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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 HR (Fire Authorities)**

Members of the National Joint Council

12 February 2015

CIRCULAR NJC/01/15

Dear Sir/Madam,

1. The information below provides authorities with a number of amendments to the Scheme of Conditions of Service (Grey Book) arising from legislative change.

Time off to attend adoption appointments

2. The Employment Rights Act 1996 (ERA) has been amended by the Children and Families Act 2014 to include a right to paid time off to attend adoption appointments and a right to unpaid time off. These rights apply from **5 April 2015**. The required amendments to Section 4, part D, of the Scheme of Conditions of Service (Grey Book) are shown below. Deletions are shown in strikethrough, additions in *italics*.

Amendment to paragraph 43:

4.32 ~~Employees should try to make arrangements for placement and match meetings in their own time. However, where this cannot be accommodated up to three days paid time off will be allowed up to placement.~~ *An employee who has been notified by an adoption agency that a child is to be placed for adoption with them, and has elected to be the partner receiving paid leave, is entitled to take paid time off during their working hours to attend appointments such as having contact with the child or meeting with the child's social worker or current carer, up to the date of the placement of the child. Where a couple are adopting jointly, the remaining partner is entitled to take unpaid time off. The employee taking paid time off can be asked to sign a declaration that they have elected to exercise the right to paid time off.*

Inclusion of new paragraphs 44, 45 and 46

44. *Where, under paragraph 43 above, leave is to be taken by the employee who has elected to be the partner receiving paid leave, he/she is entitled to take paid time off of up to six and a half hours on up to five occasions. This limit applies irrespective of the number of children being adopted as part of the same arrangement. Appointments must have been made by or at the request of the adoption agency. The fire and rescue authority can ask the employee to provide a document showing that this is the case, and giving details of the date and time of the appointment.*
 45. *Where, under paragraph 43 above leave is to be taken by an employee who is not the partner elected to receive paid leave, he/she is entitled to take unpaid time off of up to six and a half hours on up to two occasions. This limit applies irrespective of the number of children being adopted as part of the same arrangement. Appointments must have been made by or at the request of the adoption agency. The fire and rescue authority can ask the employee to provide a document showing that this is the case, and giving details of the date and time of the appointment.*
 46. *The provisions in paragraphs 43 to 45 above apply to local authority foster parents who have been approved as prospective adopters and are notified that a child is to be placed with them under section 22C of the Children Act 1989. If, during the placement, the foster parents are subsequently notified by an adoption agency that the child is to be placed with them for adoption, this does not give rise to a further right to time off to attend adoption appointments.*
3. Subsequent paragraph numbers in Section 4, part D, have all been increased by 3 as a consequence of inclusion of the new paragraphs 44, 45 and 46.
 4. The Employees' Side has raised an additional matter in connection with the new paragraph 45 above, which is currently under consideration.

Parental leave

5. Authorities will be aware that the period of parental leave has been extended in law to 18 weeks in all cases.
6. Consequent amendment to the provision in Section 4, part D of the Grey Book is shown below:
 558. An employee who has successfully completed initial training (or has at least a year's service if that is sooner) and who is one of the following shall be entitled to up to ~~thirteen~~ *eighteen* calendar weeks' unpaid parental leave (~~eighteen weeks if the child has a disability~~) in parts or in a block following the birth or adoption of a child:
 - (1) The mother of the child.
 - (2) The father of the child if he was married to the mother at the time of birth or is registered as the child's father.
 - (3) The father (if not covered by (2)) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act

1985. This is done either by a court order or an agreement between the mother and father that complies with legal requirements.

- (4) A guardian appointed under Section 5 of the Children Act 1989.
- (5) An adoptive parent.
- (6) Any other nominated carer where the fire and rescue authority is satisfied that that person is taking parental responsibility.
- (7) A step-parent if they have acquired parental responsibility under the Children Act 1989 either through a court order or an agreement between the mother (or mother and father) and the step-parent which complies with certain legal requirements.
- (8) A special guardian as referred to in section 14C of the Children Act 1989.
- (9) *Any other person who has or expects to have parental responsibility for a child under the Children Act 1989.*

7. With effect from **1 April 2015** the time in which parents will be able to take the leave will be extended to up to the child's 18th birthday. The consequent amendment to Section 4, part D of the Grey Book is shown below:

5861. The periods during which leave must be taken are:

- (1) In the case of leave following the birth of a child, by the *date of the child's ~~eight~~ eighteenth* birthday.
- (2) In the case of adoption, *by the child's eighteenth birthday within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner.*
- (3) In the case of a child with a disability, by the child's eighteenth birthday, though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.

Flexible working

8. Fire authorities will be aware that the right to request flexible working was extended to all employees from 30th June 2014.
9. The consequent amendment to the provision in Section 4, part D of the Grey Book is shown below

603 ~~In order to assist in managing the balance between work and family life, employees~~ *An employee with at least 26 weeks' continuous service with the employing fire authority at the date a request is made with children under the age of seventeen, or eighteen in the case of a disabled child, and carers have* has the right to apply *in writing* to the fire and rescue authority to work flexibly. The authority has a *legal* duty ~~under the Employment Rights Act 1996~~ to consider such requests *deal with the application in a reasonable manner and to respond to such requests within 3 months, unless otherwise agreed in writing by both parties seriously in line with a set procedure*, and will be able to refuse requests only where there are clear business grounds for doing so. *In such cases the employee should be advised of the applicable business reason for refusal and the appeal process. The employee's written flexible working request should be dated and:*

- (a) state that it is an application under section 80F of the Employment rights Act 1996
- (b) explain the change being requested and propose a start date;
- (c) identify the impact the change would have on the business and how that might be dealt with; and
- (d) state whether the employee has made any previous flexible working requests, and if so when

Further amendments

10. Further subsequent amendments to Section 4 part D of the Grey Book are listed below.

Paragraph number	Amendment
6	cross reference to paragraph 36 becomes 37
10(3)	cross reference to paragraph 20 becomes 21
21	renumbered 22, cross reference to paragraph 22 becomes paragraph 23
22	renumbered 23, cross reference to paragraph 21 becomes paragraph 22
26	renumbered 27, cross references to paragraphs '24 or 25' become '25 or 26'
27	renumbered 28, cross references to paragraphs '24 or 25' become '25 or 26'.

Shared Parental Leave

11. The accompanying circular (NJC/02/15) provides information in respect of the statutory introduction of Shared Parental Leave.

Yours faithfully

SIMON PANNELL
MATT WRACK
 Joint Secretaries