

From: McGuirk, Tony
Sent: 21 July 2006 16:36
To: All MFB
Subject: Notice of ballot

It is with great disappointment, and a great deal of surprise, that I inform you I have just received a notice of ballot for strike action in Merseyside. I have attached three documents to this email. The PDF documents are the notice of ballot and the ballot paper. The third document is my response. You will note from my response that I have expressed concerns at a number of issues.

- Firstly I express concern at the failure to even consider using the nationally agreed dispute resolution procedures, instead seeking to ballot for strike action as a first resort rather than a last resort.
- Secondly, receiving a notice of ballot without any warning, and within days of a meeting being held, at the request of the FBU, with senior elected members.
- Finally, balloting on issues that are still under consultation, and about which no firm decisions have been made.

It is vital that all personnel take an active part in ensuring we use the nationally agreed procedures to resolve disputes, rather than use industrial action and I would ask that all personnel consider their position on the issues that are the subject of the ballot. Over the next few days I will be arranging a briefing for all personnel to update them on the specific issues of concern, and I would ask that you please keep an open mind on these matters until we have provided you with the full facts of the matter.

I will of course keep you informed of progress, and I would be grateful if you would ensure that those personnel who do not have direct access to email are made aware of the contents of this email.

Thank you for your assistance.

Tony McGuirk



Established 1918

The Fire Brigades Union

GENERAL SECRETARY : MATT WRACK

BRADLEY HOUSE, 68 COOMBE ROAD, KINGSTON UPON THAMES, SURREY KT2 7AE

Telephone: 020-8541 1765

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E-mail: office@fbu-ho.org.uk

Please quote this reference on all replies

D Wright
Clerk to the Authority
Merseyside Fire and Rescue Service
Service Headquarters
Bridle Road
Bootle
Merseyside
L30 4YD

BY FAX AND POST

Fax no. 0151 222 5332

21 July 2006

Dear Sir,

NOTICE OF BALLOT UNDER SECTION 226A OF THE TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992

This Union intends to hold a ballot in relation to the trade dispute concerning the job losses, changes to shifts, excessive working hours, cutbacks to emergency cover and attack on grey book overtime arrangements

This Union reasonably believes that the opening day of the ballot will be 28th July 2006.

The employees of the Authority who it is reasonable for the Union to believe will be entitled to vote are all the members of this Union, employed by the Authority. Please note all of these members are employees from whose wages the Authority as employer makes deductions representing payments to the Union. Accordingly, this information as to the employees concerned will enable the Authority readily to deduce the number, category and workplace of such employees including the numbers in each category and at each workplace.

A sample of the form of voting paper is also enclosed.

Yours sincerely,

MATT WRACK
GENERAL SECRETARY



recycled paper



OFFICIAL FBU BALLOT FOR INDUSTRIAL ACTION

**TRADE DISPUTE OVER JOB LOSSES, CHANGES TO SHIFTS,
EXCESSIVE WORKING HOURS, CUTBACKS TO EMERGENCY COVER
AND ATTACK ON GREY BOOK OVERTIME ARRANGEMENTS**

You must make a cross (X) in one, and only one, of the boxes below, otherwise your vote will not be counted.

Are you prepared to take part in industrial action consisting of a strike	YES	<input type="checkbox"/>
	NO	<input type="checkbox"/>

In the event of a vote in favour of Industrial Action, the General Secretary is authorised to call upon members to take part in or continue to take part in Industrial Action.

**PLEASE RETURN YOUR COMPLETED VOTING PAPER
IMMEDIATELY IN THE PRE-PAID ENVELOPE PROVIDED.**

Your completed ballot papers should be returned to **REACH** the Independent Scrutineer, Electoral Reform Services, 33 Clarendon Road, London, N8 0NW, no later than 2pm on 21st August 2006.

The name of the Independent Scrutineer is Electoral Reform Services Limited.

If you take part in a strike or other industrial action, you may be in breach of your contract of employment. However, if you are dismissed for taking part in strike or other industrial action which is called officially and is otherwise lawful, the dismissal will be unfair if it takes place fewer than twelve weeks after you started taking part in the action, and depending on the circumstances may be unfair if it takes place later.

The law requires your union to ensure that in this ballot: (i) your vote will be secret; (ii) you are allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; (iii) you are able to vote at no direct cost to yourself; and (iv) your vote is accurately and fairly counted in determining the result of the ballot.

Mr M Wrack
General Secretary
The Fire Brigades Union
Bradley House
68 Coombe Road
Kingston Upon Thames
Surrey KT2 7AE

A J McGuirk, QFSM, MSc
Chief Fire Officer
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Telephone: 0151 296 4101
Fax: 0151 222 5332
(calls may be recorded)
Web Site: www.merseyfire.gov.uk

Your ref:

Our ref: AJMc/CFO/SW

Date : 21st July 2006

Dear

**NOTICE OF BALLOT UNDER SECTION 226A OF THE TRADE UNION AND
LABOUR RELATIONS (CONSOLIDATION) ACT 1992**

Thank you for your letter of 21st July faxed for the attention of the Clerk of the Authority. The Clerk of the Authority is on leave at this moment in time and I am therefore responding on his behalf.

Firstly can I express my surprise and dismay at this notice of ballot given the fact that we have very well established industrial relations frameworks for resolving issues of dispute, and none of these have been followed. These frameworks were the result of an independent inquiry into industrial relations in the Fire & Rescue Service by Professor Burchill of Keele University. The proposals of Professor Burchill led to nationally agreed dispute resolution procedures, which were established to avoid precisely this situation, and I would draw your attention to the FBU commitment to the outcome of the Burchill inquiry, and to those agreed dispute resolution procedures.

I would also draw your attention to the current situation in relation to the commitments of our armed forces in various conflicts around the world. This means that there is little prospect of military support for industrial action in the fire service. I therefore believe we have a collective responsibility to follow the agreed procedures to resolve disputes, before recourse to industrial action.

Once again I emphasise that none of the agreed procedures have been exhausted. I would therefore ask that you withdraw your notice of ballot and use the recognised and agreed procedures for resolving disputes (including the potential role of ACAS).

It is even more disappointing to receive this letter of Notice of Ballot, when at the request of the Fire Brigades Union local officials, a meeting has been arranged with the Lead Elected Members of the Authority to discuss the issues that you now intend to ballot over. That meeting has been arranged for the 26th July and I would ask that you withdraw this notice pending the outcome of that meeting.

Finally, I note the four items which have prompted you to issue a notice of ballot, and deal with them specifically.

Proposals for changes to four pumps. This matter is still within the consultation process, and no firm decisions on this proposal will be made before September 19th. I would therefore ask that you voice your views and concerns in the consultation process that is underway, rather than seek to use the ballot process to influence recognised consultation processes.

Introduction of LLAR shift systems. This system has been considered through the nationally agreed process and we are fully conforming to the outcomes of that process.

I would therefore ask that you deal with any concerns through the nationally agreed process rather than seek to use the ballot process to influence recognised consultation processes.

Control Room staffing. This issue is also still within the consultation process, and no firm decisions on this proposal will be made before September 19th. I would therefore ask that you voice your views and concerns in the consultation process that is underway, rather than seek to use the ballot process to influence recognised consultation processes.

Secondary contracts. Our use of the opportunity for part time working, resulting from the 2003 pay agreement, to which you are objecting, is a family friendly initiative that enables firefighters to earn more money. This scheme enables firefighters to get leave when they wish, and has been extensively considered through the nationally agreed processes for dispute resolution.

Your demand for an immediate withdrawal of these contracts is potentially unlawful, and is certainly outside of my delegated powers.

I note your demand that the Authority unconditionally confirms it will concede to all of your demands, and once again this is something that only the Fire Authority can consider. The earliest possible, and lawful opportunity for the Authority, or one of its delegated committees, to consider this matter is the 27th July Policy and Finance Committee meeting.

Accordingly, I ask that you withdraw your proposal to ballot pending the outcome of the discussion with elected members on the 26th July, and the Fire Authority Policy committee meeting on the 27th July, and to use the relevant and agreed procedures for resolving trade disputes rather than risk public safety by removing fire cover to the communities of Merseyside.

I would welcome a very urgent response to this correspondence.

Yours sincerely

A J McGuirk
Chief Fire Officer

cc: Chair of the Authority
Clerk of the Authority
Mr L Skarratts
Ms G Gittins

From: McGuirk, Tony
Sent: 22 July 2006 12:01
To: All MFB
Subject: Ballot update

FBU DEMANDS

I set out below the actual text of the demands made by Mr Wrack of the FBU. I fundamentally disagree with the accuracy of all of the demands, but it is important that you are aware of the actual words of the demands (my initial response is in bold italic text)

"The four measures that (in the words of the FBU) are wholly unacceptable to FBU Merseyside members, who specifically require confirmations as follows:

1. Withdrawal of the proposed transfer of four pumps at night from City Centre, St Helens, Birkenhead and Bootle & Netherton to become wholetime retained at night but on a reserve, rather than a retained status. "

Initial response. These proposals are still under consultation, and a number of positive suggestions have been made about alternative strategies, that are welcomed and will be actively considered by the Authority. That is the point of a consultation process. It is premature, irresponsible and in denial of all nationally and locally agreed procedures to use intimidation to interfere with and interrupt an extended consultation process, particularly where the extension has been at the request of the FBU.

2. " Withdrawal of the LLAR shift system to be worked at 6 locations in Merseyside which requires members to work 96 hours straight through. This will involve the loss of approximately 72 posts."

Initial Response. These proposals have been through the agreed local and national processes (including TAP), and volunteers have entered into new contractual arrangement that see them earning over £35k per annum. There are no grievances registered as a result of this system, and we have approached the issue of transfer sensitively and responsively. The often quoted example of a fire-fighter transferred from Heswall to Newton is true, and the reason for this transfer is that the individual concerned does not live in Merseyside, and Newton is the most convenient location for his personal circumstances. To agree to this demand would require the termination of the current contracts of employment of the individuals concerned.

3. "Acceptance that the proposed shift system for fire-fighter (control) members including variable staffing is a matter for negotiation, not consultation and immediate withdrawal of these proposals which will result in job losses of 8-15 posts".

Initial response. These proposals are still under consultation, and a number of positive suggestions have been made about alternative strategies, that are welcomed and will be actively considered by the Authority. That is the point of a consultation process. It is premature, irresponsible and in denial of all nationally and locally agreed procedures to use intimidation to interfere with and interrupt an extended consultation process, particularly where the extension has been at the request of the FBU.

4. "Acceptance that the secondary contracts provide for overtime working at rates of pay not only below nationally agreed Grey Book overtime rates but lower even than normal basic pay. Immediate withdrawal of these contracts and an assurance that overtime will be at agreed

rates and not offered at lower rates in secondary contracts.”

Initial response. These contracts have been in operation with personnel who have voluntarily entered into the contract with the result that more personnel are able to get leave over the weekend period. The rates of pay are all in compliance with Grey Book rates of pay and this matter has been fully considered up to and including the national level at NJC, through the nationally and locally agreed processes, and been regarded by those processes as being both within and consistent with the Grey Book. To agree to this demand would require the termination of the current contracts of employment of the individuals concerned.

“Until all four assurances outlined above are confirmed a trade dispute exists between FBU members in Merseyside and the Authority. The dispute will be resolved if the Authority unconditionally confirms all four points specified in the terms set out.”

This ballot has come “out of the blue” to the Authority, the community and indeed I believe to FBU members in Merseyside. Firefighters in Merseyside understand that we are in the middle of an extended process of consultation, at the request of the FBU, and they now face the dilemma of making an important decision about potentially all out strike action, without warning, which must be a matter of great concern.

You, like me, assumed that the FBU would follow the nationally and locally agreed processes that are designed to avoid placing you in such a dilemma.

Despite the seriousness of this situation and my request for a very urgent response to my correspondence of yesterday (circulated by email) I have received no such response.

The Authority and I continue to be absolutely committed to the nationally and locally agreed processes and will listen to the views that emerge. These proposals are still under consultation, and a number of positive suggestions have been made about alternative strategies, that are welcomed and will be actively considered by myself and the Authority in accordance with the timetable I have previously set out.

I will continue to keep you informed of any responses I receive and I would ask all personnel who have direct access to email, to ensure that the contents of this email are brought to everyone’s attention. Thank you for your assistance.

Tony McGuirk
Chief Fire Officer

From: McGuirk, Tony
Sent: 23 July 2006 09:26
To: All MFB
Subject: LLAR - Straight From the Horses Mouth!

I have been asked to circulate the email below to all personnel with regard to the LLAR system we have introduced. I believe it is very helpful, given the fact that terminating the LLAR system is one of the FBU demands on their ballot, that you have the true and accurate picture of the system from your colleagues who are working the system. If you have any questions about the system, I know that the personnel at Heswall are very happy for direct contact to be made with them to deal with any questions and ensure that you have accurate information.

I would ask that you please ensure it is brought to the attention of all personnel who do not have direct access to email. Thanks you for you assistance.

Tony McGuirk

-----Original Message-----

From: Thomas, Mark <MarkPThomas@merseyfire.gov.uk>
To: Stephens, Dan <DanStephens@merseyfire.gov.uk>
Sent: Sat Jul 22 21:35:15 2006
Subject: LLAR - Straight From the Horses Mouth!

FOR DISTRIBUTION TO ALL MFRS IF POSS.

Hello All.

As Watch Manager at Heswall, and with much discussion ongoing concerning the subject of Low Level of Activity and Risk (LLAR) I would like to deliver some factual information regarding this crewing system and provide some feedback to others who are interested in the LLAR concept – and we have encountered much interest.

Back in early 2005, staff at Heswall were informed of the concept of creating a number of Low Level of Activity and Risk stations within Merseyside. Some time later through a series of personal and collective meetings, Firefighters and Watch Managers discussed the development of a system that would meet the needs of the Community, the Authority and those individuals who expressed interest to initially work it.

The LLAR teams have been operational at Heswall since 2nd July with the Watch Managers starting back in April.

Since the teams began at Heswall feedback from ALL personnel has been positive. None of the teams have stated a desire to leave the system nor that they are working the system under duress. Since its inception however, one Watch Manager has realised that it did not fit with his personal family commitments and he therefore exercised his right to give 28 days notice to leave the system (as per all our contracts). Management supported the individual, arranged a convenient relocation agreed by both parties and sought a successor.

Personnel range in age – the teams are balanced with young, older and nearly retiring firefighters, some have small children and some older so the workforce is diverse. What is most noticeable at Heswall is the enthusiasm and upbeat atmosphere on the station. People enjoy working here – People

24/07/2006

enjoy LLAR.

Clearly this is not a system that suits all as fundamentally the system takes personnel away from their families for periods of time. These periods range between 2 – 4 days and are managed locally by myself. The team are very happy that they are experiencing flexibility with their shifts – gone are the days of worrying about that Birthday, Anniversary or other occasion. Self Rostering has great advantages.

Our usual shift runs from 10 a.m. to 10 p.m. and includes numerous breaks throughout the day. Again, the Watch Managers are flexible on positive hours and we can locally nominate any other twelve hour period where we feel necessary. We have a clear working routine that differs only slightly from the standard daily work routine and allows us to programme our daily activities at local level. We are currently focussing on Rope Rescue and Water response giving the teams further skills and offering a more comprehensive Service to the Merseyside Community. Despite the twelve hour period performance targets have not been increased and the workload remains similar to a 2-2-4 station.

During the recent period of increased calls due to the extreme weather, the WMs have introduced extended periods of rest ensuring that the teams do not become over fatigued. Local decisions are made for the benefit of the teams and community alike.

At the finish of our positive hours, the team are free to leave the station. We are provided with alerters that will mobilise us on receipt of a call to the station. Our response time is within 1.9 minutes of alert which maintains a Best Value Service to our local community. The response time has been met 100 per cent.

For the periods of downtime, the Service is providing each team member with a contained study type bedroom. These bedrooms (which are nearly complete), will provide TV/DVD facility, PC facility with broadband internet access and are to be kitted out to a 'Travelodge' standard. Partners can stay overnight at the station and we are encouraging those who live within the 1.9 minute band to use their own beds and sleep at home!

As stated earlier, this is not for all. This is a concept that is available through choice. Some chose to work the system others prefer 2-2-4 – I have no team members working at W3 LLAR against their will – these guys made their own minds up and are now enjoying the rewards of extra pay, flexible working hours and STILL 200 days off per year.

The Watch Managers and the Teams at Heswall invite questions from anyone who is unsure about this system, drop us an email or pop in to Heswall at anytime – give us a few weeks and come and see the accommodation provided. We are also able to communicate FAQs through the intranet – go to the HR section and navigate to LLAR.

I hope this clears up some misconceptions regarding the system.

Thanks and Regards to all.

Mark Thomas

Watch Manager LLAR

Heswall Community Fire Station

E : MarkPThomas@merseyfire.gov.uk

24/07/2006

From: McGuirk, Tony
Sent: 23 July 2006 11:18
To: All MFB
Subject: Ballot update

I have been contacted by a number of personnel who have received a letter at their home address yesterday, about the FBU notice of ballot. The receipt of this ballot paper came out of the blue to me, the Authority, and I also think to fire-fighters. I have previously circulated the four demands of the FBU, which must be unconditionally met by the Authority for the ballot to be withdrawn.

I would remind you that all of the issues have either gone through or are going through the nationally agreed processes, and the ballot disregards all of these processes. I think that you, like me, assumed that before a ballot for strike action, the FBU would follow and exhaust the nationally and locally agreed processes that are designed to avoid placing you in such a dilemma.

I have drawn the attention of the FBU to the current situation in relation to the commitments of our armed forces in various conflicts around the world. This means that there is little prospect of military support for industrial action in the fire service. I therefore believe we have a collective responsibility to follow the agreed procedures to resolve disputes, before recourse to industrial action.

The timing of this correspondence does cause me some concern for a number of reasons. Firstly, for the letter to have gone through the mail system in time to arrive at people's homes yesterday, means that there was an extensive administration process in place during Wednesday and Thursday of last week. The notice of ballot was faxed to the Clerk at 13:14 hours on Friday afternoon (you can check this time by looking in the top left corner of the PDF ballot paper I have attached to this email).

Although this was out of the blue to me, the preparation made by the FBU for their mailshot suggest that they have been making plans for a ballot for some time. I continue to wait for a response from the FBU to my request to withdraw the ballot (I have again attached this letter to this email). Firefighters in Merseyside understand that we are in the middle of an extended process of consultation, at the request of the FBU, and to now face the dilemma of making an important decision about potentially all out strike action, without warning, is a matter of great concern.

In their letter to you the FBU state:

"You will now no doubt be aware that representatives of Merseyside Fire Brigades Union members today have voted unanimously to lodge a trade dispute with Merseyside Fire and Civil Defence Authority and as such have now commenced the process for a ballot of our members for discontinuous strike"

I draw your attention to the wording on the ballot paper (copy attached) about the type of strike action you are being asked to vote on –assuming the FBU refuse to withdraw their ballot. I ask you to note that the current ballot paper does not provide clarity about the type of action you are being asked to take part in, as it simply asks firefighters to vote on **"action consisting of a strike"**. It is clearly a very important decision the FBU are putting before firefighters and it is equally important to the community and to the Fire Authority to be clear about what type of action the FBU are proposing. I will seek to clarify this issue with some urgency

The other main point of confusion is in relation to the comments of the FBU about the LLAR system which they describe as **"shift systems that we believe are immoral and illegal"**. The LLAR system has been in place since April, it has gone through the nationally agreed processes, and it is being very well received by personnel working it. I have previously circulated an email from LLAR personnel, at their request, to dispel some of the myths about the system. I do not understand why

the FBU believe it is immoral for fire-fighters to exercise their right to choice and work differently to that suits their individual circumstances.

I am confused at the FBU language of a unanimous vote for a demand to end LLAR, when the actual language from LLAR personnel themselves is very positive about the system.

I would suggest that you speak personally to LLAR staff who may be able to explain how their vote in the "unanimous" vote, was taken into account, and whether they believe exercising their right to choice is immoral as the FBU suggest.

The point of legality is a reference to the absence of an 11 hour break between shifts. I would politely ask personnel to reflect on the current break between their 2 night shifts which is 9 hours. The LLAR system is lawful, popular with personnel on it, flexible and enables our colleagues to earn over £35000 per year. It has gone through the nationally agreed processes and most importantly it **maintains a fantastic operational response to the community.**

If the FBU believe the system is unlawful, then surely the proper process to challenge the system is a legal process and not strike action. I am also concerned that their demand to end the contracts of the existing LLAR personnel who seem very happy with a system they have chosen to work. To meet this demand would effectively mean a significant pay cut to a number of our colleagues, and I am dismayed at a representative body demanding the Authority end the contracts of uniformed personnel. The FBU demand is effectively creating a closed shop arrangement.

The final point I would like to clarify is in relation to the following FBU comment:

The Fire Brigades Union on your behalf have identified a significant budget reserve in excess of £2.5 million; we have identified that money with the assistance of our expert financial advisors and that money can and must be used to resolve this issue.

This is simply untrue and misleading. I have previously circulated the Hard Dowdy letter, and it continues to be publicly accessible through our website, and you will note that there is no such direct suggestion. I have personally met with Hard Dowdy, and they agreed that it was both reasonable and responsible to hold some reserves for matters of unforeseen urgency. One example of such an issue could be to meet the cost of strike action.

The guidance from Auditors is that we should hold around 5% of our revenue budget in reserves (which would be around £3.5 million). Our reserves of £2.5 million are below the recommended level on the basis of our risk assessment and the Treasurer will write to shortly explaining this in more detail.

Suffice to say it is not a solution, and neither I nor the Treasurer could support the Fire Authority in any decision to mis- use reserves in the irresponsible manner suggested. Even if such a thing were possible it is also important to understand that we need to save £3.2 million a year for ever more and using a one- off lump of £2.5 million is simply no solution.

Strike action is bound to put the community at risk. I urge that we collectively do everything possible to avoid this risk and the FBU return to the agreed national and local procedures for resolving dispute, rather than strike as an action of first resort.

I would also once again stress that the commitment of our armed forces overseas, and the fact that it is unlikely that there will be any military support for alternative cover, means there is an even greater responsibility to treat our communities with respect and ensure we collectively do everything possible to avoid placing them at unnecessary risk.

The Treasurer will shortly be writing to all personnel to explain the situation regarding our reserves policy.

These matters are not about firefighter pay. All of our firefighters will be paid more than has been the case, and indeed we have an increasing number of firefighters on salaries of £35k plus a year. As a representative body I would hope the FBU agree with me that this is a good thing.

These matters are not about jobs. No individual has lost their job and the Authority continues to adhere to its commitment of no compulsory redundancies. We will soon see 16 new recruits go on to stations and watches and many more will follow over the next two years.

These matters are not about shift systems. The Authority has already given a commitment to keeping proper rest facilities, to keeping a 2-2-4 shift pattern, as well as seeking to extend the current (and agreed with the FBU) 14/10 work pattern.

These matters are not about public safety. Our proposals seek to improve operational performance as well as put additional resources into the community, at a time when firefighters celebrate providing a world leading community safety service that is the envy of the British Fire Service.

I will be speaking to all personnel in the near future and I would ask that if you have any questions or matters you wish more clarification on, to please contact me so that I can respond.

I would ask that you please ensure it is brought to the attention of all personnel who do not have direct access to email. Thank you for your assistance.

Tony McGuirk

From: McGuirk, Tony

Sent: 24 July 2006 09:46

To: All MFB

I write to keep you updated with regard to correspondence in relation to the FBU ballot for strike action. I have received no response to my letter to Mr Wrack which I sent on Friday and which I circulated by email on Friday. In that letter I urged Mr Wrack to withdraw the ballot and use the nationally and locally agreed processes to resolve these matters, particularly given the fact that two of the four issues are still under consultation (until the end of August).

Having received no response to my letter, I have written again, assuming that Mr Wrack does not intend to withdraw the ballot, to ask for clarification on two areas.

Firstly to confirm whether he is seeking support for an all out strike or discontinuous action, as the ballot paper simply asks for support for a strike.

Secondly I am assuming that the FB will adhere to the following TUC guidelines issues in 1979, and which are followed by other unions in Merseyside, (most recently Unison during their national dispute over pay).

In paragraph 6, entitled 'The Provision of Emergency or Essential Services and Maintenance of Plant and Equipment', TUC guidance states:

"..... the General Council advise that for the duration of an industrial dispute, the union (unions) involved should, where necessary, make arrangements in advance and with due notice, in consultation and preferably by agreement with the employer, for the maintenance by their members of supplies and services essential to the health or safety of the community or otherwise required, to avoid causing exceptional hardship or serious pollution".

The Code of Conduct lays out a clear set of principles to deal with situations like this current one, and I assume the FBU will follow these guidelines, especially given the prospect of no military support.

I have attached the letter to this email for your information and I would ask that you ensure that those personnel who do not have direct access to email are aware of this email.

Thank you for your assistance.

Tony McGuirk

Mr M Wrack
General Secretary
The Fire Brigades Union
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68 Coombe Road
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(calls may be recorded)
Web Site: www.merseyfire.gov.uk

Your ref:

Our ref: AJMc/CFO/SW

Date : 24th July 2006

Dear Mr Wrack

Re: Ballot for industrial action Merseyside.

I write further to my letter of 21st July, in which I set out a range of reasons underpinning my request for withdrawal of your ballot for strike action. This ballot has come "out of the blue" to the Authority, the community and indeed I believe to your members in Merseyside. Firefighters in Merseyside understand that we are in the middle of an extended process of consultation, at the request of the FBU, and to now face the dilemma of making an important decision about potentially all out strike action, without warning, is a matter of great concern.

They, like me, assumed that their representative body would follow the nationally and locally agreed processes that are designed to avoid placing them in such a dilemma.

Despite the seriousness of this situation and my request for a very urgent response to my correspondence I have received no response. I therefore assume that you do not intend to withdraw the ballot and you will press ahead with the ballot. I would inform you that given the public concern over this matter then I intend to place all correspondence in the public domain through our website.

Once again I would draw your attention to some issues that I would ask you respond to with urgency and out of respect to your members and the communities of Merseyside.

Strike action is bound to put the community at risk. I urge that we collectively do everything possible to avoid this risk and you return to the agreed national and local procedures for resolving dispute, rather than strike as an action of first resort.

I would also once again stress that the commitment of our armed forces overseas, and the fact that it is unlikely that there will be any military support for alternative cover, means there is an even greater responsibility to treat our communities with respect and ensure we collectively do everything possible to avoid placing them at unnecessary risk.

Continuous strike action

With regard to the type of action you are proposing, the ballot paper is unclear. In previous ballots, you have provided clarity for your members (and the employer), in terms of the action you are asking them to vote on.

I note that the current ballot paper does not provide this clarity in that it is simply asking firefighters to vote on "action consisting of a strike". It is clearly a very important decision you are putting before firefighters and it is equally important to them and to the Fire Authority to be clear about what type of action you are proposing.

Given my comments about the military cover in previous correspondence, I will assume, unless you inform from me to the contrary, that you are planning to take discontinuous strike action, thereby placing the community at risk on a discontinuous basis.

If this is not the case and you are planning continuous strike action then you should inform me with some urgency, so that our planning assumptions remain valid. I would also suggest that your members themselves have a right to know what type of action you are seeking their support for.

TUC guidelines

I request clarification on your interpretation of the 1979 TUC guidelines. The TUC adopted a Code on the Conduct of Industrial Disputes in 1979.

In paragraph 6, entitled 'The Provision of Emergency or Essential Services and Maintenance of Plant and Equipment', it states:

"..... the General Council advise that for the duration of an industrial dispute, the union (unions) involved should, where necessary, make arrangements in advance and with due notice, in consultation and preferably by agreement with the employer, for the maintenance by their members of supplies and services essential to the health or safety of the community or otherwise required, to avoid causing exceptional hardship or serious pollution".

The Code of Conduct lays out a clear set of principles to deal with situations like this current one. In 1988 there was an ambulance dispute and the Ambulance Unions ran a blue-light emergency service in adherence to the guidelines.

I accept that with regard to interpretation of the code it is a question for the FBU and TUC. However unless you advise me to the contrary and in writing, I will assume that you intend to adhere to and follow the guidelines, and I will write to you in the near future setting out the exemptions we are seeking agreement on, in accordance with the TUC guidelines.

If you do not intend to adhere to the guidelines then you should clarify your position with some urgency, so that our planning assumptions remain valid.

Conclusion

In conclusion I would add that I continue to find it unbelievable that the FBU seeks to withdraw fire cover as a first resort rather than a last resort, particularly given the likely absence of military cover.

I believe this approach is reckless and outwith the fundamental life saving and rescue principles of our service.

The removal of fire cover is always a risk, and to do so in the knowledge that there is the prospect of no military support, to a city of 1.5 million people, is something which requires a very considered approach.

Once again I urge that you do not rip up the processes we have worked so hard to develop, and devoted such time to following. I ask you to withdraw your ballot and use the recognised and agreed procedures for resolving conflict in the fire and rescue service.

These matters are not about firefighter pay. All of our firefighters will be paid more than has ever been the case, and indeed we have an increasing number of firefighters on salaries of £35k plus a year. As a representative body you must agree with me that this is a good thing.

These matters are not about jobs. No individual has lost their job and the Authority continues to adhere to its commitment of no compulsory redundancies. We will soon see 16 new recruits go on to stations and watches and many more will follow over the next two years.

These matters are not about shift systems. The Authority has already given a commitment to keeping proper rest facilities, to keeping a 2-2-4 shift pattern, as well as seeking to extend the current (and agreed with the FBU) 14/10 work pattern.

These matters are not about public safety. Our proposals seek to improve operational performance as well as put additional resources into the community, at a time when Merseyside firefighters celebrate providing a world leading community safety service that is the envy of the British Fire Service.

If you continue with your ballot I look forward to a very urgent response to the questions I have raised about your interpretation of the TUC guidelines, and confirmation that you intend your strike action to be of a discontinuous nature.

Yours sincerely

A J McGuirk
Chief Fire Officer

cc: Mr B Barber – General Secretary, TUC
Mr A Evans – Director General, DCLG
Mr B Dixon – Chief Fire Officer, Greater Manchester F&RS
Cllr F Walker – Chair, Greater Manchester F&RS
Ms G Gittins – NJC
Sir Graham Meldrum - HMCIFS
Cllr Byrom - LGA
Cllr Newman – Chair, Merseyside F&RS

Mr M Walker
National Joint Secretary of Employers Side
National Joint Council
Local Government Employers
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A J McGuirk, QFSM, MSc
Chief Fire Officer
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(calls may be recorded)
Web Site: www.merseyfire.gov.uk

Your ref: Our ref: AJMc/CFO/SW Date: 24th May 2006

Dear

Thank you for your letter of 23rd May informing us of the outcome of the Technical Advisory Panel (TAP).

We accept the recommendations of Professor Lewis, the Independent Advisor to TAP and will fully comply with the recommendations. In this context, I attach a proposed collective agreement that has been sent to the Fire Brigades Union (FBU) local officials. You will note that the collective agreement is in full compliance with the recommendations of TAP.

As regards the second recommendation relating to any future roll-out of the LLAR system, I can also confirm that as the Authority extends its proposal to other stations, it will conform to the principle of reserving some contracts on a family friendly basis, provided there are sufficient volunteers.

In conclusion can I thank you and the members of the TAP panel for their efforts in regard to this matter.

Yours sincerely

A J McGuirk
Chief Fire Officer

Enclosure

cc: Mr M Wrack – Employers' Secretary
Mr L Skarratts – Merseyside FBU Secretary

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Telephone 020 7296 6723 Fax 020 7296 6751
e-mail: gill.gittins@lg-employers.gov.uk

Employees' Secretary, Matt Wrack
Bradley House, 68 Coombe Rd
Kingston upon Thames KT2 7AE
Telephone 020 8541 1765

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

Mr D Wright
Director of Law and Democratic Services
Merseyside Fire Service Headquarters
Bridle Rd
Bootle
Merseyside L30 4YD

Mr L Skarratts
Fire Brigades Union
The People's Centre
24 Hardman St
Liverpool L1 9AX
Merseyside

23 May 2006

Dear Sirs,

**Reference to the Technical Advisory Panel -
Low Level of Activity and Risk (LLAR) Duty System**

The Technical Advisory Panel meeting in connection with the above took place on 15 May 2006.

It was not possible for an agreement to be brokered between the parties and therefore in accordance with Section 4, part A, paragraph 5 of the Scheme of Conditions of Service (Grey Book) a recommendation is attached.

The parties will now have 14 days to decide their responses to the recommendation.

Yours sincerely,

**MIKE WALKER
MATT WRACK
Joint Secretaries**

CC: Professor Roy Lewis

NJC FOR LOCAL AUTHORITIES' FIRE BRIGADES**TECHNICAL ADVISORY PANEL (TAP)****Parties:****Merseyside Fire & Rescue Authority****Fire Brigades Union**

1. The TAP met at the Novotel London Euston Hotel on 15 May 2006.
2. In accordance with the Grey Book, Section 4, Part A, paragraph 5, the TAP encouraged the parties to make a voluntary agreement in order to settle the differences between them concerning the introduction of a new duty system arising from the Authority's Integrated Risk Management Plan (IRMP).
3. In the absence of an agreement, the TAP is empowered to make recommendations having regard to the deployment of resources that the Authority has determined is necessary in order to implement its IRMP and the 4 principles set out in the Grey Book, Section 4, Part A, paragraph 3.
4. In the event, the parties were unable to reach agreement and accordingly the TAP is required to make recommendations.
5. The Authority proposed a duty system for stations that it defined as having a low level of activity and risk (LLAR). Its specific proposal before the TAP concerned 12 wholetime firefighter posts at one station, Heswall. The Authority's proposed system involved a day duty of a 12 hour shift, 11am to 11pm on a rota basis, with an average of 4 days on and 4 days off. In addition, a retained duty would apply to nights between 11am and 11pm, with staff living in purpose-built accommodation within the precincts of but separate from the station, unless they resided in a dwelling that allowed them to get to the station within 1.9 minutes. It is to be noted that the accommodation as described does not as yet exist at Heswall or at any other station.
6. The Authority envisaged that a number of individuals would volunteer for both the day and the retained duties. It must be emphasised that under the Grey Book (Section 4, Part A, paragraph 1) full-time and part-time firefighters on any duty system are free to undertake retained duties where appropriate. In any event, the proposed retained duty as such falls outside the TAP's remit since it accords with the principles of an existing national duty system specified in the Grey Book. Only the proposed day duty system as such falls within the TAP's remit.

- 100
7. Nevertheless, the fact that the same individuals might volunteer to perform both the proposed day and retained duties, as envisaged by the Authority, cannot realistically be ignored when considering whether the day duty system might accord with the 4 principles set out in the Grey Book, Section 4, Part A, paragraph 3. To do so would be disingenuous. It follows that it is appropriate to consider the application of the 4 principles to the day duty in the light of the fact that an individual might volunteer for both the day and the retained duties. This point and the reasoning behind it was made explicitly clear to the parties on 15 May.
 8. Having given the most careful consideration to the Authority's proposed day duty system, I have concluded that it is compatible with the deployment of resources that the Authority has determined is necessary to implement its IRMP and, subject to one exception, is based on the 4 principles set out in the Grey Book, Section 4, Part A, paragraph 3.
 9. The exception is the need to comply with relevant UK and European law, in particular the need to comply with sex discrimination law. If an individual volunteered for both the day and the retained duties in an LLAR station, that individual would normally have to be away from home for 4 consecutive days and nights. Given the usual realities of childcare, it is very likely that a lower proportion of wholetime female firefighters would be in a position to be able to volunteer to undertake both duties, as compared to wholetime male firefighters. The disparate impact would be at its greatest to the extent that the Authority confined the wholetime posts to those who volunteered for both the day and the retained duties.
 10. The conclusion on sex discrimination would not be reached if the day duty system were considered in isolation from the fact that individuals might volunteer, as the Authority envisaged, for both the day and retained duties. If one overlooks that fact then all 4 principles would be satisfied. However, as already indicated, it would be disingenuous for the TAP to ignore the reality of the Authority's proposal.
 11. It is therefore necessary to reconcile the Authority's proposal with the need to avoid placing female firefighters in a disadvantageous position compared with their male colleagues. One way of doing this is to reserve a proportion of the 12 envisaged wholetime posts for those who volunteer to undertake only the day duty or only the retained duty, as opposed to those who volunteer to undertake both the day and the retained duties. This idea underpins the recommendation.

12. The recommendation is as follows:

- (1) As regards the Heswall station, the 12 wholetime contracts to be awarded should be divided into three categories:
 - (i) First category: 5 contracts to be awarded to those who volunteer to do the day duty only.
 - (ii) Second category: 5 contracts to be awarded to those who volunteer to do the retained duty only.
 - (iii) Third category: 7 contracts to be awarded to those who volunteer for both the day and retained duties; a number that may be increased if in practice there are insufficient volunteers in the first and second categories.

- (1) As regards the Authority's aim to roll out its proposal to other LLAR stations, as defined by the Authority, the Authority should follow the principle of reserving a significant minority of contracts to wholetime firefighters falling within the first and second categories, that is, those who volunteer to do only the day duty and only the retained duty.

Professor Roy Lewis
Panel Chairman and Independent Expert to the TAP
23 May 2006

Mr. L. Skarratts,
Fire Brigades Union,
C/o The Peoples Centre
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Website: www.merseyfire.gov.uk

Our Ref: WE/ACFO/JM

Date 27th February 2006

Dear Mr. Skarratts,

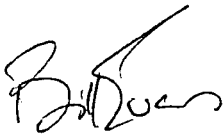
Thank you for your letter of 23rd February regarding the outcomes of our meeting in London over the matter of Part Time Contracts.

Let me once again state the Authority's position in this matter. We have now received confirmation from the Employers Side of the NJC that the meeting concluded that the issue as to whether a Part Time Contracts could be issued to a full time firefighter had already been agreed at a national level, and as such introduction of Part Time Working in MF&RS was indeed a matter for consultation. I enclose a copy of Gill Gittins letter for you.

In the matter of Resolution Advisory Panel business, I think you will find that if a panel considers any issue, any determination is considered as advice (hence the name of the panel) and as such not binding. Clearly it appears to me that you are electing to ignore the outcomes of the assistance provided on that day and are choosing to attempt to continue toward an ACAS hearing. Given the information contained within the attached letter such a meeting is not required and will not take place.

As previously stated from the Authority's perspective this matter is now closed.

Yours sincerely,



Bill Evans
Assistant Chief Fire Officer

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Employers' Secretary, Mike Walker

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FIRE BRIGADES National Employers

Bill Evans
ACFO (Human Resources)
Merseyside Fire Service Headquarters
Bridle Rd
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Merseyside
L30 4YD

14th February 2006

Dear Bill,

Part-Time Contracts

I write to clarify the position following the meeting with FBU representatives and Professor William Brown on 9th February 2006.

The day commenced with the panel discussing the appropriateness of the matter for consideration by the NJC Resolution Advisory Panel under the Negotiation Procedure contained in Section 6, part C, paragraph 15 of the Scheme of condition of Service (Grey Book).

Professor Brown, Independent Chair of the Resolution Advisory Panel, concluded that the introduction of part-time working was a matter for consultation given that the NJC had previously agreed that "there is no barrier to any employee working on a combination of different whole-time, part-time and retained duty systems at the same or different places of work or to employees working on different duty systems making up the crew of the same fire appliance. The arrangements for the application of this agreement should be the subject of consultation between the fire authority and recognised trade unions" (ref. circular NJC/13/03).

Furthermore, Professor Brown felt that any question over interpretation of the content of the circular would be a matter for the NJC.

As agreed with the parties prior to the meeting, the Joint Secretaries and Professor Brown remained available to assist the parties in resolving the arrangements for the implementation of part-time working in Merseyside.

Both parties locally were content to accept the offer and the day continued on that basis. Unfortunately it was not possible to identify a mutually agreeable solution.

The NJC consultation procedure states that "consultation will be concluded at the point either when there is agreement or when the issues not agreed have been fully responded to". The procedure also allows for third party assistance. As the parties have undertaken extensive discussion at local level, and through Joint Secretaries conciliation, and again with the assistance of Professor Brown it would be reasonable to consider that the "issues not agreed have been fully responded to".

The NJC consultation procedure does not require any further national involvement and there is nothing therefore in the national processes to impede implementation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "G. Gittins". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gillian Gittins (Mrs)
Principal Negotiating Officer



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Secretary: bs09me@fbu.org.uk
Chair: bc09me@fbu.org.uk

Date: Thursday, 23 February 2006

Ref: Part Time Contracts.

Dear Mr. Evans,

Thank you for your letter dated 20th February 2006, regarding the above matter of dispute.

You provide within your letter a definition of clarity the FBU do not accept. You further state that it was the Independent Chair of the Resolution Advisory Panel, Professor Brown, who concluded that the matter of introduction of Part Time Working in the manner disputed was a matter of consultation and not by definition then a matter of contract and thus negotiation. The FBU were unaware of any such decision and will as such seek clarification from Professor Brown on that point. The FBU, however, find it ludicrous for the Service to attempt to take the position that a Part Time Contract is not contractual and as such non-negotiable and a position I am sure the Professor would have shared with the FBU on the day if that decision was arrived at.

It remains fact, however, that the FBU proposed that as both parties requested the RAP to provide decision on this matter then the business should have proceeded in that vein with both parties accepting the decision on the day as binding. It also remains fact that the employers would not agree to that proposal and rendered resolution on the day impossible.

I will contact the employee's national joint secretary with a view to clarifying the nature of any declaration made by the Chair and accordingly request that as this remains a dispute that the matter be progressed to ACAS.

If you require any further information please do not hesitate to contact me.

Yours sincerely

L Skarratts
Brigade Secretary

cc G Ellis
Professor Brown



Resilience Report for Merseyside Fire and Rescue Service.

1. Introduction.

Process Evolution has previously developed an Incident Response Simulator for Merseyside Fire and Rescue Service (MFRS). This has been proven to accurately simulate the deployment of appliances to incidents across Merseyside.

MFRS has asked Process Evolution to determine the impact on performance of taking individual appliances off the road. This document reports on the findings from this evaluation.

2. Results.

The model was run for incidents occurring in the period 01st April 2004 – 31st October 2005. The baseline performance* for this period was 79.2% of incidents responded to within the target response standard.

The table below shows the performance achieved with each two-pump station's second appliance being unavailable to attend incidents.

Appliance	Station	Performance	Difference from Baseline
W22	Bromborough	78.9%	-0.3%
N12	Bootle / Netherton	78.8%	-0.4%
C32	City Centre	78.8%	-0.4%
W12	Birkenhead	78.8%	-0.4%
C12	Kirkdale	78.7%	-0.5%
S62	Toxteth	78.7%	-0.5%
N32	Croxteth	78.7%	-0.5%

The appliances shown are the appliances that yield the smallest performance change in comparison to the baseline, and which show a change of 0.5% or less to one decimal place.

3. Conclusions.

The analysis showed that W22, N12 are the two pumps with the least individual impact on performance. However, MFRS will wish to combine professional judgement in selecting appliances from this list, taking into account the local environment and risks present.

* performance stated here is for a range of incident types; MFRS measures performance against domestic property fires for which performance is a significantly higher performance than 79.2%.