

## REPORT OF THE CHIEF FIRE OFFICER

# CO-RESPONDER LEGAL CASE FUNDING

### 1 Purpose of Report

To seek the opinion of the Fire Authority in response to the request made by the Employers in paragraph 7 of Circular EMP/15/06 (attached at Appendix A) that Fire and Rescue Services reconsider the manner in which case costs and appeal costs be shared in relation to co-responding.

### 2 Recommendations

That Members consider the request at paragraph 7 of Appendix A, regarding the manner in which they had agreed to contribute to funding of the legal case and appeal in respect of co-responding

### 3 Background

At its meeting on 10 May 2006 the Fire Authority received a report from the Chief Fire Officer, seeking its opinion in response to the request made by the Fire Brigades National Employers in Circular EMP/1/06 (attached at Appendix B), that Fire and Rescue Services share the cost of the impending legal action by Nottinghamshire and Lincolnshire in relation to co-responding.

Circular EMP/1/06 encouraged all UK Fire and Rescue Services to commit to a cost-sharing approach in this case, similar to that previously undertaken on the matter of retained firefighters and the application of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, as the judgement would apply to all Fire and Rescue Services. The reply form asked each authority to indicate whether it was willing to share the total cost proportionately accordingly to the number of uniformed employees (i.e. wholetime and retained duty) as at February 2005.

At the May meeting the Fire Authority agreed to:

- a) *Share the costs of the legal action relating to co-responding; and*
- b) *Contribute on wholetime firefighter figures, not on the number of uniformed personnel as a whole, i.e. not including Retained personnel.*



## 4 Recent Developments

Since this decision was taken the case has been heard and found in favour of the Fire Brigades Union. The Fire Brigades National Employers have indicated that they intend to appeal.

The costs to date are £212,500 with anticipated appeal costs of £90,000.

The National Employers have requested that authorities, who capped their contribution or declined to participate, reconsider their position in light of the current situation.

## 5 Financial Implications

The financial implications are as set out in this report.

## 6 Legal Comment

The Fire Authority has the power to contribute towards the funding of the legal action.

## 7 Appendices

**Appendix A** Circular EMP/15/06

**Appendix B** Circular EMP/1/06

## 8 Background Papers

### Shropshire and Wrekin Fire Authority

10 May 2006 Report 16 - Co-Responder Legal Case Funding – and Non-Exempt Minutes

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balance Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Equality and Diversity		Retained	*
Efficiency Savings		Risk and Insurance	
Environmental		Staff	*
Financial	*	Strategic Planning	
Fire Control/Fire Link		West Midlands Regional Management Board	
Information, Communications, Technology and Data			

For further information about this report please contact Louise McKenzie, Assistant Chief Officer, on 01743 2602280 or Alan Taylor, Chief Fire Officer, on 01743 260201.



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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**

**Members of the Employers' Side of the NJC**

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30 November 2006

### **CIRCULAR EMP/15/06**

Dear Sir/Madam

#### **CO-RESPONDER SCHEMES**

1. I write to remind authorities of the cost-sharing arrangement in respect of the recent High Court action taken by Nottinghamshire and Lincolnshire Fire authorities. An earlier Employers circular issued on the 30 January 2006 refers to the arrangement (EMP/1/06).
2. Authorities will be aware of the Fire Brigades Union opposition to the introduction of Co-responder schemes across the UK. The FBU argue that an authority cannot require its employees to carry out such work.
3. You will recall that the National Employers have consistently responded that there is a contractual link in the Scheme of Conditions of Service to the IPDS rolemaps agreed within the National Joint Council. Co-responder schemes are simply an example of work that can be required through these rolemaps. (The National Employers took heed of the advice provided by those responsible for drawing-up the rolemaps and legal advisers in formulating their position.)
4. Authorities have already been notified of the outcome of the action during October 2006, where the presiding judge found in favour of the Fire Brigades Union. However the judge recognised the significance of the case and gave leave to appeal at the end of the initial proceedings. He also stated that "*If I had been able to construe the contractual documents to require participation in such schemes by firefighters, I should unhesitatingly have done so*" and "*there should be no triumphalism after this judgement*" by the FBU. Both Nottinghamshire and Lincolnshire have decided to appeal against the judgment.

5. It is anticipated that the appeal will take place at the end of February 2006. The first stage costs were £212,500, with anticipated appeal costs of £90,000. The court may also make an award in respect of the costs to the benefit of the successful party. As before, the intention is that each participating authority covers a share of the cost pro-rata to the number of uniformed employees in post at commencement of this arrangement.
6. Nottinghamshire and Lincolnshire fire authorities are grateful for your continuing support on this important issue. The National Employers strongly encourage your support to these authorities. The eventual outcome, if negative, could call in to question the generic nature of the IPDS rolemaps which may hinder authorities achieving change through the Integrated Risk Management Plan process.
7. Authorities who have capped their contribution, or declined to participate in the cost-sharing arrangement are asked to reconsider their position in light of the current situation and advise me of the outcome. (To advise me of the outcome please contact me via [jacky.teasell@lge.gov.uk](mailto:jacky.teasell@lge.gov.uk).)

Yours faithfully

**Jacky Teasell**  
**Negotiating Officer**

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## **FIRE BRIGADES National Employers**

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

**Members of the Employers' Side of the NJC**

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30 January 2006

### **CIRCULAR EMP/1/06**

Dear Sir/Madam

#### **CO-RESPONDER SCHEMES**

1. Authorities will be aware of the Fire Brigades Union opposition to the introduction of co-responder schemes involving the fire and rescue service throughout the UK.
2. The FBU argue that an authority cannot require its employees to carry out such work.
3. The National Employers have consistently responded that there is a contractual link in the Scheme of Conditions of Service to the rolemaps agreed within the National Joint Council. Co-responder schemes are simply an example of the type of work that can be required through those rolemaps.
4. In taking this position the National Employers have been mindful of the advice provided by both those responsible for drawing-up the rolemaps, and legal advisers.
5. Two authorities, Nottinghamshire and Lincolnshire, have now indicated to the Fire Brigades Union their intention to seek resolution of this matter through a legal route. Unless the Fire Brigades Union accept the authority's position the matter will be pursued through the High Court.
6. The National Employers would wish to encourage all authorities throughout the UK to support this action. In particular, authorities are encouraged to commit to a cost-sharing approach similar to that previously undertaken on the

matter of retained firefighters and the application of the Part-Time Workers (Prevention of less favorable treatment) Regulations.

7. The legal teams for both of the authorities will work closely with that of the National Employers to ensure consistency of position and to reduce duplication wherever possible. The Employers' Secretariat will also continue to assist the parties.
8. It is anticipated that costs at this stage will be in the region of £125,000. Should an appeal prove necessary further costs would be incurred. The court may also make an award in respect of costs to the benefit of the successful party.
9. The intention would be that each authority covers a share of the cost pro-rata to the number of uniformed employees in post as at February 2005 (the date of the most recent figures provided by authorities to the Secretariat).
10. The National Employers very much hope that your authority will be able to support this request. You will appreciate the benefit to all Fire and Rescue Services of achieving legal clarity on this question.
11. A pro-forma is attached for completion and return by no later than **21<sup>st</sup> February 2006**
12. If you require any further information please do not hesitate to contact me.

Yours faithfully,



**Gill Gittins**  
**Principal Negotiating Officer**

## CO-RESPONDER SCHEMES

Name of authority:

Name of individual:

Position in authority:

The authority agrees to meet a proportion of the costs (proportionate to the number of uniformed employees in post in February 2005, as provided to the Employers Secretariat) incurred through legal action on the matter referred to in circular EMP/1/06.

*Please indicate by adding an X*

Yes

No

**Please return this form via by no later than 21<sup>st</sup> February 2006 to:**

jacky.teasell@lg-employers.gov.uk