the employee is unable to attend. If an employee's representative cannot attend on a proposed date, the employee has a statutory right to suggest another date so long as it is reasonable and is not more than seven days after the date originally proposed by the employer. This seven-day time limit may be extended by mutual agreement.

#### **1.8 Decision on outcome and action**

24. Following the hearing the manager must decide whether action is justified or not. Where it is decided that no action is justified the employee should be informed. Where it is decided that action is justified the manager will need to consider what form this should take. Before making any decision the employer should take account of the employee's disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and other relevant factors. The intended action must be reasonable under the circumstances.
25. Examples of actions the manager might choose to take are set out in paragraphs 2.2 to 2.5. It is normally good practice to give employees at least one chance to improve their conduct or performance before they are issued with a final written warning. However, if an employee's misconduct or unsatisfactory performance – or its continuance – is sufficiently serious, for example because it is having, or is likely to have, a serious harmful effect on the organisation, it may be appropriate to move directly to a final written warning. In cases of gross misconduct, the employer may decide to dismiss even though the employee has not previously received a warning for misconduct.
26. Following the meeting/hearing the decision should be confirmed in writing as soon as possible, within seven days. The decision shall include a description of the nature of the issue, any required remedial action and the timescale for improvement. Except in cases of dismissal, where the issues relate to performance and in other cases where appropriate the decision shall include the following:
  - the improvement that is required
  - the timescale for achieving this improvement
  - a review date
  - all support the employer will provide to assist the employee

27. Employees should also be informed that if there is no improvement, further stages, leading ultimately to dismissal, may be invoked.

### 1.9 Level of management

28. The lowest levels of line management who can take action within the procedure is in accordance with the role maps. The lowest level at the informal stage would be the crew manager. Subject to training, competence, and levels of delegated authority, the formal stages are as follows:

	Investigation	Conduct hearing/take action
Formal stage 1	Watch Manager	Station manager*
Formal stage 2	Station Manager	Group Manager
Formal stage 3	Group Manager	Area/Brigade Manager

\* In cases of unsatisfactory performance and absence it is appropriate for a Watch Manager to inform the employee that a failure to improve could lead to disciplinary action being taken.

29. Where the manager who would normally deal with the issue cannot be available, or, there may be a conflict of interest, another manager at the same or higher level, should be appointed to deal with the case. Where the procedure has reached the second formal stage or higher, the hearing should be conducted by a manager who is not the investigating manager but is at the same or higher level. The investigating manager would normally present the management case at the second and third formal stages.

### 1.10 Representation

30. Employees have a statutory right to be accompanied by a fellow employee or trade union official of their choice at all formal stages of the procedure.
31. In addition, it is good practice for employees to be provided with the opportunity to be accompanied at the investigation stage although this should not frustrate the process.
32. Fellow employees or trade union officials do not have to accept a request to accompany an employee, and they should not be pressurised to do so.
33. An employee or lay trade union official who has agreed to accompany a colleague employed by the same employer is entitled to take a reasonable amount of paid time off to fulfill that responsibility. This should cover the hearing and allow time for the representative to familiarise themselves with the case and confer with the employee before and after the hearing. A request for reasonable paid time off by a trade union official to accompany an employee employed by another fire authority in the same region shall be given due consideration by the respective employers.
34. Employers should cater for an employee's disability at a meeting/hearing, they should also cater for a representative's disability, for example providing for wheelchair access if necessary.
35. Before the meeting/hearing takes place, the employee will tell the manager who they have chosen as a representative.
36. The representative should be allowed to address the meeting/hearing in order to:
- put the employee's case
  - sum up the employee's case
  - respond on the employee's behalf to any view expressed at the hearing

37. The representative can also confer with the employee during the meeting/hearing and participate as fully as possible in the meeting/hearing, including asking witnesses questions. The representative has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it, or to prevent the employer from explaining their case.

## **2. Stages of disciplinary action**

### **2.1 Informal stage**

38. Cases involving minor misconduct or unsatisfactory performance or attendance are usually best dealt with informally by the line manager. A quiet word is often all that is required. The informal approach means that minor problems can be dealt with quickly and confidentially. Where issues involve performance, or in some cases attendance, supportive action, reference to the PDR and specialist advice may be more appropriate.
39. At this informal stage the manager should ensure that employees understand the position, if necessary by giving them a written note. This would not form any part of their disciplinary record but it would be filed on their Personal Record File.
40. There will, however, be situations where matters are more serious or where an informal approach has been tried but isn't working. At this point it may be appropriate to enter the formal stages of the procedure.

### **2.2 First formal stage**

41. The employee's line manager will investigate the matter. If required a meeting/hearing may be held at which the relevant manager will make a decision. The employee has the right to be represented and present their case in response to management.
42. Where, following a disciplinary hearing an employee is found guilty of misconduct, the usual first step would be to give them a warning setting out the nature of the misconduct and the change in behaviour required.
43. The employee should be informed that the warning is part of the formal disciplinary process and what the consequences will be of the failure to change behaviour. The consequences could be a final written warning and ultimately, dismissal. The employee should also be informed that they may appeal against the decision. A record of the warning should be kept, but it should be disregarded for disciplinary purposes after six months.
44. Where there are issues of performance, account should be taken of the review of the employees PDR, which is designed to offer support and assistance whenever possible. The disciplinary process should only be used where actions to remedy unsatisfactory performance, based on the developmental PDR, are not proving effective. An employee who is found to be performing unsatisfactorily should be given a written note detailing the following:
  - the performance problem
  - the improvement that is required
  - the timescale for achieving this improvement
  - a review date
  - all support the employer will provide to assist the employee

45. The employee should be informed that failure to improve could lead to disciplinary action being taken. A copy of the note should be kept and used as the basis for monitoring and reviewing performance over a specified period e.g. six months.
46. When dealing with absence from work, it is important to determine the reasons why the employee has not been at work. If there is no acceptable reason, the matter should be treated as a conduct issue and dealt with as a disciplinary matter.
47. If the absence is due to genuine (including medically certified) illness, the issue becomes one of performance, and the employer should take a sympathetic and considerate approach. When thinking about how to handle these cases, it is helpful to consider:
  - how soon the employee's health and attendance will improve;
  - whether alternative work is available;
  - the effect of the absence on the organisation;
  - how similar situations have been handled in the past; and
  - whether the illness is a result of disability in which case the provisions of the Disability Discrimination Act 1995 will apply.
48. The employee should be informed that failure to improve could lead to disciplinary action being taken. A copy of the note should be kept and used as the basis for monitoring and reviewing performance over a specified period e.g. six months.

### **2.3 Second formal stage**

49. Where there is a failure to improve or change behaviour in the timescale set at the first formal stage, the employee may be issued with a final written warning – but only after a further investigation and hearing. Alternatively where the offence is sufficiently serious, action may be initiated at this stage. The final written warning will give details and an explanation of the decision. It should warn the employee that failure to improve or modify behaviour may lead to dismissal or to some other sanction, and advise them of their right of appeal against the final written warning which should be disregarded for disciplinary purposes after eighteen months. Where a lesser sanction is issued, the same right of appeal applies.
50. A final written warning may only be given to an employee by their group manager or above.

### **2.4 Third formal stage**

51. Where employees fail to improve, or where the offence is sufficiently serious, following an investigation and hearing, employees may be dismissed by their [Area Manager/Brigade Manager/Members of the Employing Authority]. Employees must be told they have the right to appeal and details of the appeals process.
52. Alternatively where there has been a failure to improve as required or, in exceptional cases, at the first offence, following the investigation and hearing, a decision may be made by their Area or Brigade manager to award a sanction less than dismissal, or in serious cases, as an alternative to dismissal. These sanctions are:
  - A warning.
  - Demotion (either within role or no more than one role; a demotion of more than one role can only be done with the agreement of the employee).
  - Disciplinary transfer (which should involve no loss of remuneration and unless the employee agrees otherwise should be within the same duty system).
  - Loss of pay up to a maximum of thirteen days.

## **2.5 Gross misconduct**

53. If a manager considers an employee guilty of gross misconduct, and thus potentially liable for summary dismissal, it is still important to establish the facts before taking any action. A short period of suspension with full pay may be helpful or necessary, although it should only be imposed after careful consideration and should be kept under review. It should be made clear to the employee that the suspension is not a disciplinary action and does not involve any prejudgement (see paragraph 3.5 below on suspension).
54. It is a core principle of reasonable behaviour that employers should give employees the opportunity of putting their case at a disciplinary hearing before deciding whether to take action. This principle applies as much to cases of gross misconduct as it does to ordinary cases of misconduct or unsatisfactory performance.
55. A simplified briefing note for the discipline procedure can be found at Appendix B.

## **3. General issues**

### **3.1 Appeals**

56. Employees who have had disciplinary action taken against them will be given the opportunity to appeal. Employees will be allowed to appeal no later than seven days after they have been informed of the decision.
57. The appeal shall be heard by a higher level of manager. Arrangements for the final appeal stage against dismissal should be determined locally but be consistent with the principle that the corporate level involved should be higher than the level which heard the previous stage.
58. Where an employee appeals against disciplinary action taken against them they must put their grounds of appeal in writing. The grounds of appeal will normally be one or more of the following:
  - There was a defect in the procedure.
  - The issue is not proven on the balance of probabilities.
  - The disciplinary sanction was too severe.
  - New evidence has come to light since the hearing which will have an impact on the Decision.
59. Normally the Appeal Manager will conduct the appeal hearing as a rehearing (in full or part), where this is required. Otherwise the appeal hearing will be conducted as a review. A rehearing would normally be required in the following instances (this is not necessarily an exhaustive list):
  - There was a procedural defect at the original hearing such that the hearing was Unfair.
  - New evidence has come to light which needs to be heard in full.
  - There is a dispute about evidence given by one or more witnesses at the original hearing. In these cases it may be necessary to rehear the witness evidence at the appeal.
60. Where the appeal hearing is conducted as a review, the Appeal Manager will have available all the documents presented to the original hearing. They will also have a copy of the record of the hearing, the letter confirming the outcome of the original disciplinary hearing, the letter of appeal and all other relevant information. The Appeal Manager will reach findings based on the documentation and the submissions at the appeal hearing from the parties.

61. At the appeal hearing the employee and/or their representative will first put their case by explaining the grounds of appeal and presenting any relevant evidence. The management case will then be put, responding to the grounds of appeal, normally by the manager who conducted the original hearing. Relevant witnesses may be brought by either side, and be questioned by all parties.
62. The outcome of the appeal will be either:
  - The case against the employee is upheld (in whole or part); the sanction will then be the same or a lesser penalty.
  - The case against the employee is not upheld.
63. At the final appeal against dismissal, if the employer's representative is legally qualified, the employee's representative may, if the employee wishes, also be a legal representative.
64. In cases of gross misconduct dismissal will be summary following the hearing. If the employee is reinstated on appeal, pay will be reinstated and backdated.
65. In other cases of dismissal, employees shall be given contractual notice of dismissal following the hearing. Every effort will be made to conclude any appeal process within the notice period. Where it has not been possible to conclude the appeal process within the notice period, notice may be extended for a reasonable period with a view to concluding the appeal process within the notice period. If the dismissal is not upheld on appeal, the employee will be reinstated.
66. In cases of sanctions other than dismissal, the sanctions should not be implemented until any appeal process has been concluded.

### **3.2 Where a grievance is raised during a disciplinary procedure**

67. In the course of a disciplinary process, an employee might raise a grievance that is related to the case. If this happens, the manager should consider suspending the disciplinary procedure for a short period while the grievance is dealt with. Depending on the nature of the grievance, the manager may need to consider bringing in another manager to deal with the disciplinary process (see ACAS Code Para 33 and 34).

### **3.3 Disciplinary action against trade union representatives**

68. Disciplinary action against a trade union representative can lead to a serious dispute if it is seen as an attack on the union's functions. Normal standards apply but, if disciplinary action is considered, the case should be discussed, after obtaining the employee's agreement, with a senior trade union representative or permanent union official.

### **3.4 Criminal offences**

69. If an employee is charged with, or convicted of, a criminal offence not related to work, this is not in itself reason for disciplinary action. The manager should establish the facts of the case and consider whether the matter is serious enough to warrant starting the disciplinary procedure. The main consideration should be whether the offence, or alleged offence, is one that makes the employee unsuitable for their type of work. Similarly, an employee should not be dismissed solely because they are absent from work as a result of being remanded in custody.

### **3.5 Suspension**

70. It is impossible to predict the full range of circumstances which will arise in disciplinary cases. Emphasis will always be on a speedy and fair resolution. In some cases it may be appropriate to suspend an employee from the workplace while an investigation or preparation for a disciplinary hearing takes place.
71. If an employee is to be suspended they should be informed of the reasons for the suspension, that suspension is not disciplinary action, and that they will be asked to return to work for an investigative meeting or disciplinary hearing as soon as possible. It is also appropriate at this stage to discuss any conditions which will apply during the period of suspension, for example, communications channels, availability to attend meetings, facilities to meet with their representative, etc.
72. Where an employee is suspended they will receive full pay unless they commence sick leave in which case their pay will be in accordance with the rules of the sick pay scheme.
73. Full pay for those employees on the retained duty system will be calculated on the basis of their retained payments averaged over a twelve-week period.

### Other legal issues

1. It should be noted that the appeal stage against dismissal or other serious sanction short of dismissal is part of the statutory procedure and if the employee pursues an employment tribunal claim the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal.
2. Managers and employees will normally be expected to go through the dismissal and disciplinary procedure unless they have reasonable grounds to believe that by doing so they might be exposed to a significant threat, such as violent, abusive or intimidating behaviour, or they will be harassed. There will always be a certain amount of stress and anxiety for both parties when dealing with any disciplinary case, but this exemption will only apply where the employer or employee reasonably believes that they would come to some serious physical or mental harm; their property or some third party is threatened or the other party has harassed them and this may continue.
3. Equally, the procedure does not need to be followed if circumstances beyond the control of either party prevent one or more steps being followed within a reasonable period. This will sometimes be the case where there is a long-term illness or a long period of absence abroad but in the case of managers, wherever possible they should consider appointing another manager to deal with the procedure.

### A SIMPLIFIED BRIEFING NOTE FOR THE DISCIPLINE PROCEDURE

*This note is for guidance only. It does not form part of the disciplinary procedure or the employment contract of any person covered by the Grey Book. It is not to be used as an aid to interpreting the meaning of the procedure itself. The procedure must be referred to and used if any issues come up that are covered by it.*

#### First formal stage

##### Initiate

1. This stage should be used in performance/attendance cases where informal support and action based on the Personal Development Records (PDR) has not resolved the problem. This stage should also be used in cases of conduct where the nature of the alleged offence may warrant a sanction no greater than a warning.
2. This stage should be conducted at Watch/Station Manager level or higher. Should the employee's line manager be at Watch/Station Manager level or above, this stage will be initiated at a higher level of line manager, see paragraphs 1.4 and 1.9 of the guidance.

##### Investigate

3. The Watch/Station Manager or higher shall:
  - Initiate, conduct or delegate an appropriate investigation.
  - The employee shall be notified in writing immediately of the investigation and the nature and details of the case. However in exceptional circumstances that notification may be delayed.
  - Keep a record.
  - Ensure the investigation is completed in good time.

4. Upon completion of the investigation the Watch/Station Manager or higher shall notify the employee of the outcome of the investigation and decide from the following what action to take:
  - Drop the matter
  - Deal with the matter on an informal basis
  - Proceed to a stage 1 hearing
  - Refer the case to the stage 2 or 3 process

### **Hearing**

5. The employee shall be given a minimum of seven days' notice of a hearing. The letter should contain enough information for the employee to fully understand the case against them with all relevant details and the reasons why this is unacceptable. The notification should also include copies of all the evidence/information relevant to the hearing. The employee will be advised of their right to be accompanied at the hearing.
6. The Station Manager or higher shall preside at the hearing and shall first explain the process, the case against the employee and go through the evidence/information that has been gathered.
7. The Station Manager or higher shall consider the employee's case in full.
8. At the conclusion of the hearing the Station Manager or higher shall decide from the following what action to take:
  - Drop the matter.
  - Deal with the matter on an informal basis.
  - Take appropriate action, which will depend in particular on whether the issue is one of conduct, performance or attendance.
  - In conduct cases a warning may be issued which may remain on the employee's record for six months.

### **Decision**

9. The employee shall receive the decision of the hearing in writing. This should be as soon as possible after the conclusion of the hearing and in any event within seven days.
10. Where a warning is issued the Station Manager or higher shall inform the employee, in writing, of the decision. At the same time the employee will also be advised of the appeal process.
11. The employee should appeal within seven days of receiving the warning. The notice of appeal must be in writing and should specify one or more of the grounds of appeal set out in paragraph 3.1 of the Guidance.
12. The appeal hearing shall be arranged at the next level. The employee shall be given not less than 10 days notice of the appeal hearing.

### **Second formal stage**

#### **Initiate**

1. This stage should be used in performance/attendance cases where support and action based on the PDR has not resolved the problem. This stage should also be used in

cases of conduct where the nature of the alleged offence may warrant a sanction no greater than a final written warning.

2. This stage should be conducted at Group Manager level or higher. Should the employee's line manager be at Group Manager level or above this stage will be initiated at a higher level of line manager, see paragraphs 1.4 and 1.9 of the Guidance.

### **Investigate**

3. The Group Manager or higher shall:
  - Initiate, conduct or delegate an appropriate investigation.
  - The employee shall be notified in writing immediately of the investigation and the nature and details of the case. However in exceptional circumstances that notification may be delayed.
  - Keep a record.
  - Ensure the investigation is completed in good time.
4. Upon completion of the investigation the Investigating Manager shall notify the employee of the outcome of the investigation and decide from the following what action to take:
  - Drop the matter.
  - Deal with the matter on an informal basis.
  - Refer the matter to a stage 1 hearing.
  - Proceed with a stage 2 hearing.
  - Proceed with a stage 3 hearing.

### **Hearing**

5. The employee shall be given a minimum of ten days' notice of a hearing. The letter should contain enough information for the employee to fully understand the case against them with all relevant details and the reasons why this is unacceptable. The notification should also include copies of all the evidence/information relevant to the hearing. The employee will be advised of their right to be accompanied at the hearing.
6. A Group Manager or higher (independent of the Investigating Manager) shall preside at the hearing.
7. The management case against the employee will be presented, normally by the Investigating Manager.
8. The employee and/or their representative will present the employees case.
9. The Presiding Manager shall consider the evidence/information presented.
10. At the conclusion of the hearing the Presiding Manager shall decide from the following what action to take:
  - Drop the matter.
  - Deal with the matter on an informal basis.
  - Take appropriate action, which may include a sanction no greater than a final written warning (to remain on the employee personal record file for no longer than eighteen months), or a lesser sanction.

## **Decision**

11. The employee shall receive the decision of the hearing in writing. This should be as soon as possible after the conclusion of the hearing and in any event within seven days.
12. Where a final written warning or other sanction is issued, the Presiding Manager shall inform the employee, in writing, of the decision. At the same time the employee will also be advised of their rights of appeal.
13. The employee should appeal within seven days of receiving the warning. The notice of appeal must be in writing and should specify one or more of the grounds of appeal set out in paragraph 3.1 of the guidance.
14. The appeal hearing shall be arranged at the next level. The employee shall be given not less than ten days' notice of the appeal hearing.

## **Third formal stage**

### **Initiate**

1. This stage should be used in all cases where the employee is subject to a final written warning and/or where the alleged offence is sufficiently serious that it may warrant dismissal or other sanction short of dismissal.
2. This stage should be conducted at Area Manager level or higher. Should the employee's line manager be at Area Manager level or above this stage will be initiated at a higher level of line manager, see paragraphs 1.4 and 1.9 of the guidance.

### **Investigate**

3. The Area/Brigade Manager shall:
  - Initiate, conduct or delegate an appropriate investigation.
  - The employee shall be notified in writing immediately of the investigation and the nature and details of the case. However in exceptional circumstances that notification may be delayed.
  - Keep a record.
  - Ensure the investigation is completed in good time.
4. Upon completion of the investigation the Investigating Manager shall notify the employee of the outcome of the investigation and decide from the following what action to take:
  - Drop the matter.
  - Deal with the matter on an informal basis.
  - Refer the matter to a stage 1 or 2 hearing as appropriate.
  - Proceed with a stage 3 hearing.

### **Hearing**

5. The employee shall be given a minimum of twenty-one days' notice of a hearing. The letter should contain enough information for the employee to fully understand the case against them with all relevant details and the reasons why this is unacceptable. The notification should also include copies of all the evidence/information relevant to the hearing. The employee will be advised of their right to be accompanied at the hearing.

6. An Area/Brigade Manager or higher (independent of the Investigating Manager) shall preside at the hearing.
7. The management case against the employee will be presented, normally by the Investigating Manager.
8. The employee and/or their representative will present the employees case.
9. The Presiding Manager shall consider the evidence/information presented.
10. At the conclusion of the hearing the Presiding Manager shall decide to:
  - Drop the matter.
  - Deal with the matter on an informal basis.
  - Take appropriate action, which may include dismissal or other action short of dismissal.

### **Decision**

11. The employee shall receive the decision of the hearing in writing. This should be as soon as possible after the conclusion of the hearing and in any event within seven days.
12. Where the employee is dismissed or an alternative disciplinary sanction is issued the Presiding Manager shall inform the employee, in writing, of the decision. At the same time the employee will also be advised of the appeal process.
13. The employee should appeal within seven days of receiving the warning. The notice of appeal must be in writing and should specify one or more of the grounds of appeal set out in paragraph 3.1 of the Guidance.
14. The appeal hearing shall be arranged at the next level. The employee shall be given not less than ten days' notice of the appeal hearing.

# **PART C - LOCAL CONSULTATION AND NEGOTIATION**

## **MODEL CONSULTATION AND NEGOTIATION PROCEDURES**

### **Context**

These procedures are intended to establish relationships and interactions that promote joint solution seeking to resolve differences between management and recognised trade unions that may arise from time to time.

### **CONSULTATION PROCEDURE**

1. This procedure shall be used for matters that do not require collective agreement and should cover at least those issues described in the European Union Information and Consultation Directive and the arrangements for consultation should as a minimum follow the United Kingdom Regulations fall-back provisions.

### **Commencement**

2. Consultation shall commence at the earliest opportunity and shall take place prior to final decisions having been taken. As far as practicable, all relevant, non-confidential, information will be made available to the recognised trade unions to enable meaningful consultation to take place.
3. Consultation will take place at the level in the organisation affected by the issues in question. Matters of a corporate nature will be dealt with corporately.

### **Purpose**

4. Consultation between the fire and rescue authority and recognised trade unions shall be conducted with a view to reaching agreement. To this end the authority shall give consideration to all issues raised with them and will give reasons when it is unable to agree to any proposals put forward by the recognised trade unions.
5. The parties shall work jointly to resolve issues identified in the course of consultation and ensure that consultation is carried out effectively.

### **Conclusion**

6. Consultation will be concluded at the point either when there is agreement or when the issues not agreed have been fully responded to. All parties agree to adhere to any prearranged timetable for completion of discussions.

### **Third party assistance**

7. Where one party considers that external assistance may be beneficial it may seek the agreement of all other parties to this approach. No party would unreasonably refuse a request.

## **NEGOTIATION PROCEDURE**

1. This procedure shall be used for all matters that are the subject of collective negotiation and agreement between the fire and rescue authority and recognised trade unions. The objective of the procedure is to resolve issues jointly. Individual issues should be dealt with through the grievance procedure.

### **Application**

2. Issues shall be dealt with at the appropriate level but issues of a corporate nature should be dealt with at the corporate level in the first instance.
3. Any issue should be able to be pursued to a corporate level for resolution.
4. All parties should have the requisite information needed to deal with any issue.
5. All parties will use their best endeavours to ensure compliance with the timetables set out in the procedure unless otherwise jointly agreed.
6. Notwithstanding these formal procedures each party should give early notification to the other party that an issue has arisen and maintain a continuous informal dialogue and exchange of information on relevant issues.
7. External assistance may be used to facilitate the negotiating process where the parties agree that this would be helpful.

### **Stage 1**

8. Other than for issues that arise initially at corporate level, the fire authority and/or recognised trade unions shall notify the other party of an issue that has arisen which falls within the purview of this procedure.
9. Where requested a meeting shall be arranged within ten working days to deal with the issue(s). As far as practicable any supporting information will be made available to all parties prior to the meeting taking place.
10. If no solution is found within ten working days the parties shall decide whether or not to continue discussion at this stage, refer to the next stage or end the discussion. Any party may refer the matter under negotiation to the next stage.

### **Stage 2**

11. The fire and rescue authority and/or recognised trade unions shall notify the other parties of an issue of a corporate nature which comes within the purview of this procedure or which has been referred from a previous stage in this procedure.
12. Where requested, a negotiating meeting at a level appropriate to the issue shall be arranged within ten working days to deal with the issue(s) raised. As far as practicable all parties will be provided with relevant information prior to the meeting taking place.
13. If no solution is found within ten working days of the meeting the parties shall decide whether or not to continue or conclude the discussion.
14. Where one party considers that external assistance may assist in resolving an issue at corporate level it may request the agreement of the other parties to this approach, and

no party will unreasonably withhold agreement to such a request. Such a request shall be made within five working days of completion of discussion at the corporate stage.

15. In such circumstances the parties may jointly agree to refer the issue to:
  - (1) the NJC Joint Secretaries; and/or
  - (2) ACAS; and/or
  - (3) the NJC Resolution Advisory Panel (which shall comprise an Independent Chair and the Joint Secretaries)to assist the parties further with their negotiations.
16. The above should be completed within twenty working days of the request for external assistance being made.

### **Arbitration**

17. If a difference remains unresolved, subject to agreement of the parties and agreed terms of reference, an issue may be referred to ACAS (in Northern Ireland, the Labour Relations Agency) for settlement by arbitration.

### **General**

18. While an issue is subject to discussion/resolution under this negotiating procedure neither side will seek to take any collective action or introduce change.
19. Any difference over the application of paragraph 18 will be resolved by reference to the Independent Chair of the Resolution Advisory Panel. Submissions and the decision will be by correspondence and will be completed within ten working days of the reference being made.

## **SECTION 7 - MISCELLANEOUS CONDITIONS**

### **Appointments and promotions**

1. Appointments and promotions to all roles (other than control-specific roles) shall be in accordance with the provisions of the Fire Services (Appointments and Promotion) Regulations 2004.

### **Written particulars of employment**

2. An employee shall be provided with a written statement of particulars of the terms of employment no later than two months after the start of his or her period of employment in accordance with the provisions of the Employment Rights Act 1996.

### **Notice of termination of employment**

3. An employee shall be subject to a minimum period of notice in respect of his or her employment and shall give a minimum period of notice of termination of his or her employment in accordance with the provisions of the Employment Rights Act 1996.

### **Retirement**

4. The compulsory ages of retirement, and provisions for extension, for employees eligible to join the Firefighter's Pension Scheme or the Local Government Pension Scheme are laid down in those schemes.
5. The compulsory ages of retirement for employees on the retained duty system are the same as those for employees in the same role who are eligible to join the Firefighter's Pension Scheme and may be extended by the fire and rescue authority where it is satisfied that such an extension would be in the interests of efficiency.

### **Death or permanent disablement arising from assault**

6. Fire and rescue authorities shall make payments in accordance with paragraph 7 below to any employee or, in the event of death, jointly to the dependants of any employee, in the event of death or permanent disablement of the employee arising from a violent or criminal assault, including explosive devices, suffered by the employee in the course, or as consequence, of his or her employment.
7. The amounts payable under paragraph 6 above are:
  - (1) In the event of death within twelve months from the date of the assault and, in the opinion of the fire and rescue authority, by reason thereof, where the employee has left one or more dependants, the equivalent of five years' gross remuneration at the rate applying at the date of the assault or £35,000, whichever is the greater. Where the employee has left no dependants the sum of £950 shall be payable to the estate.
  - (2) In the event of permanent total or partial disablement as a result of the assault the percentage (specified in the scale set out at paragraph 10(3) below) of five years' gross remuneration at the rate applying at the date of the assault or £35,000, whichever is greater; provided that such payments shall, at the discretion of the employing authority, be reduced by the amount of any damages or compensation recoverable in respect of the particular injuries.

8. The amount payable under paragraph 7 above shall be subject to abatement by any gratuities payable under the Firefighter's Pension Scheme, other than the difference between the gratuity payable with the widow's/widower's special pension and that payable with the widow's/widower's augmented pension.
9. 'Dependants' at paragraphs 6 and 7 above means:
- (1) A spouse residing with the employee at the date of death or, if not residing, wholly or substantially supported by the employee.
  - (2) A person who was living with the deceased in the same household immediately prior to the date of death as the husband or wife of the deceased.
  - (3) A child of the employee who has not attained the age of sixteen years at the time of death of the employed parent or guardian, or who has not attained the age of nineteen years and is following a course of full-time education, or is regarded as an apprentice as construed in the Firefighter's Pension Scheme.
  - (4) Where they are wholly or substantially supported by the employee, a parent, brother or sister, or a son or daughter of an age in excess of the limits referred to in (3).
10. The scale of payments is:
- (1) Death, total and irrecoverable loss of all sight in one or both eyes, total loss of physical severance or complete loss of use of one or both hands or feet at or above the wrist or ankle occurring within twelve months from the date of the assault: 100%.
  - (2) Permanent total and absolute disablement (other than at (1)) from engaging in or giving attention to any profession or occupation of any kind: 100%.
  - (3) Permanent partial disablement (not otherwise provided for above), the percentage of the capital sum set against the degree of disablement in the following table:

Total loss of hearing in both ears	40%	
Total loss of hearing in one ear	10%	
Complete loss of use of hip or knee or ankle	20%	
Removal of the lower jaw by surgical operation	30%	
Fractured leg or foot with established non-union	25%	
Fractured kneecap with established non-union	20%	
Shortening of a leg by at least three centimetres	15%	
Loss by amputation or complete loss of:		
	Right*	Left*
one thumb	20%	17½%
one index finger	15%	12½%
any other finger	10%	7½%
one big toe	10%	10%
any other toe	3%	3%
Complete loss of use of shoulder or elbow	25%	20%
Complete loss of use of wrist	20%	15%

\*To be reversed if the employee is left handed
11. These provisions are not intended to prevent a fire and rescue authority from paying amounts exceeding those specified at paragraph 7 above if it is considered to be reasonable to do so or from providing also for circumstances other than assault if the authority is satisfied that such provisions can lawfully be made.

## **APPENDIX A**

### **MODEL POLICY ON FAIRNESS AND DIGNITY AT WORK**

### INTERIM AND PROTECTION ARRANGEMENTS

#### Fifteen-year long-service payment

1. The fifteen-year long-service payment at paragraph 7 of Section V of the fifth edition of this scheme of conditions of service will be phased out by 30th June 2007 and has been frozen at the following annual rates:

Firefighting roles	
7th November 2003 to 30th June 2006	£990
1st July 2006 to 30th June 2007	£495

Control-specific roles	
7th November 2003 to 30th June 2006	£940
1st July 2006 to 30th June 2007	£470

2. Employees who attain fifteen years' continuous service between 7th November 2003 and 30th June 2007 shall qualify for the long-service payment at the rate applicable at the time. Employees who are promoted to a higher role during this period will cease to qualify for the payment but will receive a minimum pay increase on promotion of £300 per annum, which will be achieved through partial protection of the long-service payment.
3. Where the pay assimilation process on 7th November 2003 created a basic pay increase of more than 7%, and the employee was in receipt of the long-service payment, the payment has been reduced with effect from that date by the amount that the increase exceeded 7%. The consequent pay rates were set out in circular NJC/01/04.

#### Pay protection for employees on the retained duty system

4. Where an employee on the retained duty system has not received a pay increase of at least 7% (for the same pattern and level of activity) following full implementation of the pay award effective from 7th November 2003, the fire and rescue authority should introduce arrangements to ensure that such an increase is achieved.

#### Acting up and temporary promotion

5. The NJC recognises that in the early stages of implementing the Integrated Personal Development System there may on occasions be difficult to apply the principles at paragraph 19 of Section 4 Part B. Fire and rescue authorities, employees and trade unions should therefore adopt a co-operative and common sense approach to any problems that might arise.

#### Annual leave

6. An employee who was assimilated for pay purposes from the rank of Station Officer to the role of Watch Manager on 7th November 2003 shall be entitled to the Scale A leave entitlement of a Station Manager at paragraph 2 of Section 4 Part C.

### **Long-service bounty payments**

7. Pending the introduction of pension arrangements for employees on the retained duty system the long-service bounty scheme at Section VII paragraph 15 of the fifth edition of this scheme of conditions of service shall continue to apply.

### **Medical charges and expenditure**

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

### **Suspension**

9. Pending the abolition of the Fire Services (Discipline) Regulations 1985 the suspension arrangements at Section VIII of the fifth edition of this scheme of conditions of service shall continue to apply.

## APPENDIX C

### Explanatory Notes

- (A) Where the shift duty system at Section 4 Part A paragraph 7 continues to operate employees on that system should be allowed to take rest periods every night between midnight and 0700, other than on those occasions where they are required to respond to emergency calls, perform work arising from emergency calls or perform other essential activities that:
- (1) arise from the Integrated Risk Management Plan,
  - (2) are within the employee's role and responsibilities, and
  - (3) are appropriate during these hours

These arrangements shall be the subject of consultation between the fire and rescue authority and recognised trade unions.

- (B) It is recognised that because of the distinctive circumstances that apply throughout local communities on public holidays, with many businesses and services for example not working normally, the demands on the fire and rescue service and the consequent mix of appropriate duties will be different to those on normal working days. Taking that into account, between the hours of 7am and midnight on public holidays staff will be expected to undertake a full range of duties that arise from the Integrated Risk Management Plan, that are within the employee's role and responsibilities and accord with the above parameters.

These arrangements shall be the subject of consultation between the fire and rescue authority and recognised trade unions.

Working on public holidays will continue to be rewarded with double time payment and time off in lieu as defined in Section 4 Part C paras 18-20.