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Shropshire and Wrekin Fire Authority
Strategy and Resources Committee
9 March 2006

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FIRE BRIGADES National Employers

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

Members of the Employers' Side of the NJC

20th January 2005

CIRCULAR EMP/2/05

Dear Sir/Madam

RETAINED FIREFIGHTERS AND THE PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS – COURT OF APPEAL DECISION

1. Authorities will be aware from Employers' circular EMP/23/04 that the FBU had been refused leave to appeal the decision of the Court of Appeal to the House of Lords but that such leave could be sought from the House of Lords itself, which appeared to be the FBU's intention.
2. I write to advise you that the House of Lords has granted the FBU leave to appeal and that the case will continue to be defended by Beachcroft Wansbroughs, through the Employers Organisation, on behalf of fire authorities.
3. The defence will also challenge the Court of Appeal's decision as to the meaning of Regulation 2(3) of the Part-Time Regulations, the point which was lost at that stage.
4. The case is expected to take 12 to 18 months to be heard.

5. It is anticipated that our legal costs in respect of this appeal will be in the region of £40,000 plus VAT. Authorities will remember the cost-sharing agreement, which all authorities committed to (proportionate to the number of retained firefighters in each brigade). Accordingly, once the costs of this stage have been finalised, those authorities with retained firefighters will be invoiced by the appropriate amount, offset by any award made in respect of costs.
6. Authorities will shortly be invoiced in respect of the earlier Court of Appeal costs which should not be confused with the costs referred to in paragraph 5 above.
7. Authorities will wish to be aware that costs could be awarded against us, with an Order to pay the FBU's costs, should we lose the case at the House of Lords. However, the costs to authorities in terms of losing the case and subsequent back payment liability would far outweigh such costs.
8. Authorities are reminded that this case does not affect the June 2003 Pay and Conditions Agreement. Whilst the Employers as part of the Agreement accepted the future principle of parity with wholetime firefighters, it was on the basis of the introduction of the Integrated Personal Development System (IPDS).

Yours faithfully

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

Gill Gittins
Senior Negotiating Officer