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

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To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of Human Resources

Members of the National Joint Council

7 February 2007

CIRCULAR NJC/04/07

Dear Sir/Madam

REVISED NATIONAL JOINT COUNCIL CONSTITUTION

1. At yesterday's meeting of the National Joint Council (NJC) agreement was reached on a revised constitution for the National Joint Council which will take effect from the next meeting which is currently scheduled for 15 June 2007.
2. The main changes are:
 - a broadening of the responsibilities of the Independent Chair
 - a reduction in the number of representatives on each Side of the Council. The Employees' Side will reduce from twenty seven to fourteen and the Employers Side from thirty to fourteen.
 - the introduction of a Middle Managers Negotiating Body (MMNB) with plenary powers to deal with issues relating to employees in Station Manager to Area Manager roles
 - the introduction of a mechanism for minority trade union representation. Exceptionally, on the introduction of these arrangements, the necessity for a minority union to reach the required threshold prior to recognition has been set aside. Membership of the Employees' Side will include a seat for the Retained Firefighters Union on the NJC and the Fire Officers Association on the MMNB from the date the revised constitution takes effect (reference paragraph 1 above). In both cases the independent audit will take place within three months of that date.
3. A copy of the revised constitution is **attached**.
4. It should be noted that agreement on the revised constitution is subject to a mutually satisfactory conclusion on the matter of the introduction of a Continual Professional Development scheme as set out in circular NJC/3/07.

Yours faithfully
SARAH MESSENGER
MATT WRACK
Joint Secretaries

CONSTITUTION OF THE NATIONAL JOINT COUNCIL AND MIDDLE MANAGERS' NEGOTIATING BODY FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES

Preamble

1. This document lays down the constitution of the National Joint Council for Local Authority Fire and Rescue Services (the NJC) and the Middle Managers' Negotiating Body (MMNB).
2. The NJC shall cover all uniformed employees of Fire and Rescue Services in the United Kingdom in the roles of Firefighter to Area Manager.
3. Neither the NJC nor MMNB shall reach agreement on any matter that also affects employees within the scope of the other body without first having referred that matter to the other body for consideration and received its conclusions.
4. The MMNB shall have plenary powers to deal with the pay and conditions of middle managers (who are defined as employees in the roles of Station Manager, Group Manager and Area Manager) within the framework of the NJC.
5. Agreements and/or decisions reached within either body do not have to be referred to the other for endorsement.

Functions

6. The function of the NJC and MMNB shall be to make arrangements to secure the largest measure of joint co-operation and agreement on conditions of service of those persons within its scope, and the settlement of differences between fire and rescue services and employees within their scope. It shall be permissible for the NJC and MMNB to take any appropriate action that falls within the foregoing definition.

The term "conditions of service" shall be construed as including in particular:

- (i) roles, pay and allowances;
- (ii) hours of duty and leave;
- (iii) discipline arrangements;
- (iv) procedure for appeals against dismissal or disciplinary action (including dismissal on disciplinary grounds) other than questions of discipline affecting individuals;
- (v) welfare arrangements.

Independent Chair

7. There shall be an Independent Chair, who shall chair both the NJC and MMNB. The process of appointment of the Independent Chair will be agreed by the NJC. An Independent Chair shall be appointed to serve for a maximum term of three years, and may serve for a maximum of two terms.
8. The role of the Independent Chair shall be:
 - To ensure the effective and proper conduct of business, including making appropriate use of the Joint Secretaries. This will include ensuring proper communication between the NJC and MMNB.

- To consider with the Joint Secretaries whether issues should be considered in either the NJC or MMNB, or both.
- To report to the NJC or MMNB on agreements and/or decisions reached within the other body.
- To build consensus with a view to forging partnership.
- To play an active brokering role.
- To ensure there is an opportunity for minority voices to be heard and that such minority voices are briefed on developments.
- On behalf of the NJC and MMNB, to liaise with appropriate government departments and ministers, relaying positions and gaining feedback.”
- To prepare an annual report (for approval by the NJC and MMNB) setting out the NJC’s and MMNB’s roles, activities and achievements.

9. The Independent Chair shall not have a vote.

Vice-Chair

10. Both the NJC and MMNB shall appoint a Vice-Chair annually from their respective memberships. 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 that meeting shall be appointed from those members present.

Membership

11. The NJC shall consist of 28 members appointed by the representative bodies set out below:

Employers’ representatives	
National Organisation of Employers of Local Authority Fire and Rescue Services	14
Employees’ representatives	
Fire Brigades Union	13
Retained Firefighters Union	1

12. The MMNB shall consist of 28 members appointed by the representative bodies set out below:

Employers’ representatives	
National Organisation of Employers of Local Authority Fire and Rescue Services	14
Employees’ representatives	
Fire Brigades Union	13
Fire Officers Association	1

NOTE: The positions laid out in paragraphs 11 and 12 above are on establishment of the revised NJC and introduction of the MMNB. A subsequent count of minority trade union membership will ascertain the precise composition of both. This count will take place within three months of the introduction of this constitution. The process for the count will be agreed by the Joint Secretaries.

13. If any of the organisations referred to in paragraphs 11 or 12 above fails to appoint the number of representatives provided for by the constitution, such failure to appoint shall not invalidate any decisions reached.
14. In the event of any member of the NJC or MMNB being unable to attend any meeting, the organisation represented by that member shall be entitled to appoint another representative to attend as a substitute.

Changes in the composition of the Employees' Side

15. Any independent certified trade union represented on the NJC or MMNB, or any independent certificated trade union that is not represented, may initiate a review of the composition of the Employees' Side of either the NJC or MMNB. Following such a request the NJC will commission an independent audit of membership levels.
16. In order to gain recognition and a seat on the NJC or MMNB, any independent certified trade union must demonstrate, through an independent audit commissioned by the NJC, that it has in its membership at least one fourteenth of the number of employees covered by either the NJC or MMNB as appropriate.
17. In order to gain an additional seat, or to retain any seat, on the NJC or MMNB, a recognised trade union must demonstrate, through an independent audit commissioned by the NJC, that it has in its membership at least one fourteenth of the number of employees covered by either the NJC or MMNB as appropriate, in respect of each seat.
18. In the case of both the NJC and MMNB the total Employees' Side membership at any time shall not exceed 14.
19. The organisation initiating the review process shall meet all the relevant costs, including those of the independent audit.
20. No trade union can be the subject of a review within three years of it last being the subject of review.

Conduct of business

Committees

21. The NJC or MMNB may appoint from their own members such committees as they may consider necessary. Reports from such committees shall be submitted to the NJC and/or MMNB as appropriate.

Advisers

22. Either side of the NJC or MMNB may invite the attendance of any person whose special knowledge would be of assistance. Such persons would not have the power to vote.

Officers

23. Each side of the NJC and MMNB shall appoint a Secretary, who shall act as Joint Secretaries. The Employers' Side shall appoint the Employers' Side Secretary and the Employees' Side shall appoint the Employees' Side Secretary. The Joint Secretaries may or may not be members of the NJC or MMNB. In the event that a Joint Secretary is a member, he or she shall have a vote. The Employers' Secretary shall also be appointed Treasurer to the NJC. The NJC may appoint an auditor.

Meetings

24. There shall be an annual meeting of the NJC and MMNB as soon as possible after 30th September each year. Ordinary meetings shall be held as often as may be necessary. The Independent Chair shall call a special meeting of the NJC and/or MMNB if so requested through the Joint Secretaries.
25. The requisition and notice summoning any special meeting shall state the nature of the business proposed to be transacted 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.

Voting

26. Voting on the NJC and MMNB shall be by show of hands or otherwise as determined. No resolution shall be regarded as carried unless it is approved by a majority of the members present on each side of the NJC or MMNB except where the resolution concerns an amendment to the constitution in which case the requirements of paragraph 33 below shall apply.

Quorum

27. The quorum of the NJC and MMNB (and any other committee established under the terms of paragraph 21 above) 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 of the date of the first special meeting.

Notice of meetings

28. The notices of meetings of the NJC and MMNB shall provide full particulars of the business to be transacted and shall be sent to members at least seven days before the meeting. Any organisation represented on the NJC or MMNB shall be entitled to place items on the agenda for a meeting of that body.

Minutes

29. Within twenty-one days of any meeting of the NJC or MMNB (or any other committee established under the terms of paragraph 21 above) the Joint Secretaries shall send a copy of the minutes of the proceedings to each member of the relevant body, and these shall be ratified, subject to any amendment, at the next meeting of that body.

Settlement of differences

30. If the NJC or MMNB fails to reach agreement on any matter for which it has responsibility, that matter will be referred to ACAS for conciliation. Both sides will participate in the process of conciliation and act in good faith. Where conciliation fails to produce a settlement either side of the NJC may request arbitration through the services of ACAS. Following such a request, both sides 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.
31. 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

32. The expenses of the NJC and MMNB (including any other committee established under the terms of paragraph 21 above), but not any expenses incurred by members in attending meetings, shall be shared equally by the two sides.

Amendment to constitution

33. (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 NJC 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

34. The status of this constitution is that of a collective agreement between representatives of fire and rescue authorities in the United Kingdom and representatives of the trade unions at paragraphs 11 and 12 above. As such it is intended to form a collective agreement as defined in Section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992.