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FIRE & RESCUE SERVICES National Employers

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

CC: Members of the Employers' Side of the NJC

13th January 2021

CIRCULAR EMP/1/21

COVID Support Agreement

1. FRAs will be aware that the NJC Covid Support Agreement had a one-month term (to Monday 11th January): The agreement stated:

‘This interim agreement will operate for up to one month (until Monday 11th January 2021) and will ensure that the additional work activities will continue to remain available to those FRA/FRSs who utilise this agreement.’

‘This will allow time for a review of testing arrangements and/or the availability of vaccination for Grey Book personnel to take place with a view to identifying an alternative approach to the non-attendance at a fire service premises for 3 days pending a test and a negative result in that test, which currently relates to a risk assessment control measure for ambulance driving/working as part of an ambulance crew activities, those activities delivered within care homes, face fitting where the activity takes place in a care home or hospital and handling of dead bodies. Should the review successfully conclude, or vaccination for Grey Book personnel become available, sooner than 11th January the alternative approach will take effect at that time.’

2. Intensive discussions have been taking place over the past month.
3. The National Employers' have consistently said that they regard the content of risk assessments (RAs) as an operational matter and accordingly they would look to the NFCC for development and advice. That is not to set aside employer responsibilities to employees in terms of health and safety but in recognition that such documents need to be drafted by people competent to do so and that such matters are normally dealt with at local level by senior management and through the local health and safety process, both of which would still need to apply. That position has been maintained.
4. At the employers' request, the NFCC reviewed the current risk assessments for the affected activities (e.g. ambulance driving) in the context of identifying an alternative control measure and worked with specialist advisers drawn from each of the four National Employer stakeholders. Following consultation with CFOs, the FBU and other fire service unions the NFCC provided a set of RAs in relation to the affected activities which could replace the existing ones. Advice continued to be sought from the NFCC thereafter.

5. The NFCC identified alternative control measure is one of parity. In essence, this would mean that whatever the testing arrangements are for the employees of the partner agency with overall responsibility for the specific activity, they would equally apply to the fire service employees involved. If not, the fire service would not take part in the activity. The NFCC did not anticipate any supply problems with the tests. The specialist advisers to the National Employers supported this approach. Accordingly, the National Employers were assured that the revised best practice RAs are suitable and sufficient.
6. Discussion with the FBU, through the NJC, identified a number of areas of disagreement in respect of agreeing an outcome to the review referred to in paragraph 1 above. While we believe a number of the employees' side concerns could be accommodated, key differences remained:
 - (a) A general employees' side concern about the concept of parity - automatically applying it to fire service employees (querying what happens if it is reduced) and a desire to see a pre-set minimum standard on testing such as twice a week.

A pre-set minimum would be inconsistent with the principle of parity and therefore could not be agreed. However, based on NFCC advice, an appendix could be added to the RAs of the affected activities which would list the health surveillance arrangements in place as at 1 Jan 2021. Reassurance that the status of the content was unaffected could be set out in the NJC agreement.

In respect of any indicated reduction to that set out in the respective appendix, it was suggested that it would be possible to agree it would trigger the NJC seeking a further review to ensure the new arrangements were still satisfactory to the fire service.
 - (b) The employees' side queried whether testing would continue for 10 days after an activity is concluded to further protect the fire service workplace. Following discussion with the NFCC this was added to the affected RAs. We were advised by the NFCC that this would not lead to supply problems. But in the extremely unlikely case that it did, the specific activity/activities would not be undertaken unless sufficient tests had been secured for this too.
 - (c) The employees' side suggested that isolation from the workplace should remain as an alternative/s. Employers' side members were clear that based upon the advice they had received from the NFCC and employer advisers the existing control measure - not returning to the FRS workplace until such time as tested after 3 days and then return to work when negative – is no longer sustainable or appropriate. This view was strengthened by the position in the 'new' affected risk assessments which would mean an activity simply would not happen if the parity control measure was not in place. Furthermore, any variation on isolation is no longer necessary given the much-improved position around availability of testing since the original control measure was agreed many months ago.
7. Firefighters are currently not a priority group for vaccination and therefore at this time it cannot be included as another alternative control measure. NFCC advice is that another advantage of parity is that given health workers are to be prioritised for vaccination therefore parity would mean firefighters should also be included.

Conclusion:

8. Based on NFCC and employer adviser advice our understanding is that a suitable and sufficient alternative control measure has been identified. The employees' side does not agree.

9. It has therefore not been possible to identify a mutually acceptable alternative control measure for the affected activities that would enable continuation of the national agreement. Technically that agreement ended at midnight on 11th January and while the employers' side was keen to be able to agree continuation and hence continued discussion past that time there is a need to now provide certainty to FRAs and FRSs so that they can proceed with planning for current and new priorities as soon as possible and why we need to advise you today that discussions have not been successful.
10. Unfortunately, non-agreement also means discussions about adding new activities relating to community mass testing and community mass vaccination cannot be progressed at national level. This need not hinder progress at local level and the National Employers are pleased that those best practice risk assessments have also been developed, which will support services to help their communities as soon as possible.
11. A copy of the National Employers' media statement is **attached**.
12. The Employers' Side preference of course remains to move forward by agreement.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Gittins', with a stylized flourish underneath.

Gill Gittins
Assistant Employers' Secretary

Last month the FBU effectively withdrew from an agreement on COVID support that had been in place since March between the National Employers, National Fire Chiefs Council and Fire Brigades Union.

That agreement had ensured the fire service could provide assistance to communities through support to partner agencies such as the NHS, ambulance trusts and councils.

In an attempt to ensure there was no impact on the vital support provided to date, the National Joint Council for Local Authority Fire and Rescue Services intervened hoping to find a mutually agreeable alternative way forward over the following month.

This intervention sought to replace the recommendation to consider isolation with regular testing, recognising the impact that an unnecessary period of isolation would have on workforce availability and ultimately the fire and rescue service's ability to assist in its response to the pandemic. In discussions the employers informed by the National Fire Chiefs Council and employer advisers, suggested that services adopted the same health surveillance measures (including regular testing) as that afforded to our partners in Health and Social Care.

The safety of firefighters remains paramount. No firefighter would be asked to volunteer to undertake any new activity without suitable training, equipment, and a robust risk assessment process in place. To reinforce this commitment, the risk assessments were shared with the Health and Safety Executive as part of the process of review as will any subsequent changes.

The National Employers have worked together with the National Fire Chiefs Council as the professionals best placed to develop appropriate best practice risk assessments, this enables us to meet our responsibilities to employees in terms of health and safety. The NFCC in turn had the relevant individuals in place with qualifications and experience and has the support of Chief Fire Officers and relevant employer advisers across the UK. Consultation has taken place with fire service trade unions. Any local variation to the best practice assessments would be made when reviewed through the usual local health and safety process and the necessary production of specific local risk assessments.

Availability of testing is now much improved from when the original assessments were drafted many months ago. They are now readily available so we are much better placed to be able to respond without the necessity to isolate. The announcement that the Home Office have secured priority access for the fire and rescue service further supports this position.

The focus has therefore been on ensuring that firefighters will also be able to take full advantage of that progress and to make sure they are treated equally to employees of the relevant partner agency. In the unlikely event that is not possible then it is clear firefighters would not take part in the relevant activity.

The expectation is that such parity would also mean prioritising vaccination of firefighters to the same level as others undertaking such activities such as medical staff. This has been made clear by the National Fire Chief's Council throughout the discussions.

However, that reassurance appears not sufficient and unfortunately following discussions with the Fire Brigades Union, the National Employers are saddened and very disappointed that it has not been possible to reach on-going agreement with the FBU.

Cllr Nick Chard, the Chair of the National Employers said,

“We are grateful to, and proud of, all the staff who have volunteered to support the COVID response. They do so safely and effectively, providing assistance where it is most needed, we urge them to continue to do so, having been afforded the same personal protective equipment and health surveillance arrangements (testing) as that afforded to others. We are frustrated that agreement with the FBU cannot continue and believe that personnel who have participated voluntarily in this critical COVID support will be frustrated too as will our partner organisations.

We will continue to prioritise the safety of firefighters and provide the best service to the public; we will also continue to ensure the fire service plays its role in supporting the UK’s response to the COVID pandemic with support from those willing to do so including with community mass testing and mass vaccination programmes and the provision of response drivers to our ambulance service colleagues who are coming under increasing pressure.

Note to editors

1. 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 within its scope ranging from firefighters to middle management. It covers England, Scotland, Wales and Northern Ireland.
2. To date fire and rescue services have provided:
 - 111,000 essential items delivered to the most vulnerable people
 - Assembly of 68,135 single use facemasks
 - 25,000 deliveries of PPE
 - 4,125 face masks fitted for frontline NHS and clinical care staff
 - 22,500 food parcels were packed
 - Assistance with taking more than 1000 antigen samples
 - Transporting 1,446 COVID patients and 3,337 non-COVID patients to hospital
 - Supported the Ambulance Service on 87,206 occasions - driving and personnel support
 - Training for external staff to drive ambulances
 - Assistance with movement of more than 2000 bodies