



Dorset Fire Authority

MEETING	Dorset Fire Authority
DATE OF MEETING	16 June 2015
OFFICER	Chief Fire Officer
SUBJECT OF THE REPORT	Retirement and Re-employment of Uniformed Employees
EXECUTIVE SUMMARY	<p>The new tax regime for pensions which came into effect on 6 April 2006 relaxed the rules to allow a firefighter to retire and receive some of their pension benefits, and then to be re-employed by the Authority.</p> <p>Where this is the case, the annual pension is reduced (often referred to as abated) by the amount by which the pension received and pay in the new post exceeds the pay received in the previous role. Quite simply, a person who is re-engaged cannot receive pension and pay which exceeds their previous gross salary.</p> <p>Re-employment remains at the discretion of the employer and fire authorities have been advised to formulate policies on their approach to this issue to provide clarity for firefighters.</p> <p>This matter was first considered by the Dorset Fire Authority at its meeting in January 2008 when it was decided that Dorset would not adopt such a policy at that time, but would review this decision in a year's time.</p> <p>Since that time, the decision has been revisited on a number of occasions when the decision has been not to adopt such a policy.</p> <p>Fire and rescue services who have a business case approach underpinning their policy thus ensuring there are clear organisationally driven, business grounds in support of an individual's re-employment advise that this flexibility provides a useful workforce planning tool.</p> <p>Wiltshire Fire and Rescue Service have had a retirement and re-employment policy in place since 2007 and, against the backdrop of our current workforce planning issues, financial challenges and in readiness for combination, emerges the need to have a mechanism in place that will allow us to retain key individuals who otherwise might retire amid being financially disadvantaged when achieving 30 years' pensionable service.</p>

RISK ASSESSMENT	Tax rules give a discretion to fire authorities to allow firefighters in the 1992 Firefighters' Pension Scheme the ability to take their pension and be immediately re-employed in their old role. Clarity should be provided to firefighters about the approach of the Fire Authority to this matter.
COMMUNITY IMPACT ASSESSMENT <i>Note: If the matrix indicates negative impacts on the community or staff, an equality impact assessment (EIA) will need to be completed.</i>	None
BUDGET IMPLICATIONS	There are potential savings from initial trainee training costs and more specialist skills training if firefighters are permitted to retire and then be re-employed in their previous role. There are also potential savings in terms of the subsequent abatement and reduced pensions contributions.
RECOMMENDATIONS	It is recommended that Members approve the retirement and re-employment protocol as set out in Appendix A.
BACKGROUND PAPERS	None
APPENDICES	A: Retirement and Re-employment Policy
REPORT ORIGINATOR AND CONTACT	Jenny Long (Director of People Services) Tel: (01305) 252609

1. Background

- 1.1 The tax regime for pensions which allowed firefighters to take their pension from the Firefighters' Pension Schemes and continue in employment as a firefighter¹ has been the subject of two previous papers considered by the Fire Authority (January 2008 and July 2009). The recommendations of both papers was not to adopt a policy to allow firefighters to retire, take their pension and be immediately re-employed as a firefighter.
- 1.2 A further recommendation of the July 2009 paper was to review the situation in 2010 and this position was again reconfirmed in 2010.
- 1.3 In October 2011, the Appointments, Complaints and Disputes Committee agreed a unique and specific request from the Chief Fire Officer relating to retirement and re-employment of an individual officer. This request demonstrated a clear strategic business risk that would have a detrimental impact on Service Delivery. This request was approved.
- 1.4 As we move towards Combination with Wiltshire Fire and Rescue Service, we need to align our policies and procedures. Wiltshire Fire and Rescue Service have a policy on retirement and re-employment which has been in existence since 2007. Essentially the policy allows an individual to retire and receive some of their pension benefits, and then to be re-employed by the Authority. Where this is the case, the annual pension is reduced by the amount by which the pension received and pay in the new post exceeds the pay received in the previous role. This is known as abatement.
- 1.5 Members are acutely aware of our workforce and succession challenges. The Service needs to retain key experienced and skilled staff to assist us to respond effectively to future organisational demands both pre and post-Combination.
- 1.6 The introduction of a flexible retirement and re-employment procedure for uniformed staff can provide us with an additional workforce planning tool which increases flexibility in relation to holding on to key skills but also, through the 'fixed term' nature of the new contract, enables the Service to better manage succession planning.
- 1.7 There does, however, need to be a clear business-led rationale that supports approval of retirement and re-employment requests.

2. Firefighters' Pension Scheme (FPS) 1992

- 2.1 A new tax regime for pensions which came into effect on 6 April 2006 relaxed previous rules limiting the opportunities for a person to retire, receive some pension benefits and continue in employment.
- 2.2 The 1992 Firefighters' Pension Scheme has been amended to expand the definition of re-employment so that the abatement of pension may apply to a member re-employed in any role by any authority, including non-operational and retained firefighter roles.

¹ The Firefighters Pension Scheme refers to 'firefighter' in a generic sense but this refers to all uniformed role levels

- 2.3 It is still necessary for a firefighter to retire in order to draw pension benefits. In the FPS, the minimum retirement age is 50, provided the firefighter is able to reckon at least 25 years' pensionable service. The normal pension age is 55 regardless of service.
- 2.4 The rules of the FPS do not prevent the re-employment of a firefighter after retirement, therefore, there is the facility for a firefighter to retire, subject to satisfying the above rules, access their lump sum and pension and be re-employed. Under this rule, firefighters who are re-employed following retirement cannot receive annual remuneration plus annual pension in excess of the remuneration received immediately prior to retirement. Therefore, the pension will not be payable in addition to salary.
- 2.5 There are, however, some important points to note:
 - 2.5.1 Re-employment is at the discretion of the employing authority.
 - 2.5.2 Retirement will constitute a break in service so that membership of the FPS will be terminated.
 - 2.5.3 The break in pensionable service represents a break in continuous service with DFRS.
 - 2.5.4 Abatement will apply in all cases of re-employment.
- 2.6 On re-employment, a firefighter previously in the FPS could be eligible for membership of the 2015 Firefighters' Pension Scheme or the Local Government Pension Scheme depending on the role they are in and provided they meet the membership criteria.
- 2.7 This would only be applicable to the 1992 Firefighters' Pension Scheme.

3. New Firefighters' Pension Scheme (NFPS) - Pensionable Age

- 3.1 Firefighters should request advice from the DCC Pensions Section who are able to provide accurate advice on retirement dates and pension figures. In the NFPS the minimum pension age is 55 with a normal pension age of 60.
- 3.2 Firefighters may retire from the age of 60, with the option to take a 'commuted portion' which is limited to one quarter of the pension entitlement. You would receive £12 as a lump sum for each £1 of pension that you commute.
- 3.3 Firefighters aged over 55 may retire with the appropriate actuarial reduction. The reduction is currently 5% for each year up to 65 of the deferred pension age.

4. The Position in Dorset

- 4.1 There have been a number of enquires from staff who would wish to apply for retirement and re-employment.
- 4.2 In 2010, the DFA agreed to the introduction of a flexible retirement procedure for non-uniformed staff. There are some key differences - flexible retirement under the Local Government Pension Scheme (LGPS) allows non-uniformed staff to receive their pension and maintain continuous service, but as they technically do not actually retire there is no abatement. There must, however, be a reduction in either grade or hours worked. Whilst it

is important to note the differences, the overriding principle and purpose of flexible retirement is to retain key experienced and knowledgeable staff.

- 4.3 Wiltshire Fire and Rescue Service have a retirement and re-employment procedure in place. Re-employment is limited to a 12 month period. This approach has provided a helpful workforce and succession planning tool.

5. Benefits

- 5.1 Should a policy be introduced, there would be a number of benefits that could be realised. These are detailed below:

- ♦ As a small organisation, we are reliant on the skills and knowledge of key staff, retention of such staff provides a higher degree of resilience.
- ♦ By retaining existing staff, savings could be realised through reduced training costs.
- ♦ Recruitment activities to replace existing staff, in the short term, would be reduced saving both time and money.
- ♦ If the protocols listed in Appendix A were followed, this policy could provide an effective workforce/succession planning tool. The use of fixed term contracts would provide timelines allowing potential successors to be assessed, identified and developed.
- ♦ Provides alignment with WFRS.
- ♦ A number of staff have expressed an interest in this approach.

6. Conclusion

- 6.1 It is clear that there are challenging times ahead and the Service needs to retain key experienced and skilled staff to assist us to respond effectively to future organisational demands. There does however need to be a clear business-led rationale that supports approval of retirement and re-employment requests.
- 6.2 Each business case will need to demonstrate where there is a clear business risk that the loss of that individual member of staff would have a detrimental impact on Service Delivery which can not be addressed through normal workforce planning measures
- 6.3 In view of this, retirement and re-employment decisions should be considered on an individual case by case basis underpinned by clear organisational need and business benefits.

DARRAN GUNTER
Chief Fire Officer

8 June 2015

Appendix A**Policy Regarding Retirement and Re-employment of Uniformed Personnel**

- 1.1. The aim of this policy is to provide information to employees contemplating retirement so they may consider whether they wish to continue working, withdraw their lump sum and abate their pension.
- 1.2. This policy applies to members of the Firefighters' Pension Scheme.
- 1.3. On 6 April 2006, the Government relaxed the rules on pension commutation whilst continuing in employment. As a result Wiltshire Fire and Rescue Service has elected to exercise the discretion allowed within these provisions and will enable employees in the Firefighters' Pension Scheme (FPS) to retire from the scheme, commute their lump sum pension and be re-employed.
- 1.4. With effect from 6 April 2010 the tax rules in relation to abatement have altered. These changes mean that staff wishing to take flexible retirement and re-engagement must have a break in employment of at least one month. Staff will incur additional tax charges on all pension benefits, including the lump sum payment if they do not meet these re-employment conditions and have a month's break in service. The break cannot be taken as paid leave.
- 1.5. The rules of the FPS have not been amended and it is still the case that employees must retire in order to commute their pension benefits.
- 1.6. The break in pensionable service represents a break in continuous service with Dorset FRS.
- 1.7. Subject to any future changes to the FPS or to the Government's tax provisions employees are allowed to retire from their current job, receive a commuted lump sum pension benefit (if they wish), and be re-employed providing:
 - a) The FPS criteria for early retirement is met, as in 2.1 below.
 - b) The return is to exactly the same role/job
 - c) You are below Principal Officer level. Principal Officers wishing to apply for this will need the prior approval of the CFA.
- 1.7 As the employee will retain their existing post upon re-employment no vacancy is deemed to exist and therefore the recruitment policies and procedures will not apply.
- 1.8 Retired former firefighters/fire officers, who are already in receipt of their full pension benefits having left the Fire Service, can seek re-employment by applying for advertised vacancies through the normal recruitment processes. If successful, the abatement rule will be applied and part, or all, of their annual pension may be abated (see Section 3).

2. Pensionable Age

- 2.1 In the FPS the minimum pension age is 50, provided that the individual is able to reckon at least 25 years' pensionable service. The normal pension age is 55.
- a) It is critical when calculating pensionable service that employees take into account any gaps in service when pensions contributions were not paid e.g. unpaid leave, strike action etc. Employees should request a pensions benefit statement if they are in any doubt. In addition, pensions will be able to provide advice on the most appropriate effective date of retirement to ensure the maximum commutation amount available, under the "two day rule". The two day rule applies to non-compulsory retirements and means employees should have a last day of pensionable service at least two days before their birthday to ensure the commutation factor is not reduced. Further information on how this will affect the date of retirement and commutation factor should be obtained from Pensions.
- 2.2 Employees may retire from the age of 50, having completed at least 30 years' pensionable service, with the option to commute up to 25% of their annual pension in favour of a one-off lump sum.

For example: if your pension entitlement is £12,000 pa, you can commute the maximum 25% to give you a one-off lump sum of £3,000, leaving you with a pension of £9,000 pa.

- 2.3 Employees aged over 50 but under 55, with at least 25, but less than 30 years, pensionable service, may retire with the option to commute up to 2.25x of the annual pension into a lump sum. However the calculation of the lump sum is different and must not exceed 2.25 x their annual pension.

For example: if your pension entitlement is £12,000 pa, you can commute the maximum 2.25 x £12,000. This would give you a one-off lump sum of £27,000, leaving you with a reduced pension. As this varies according to your age, an estimate will be provided following your initial request to consider retirement.

3. Pension Abatement

- 3.1. Employees who are re-employed following retirement are subject to abatement in accordance with DFA Pension Discretions.
- 3.2. Abatement will cease and the pension will be paid in full, once re-employment is terminated.
- 3.3. It is crucial that employees familiarise themselves with the potential implications of abating their pension, including the impact upon any future application for ill health retirement and the effect upon death in service entitlement. The Pensions Department will be able to provide information on these matters.

4. Applying for Flexible Retirement and Re-employment

4.1 Employees who meet the criteria detailed in 2.1 are eligible to apply for Flexible Retirement and Re-employment. The following procedure must be used:

- a) The employee must complete form detailed at Appendix 1, stating that they want to be considered for Retirement/Re-employment and what proportion of the pension (if any) they wish to commute to a lump sum payment upon retirement.
- b) The application will be considered by the CFO who may, at their discretion, arrange a meeting with the employee to discuss their request but will, in all cases, consider their application on the basis of:
 - i) Business Efficiency - a clear benefit to the service must be identified e.g. retention of critical skills, experience and knowledge/expertise which would be difficult to replace in the short term [defined as 12 months maximum]; key contributor to critical time bound projects therefore detrimental impact on key projects if the individual retires.
 - ii) Unacceptable Corporate risk to the Service if strategic project[s] cannot be successfully delivered within this 12 months' timeframe.
 - iii) Conduct, attendance, timekeeping and performance during their employment with the DFRS.
 - iv) Cost implications.
- c) Where Re-employment is agreed the time limit of 12 months maximum will apply from the date of Retirement/Re-employment and the CFO will then forward the request to HR. No extension to the 12 month time limit will be permitted.
- d) HR will liaise with Pensions to provide an estimate of pension's benefits to enable the employee to make an informed final decision. Based upon the proportion of the pension being commuted up to the maximum, the estimate will include:
 - The amount of lump sum payable upon retirement;
 - An annual pension entitlement, which will be fully abated.
- e) Employees must obtain a pensions estimate before finally deciding to proceed with Flexible Retirement/Re-employment. HR will not progress a request without a pensions estimate being requested.
- f) Upon receipt of the estimated pension benefits, if the employee still wants to proceed with Retirement and Re-employment, the employee must confirm this in writing (email is acceptable) to HR, indicating a date of retirement.
- g) HR will confirm in writing the effective date of retirement and issue a new employment contract with effect from a date agreed between the employee, line manager and

Human Resources.

- 4.2 By taking Retirement and Re-employment, haven taken benefits from the existing Pension Scheme, the employee will have broken their pensionable service and membership of the existing FPS will be terminated. Upon re-employment the employee will be given details of the 2015 FPS or LGPS as applicable. **Employees should be aware that you will be automatically entered into the new scheme unless they advise HR immediately and complete the opt-out form to prevent contributions being taken from salary. Refunds are not permitted under the scheme and therefore prompt action is essential.**
- 4.3 Employees who are not eligible to join the 2015 FPS will be automatically brought into the Local Government Pension Scheme (LGPS). The pension abatement ruling still applies and the FPS pension would be abated until the end of employment with the Fire service.
- 4.4 If, upon Re-employment, the employee chooses not to join the 2015 Firefighters' Pension Scheme and subsequently became ill or injured and entitled to an ill health pension, their FPS pension would be paid in full and would no longer be abated. They would not receive a 2015 FPS pension for service after re-employment.

5. Terms and Conditions

- 5.1 Re-employment is not subject to a successful medical at application stage. However employees will continue to have periodic medicals at the prescribed interval in line with all other uniformed employees.
- 5.2 The break in pensionable service represents a break in continuous service, and previous service will not count as continuous for the purposes of redundancy, annual leave, long service leave and payments such as Continuous Professional Development. There will be no entitlement to payment of NHS charges etc for staff who have flexibly retired and re-engaged.
- 5.3 No further extensions of service will be agreed once the period of re-employment (as detailed above in 4.1.c) has been completed.

Appendix A**Application for Flexible Retirement and Re-engagement****Section A - Applicant details**

Name of applicant:	Service No:
Station/Watch/Dept:	Location:
Intended Retirement date:	

Section B - Supporting information

Sickness Absence during last 3 years:
Please provide details of any key critical time bound projects that you are involved with that will be adversely impacted upon if you retire:
Please provide details of any particular skills, knowledge experience or expertise that you possess, and why you feel the Service would have difficulty in replacing these in the short-term:

Section C - Declaration

I hereby apply for re-employment with Dorset Fire & Rescue Service, following my flexible retirement.	
I confirm that I accept the terms and condition relating to re-employment, as detailed in the policy on retirement and re-employment of uniformed employees. I understand that if my application is successful I will be expected to serve at any suitable location, appropriate to my role, expertise and knowledge, which may not be the location I served at prior to retirement.	
Signed:	Date:

Section D - Supporting information

Line Manager statements - reasons for supporting/declining request:

Signed:

Date

Line Manager name:

Additional comments:

Station/Department:

Date

Additional Comments:

Director:

Date:

Additional Comments:

ACFO Service Delivery:

Date:

Section E - Decision

Reasons for approving/declining the request:

Chief Fire Officer:

Date: