



**Wednesday,  
18 September 2019  
12.00 pm**

**Meeting of  
Staffing Committee  
Sadler Road  
Winsford**

Contact Officer:  
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Democratic Services

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## **Cheshire Fire Authority**

### **Notes for Members of the Public**

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#### **Attendance at Meetings**

The Cheshire Fire Authority welcomes and encourages members of the public to be at its meetings and Committees. You are requested to remain quiet whilst the meeting is taking place and to enter and leave the meeting room as quickly and quietly as possible.

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An elector in the Fire Service area can ask the Chair of the Authority a question if it is sent to the Monitoring Officer at Fire Service HQ to arrive at least five clear working days before the meeting. The contact officer named on the front of the Agenda will be happy to advise you on this procedure.

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#### **Access to Information**

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The Agenda is usually divided into two parts. Members of the public are allowed to stay for the first part. When the Authority is ready to deal with the second part you will be asked to leave the meeting room, because the business to be discussed will be of a confidential nature, for example, dealing with individual people and contracts.

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#### **Recording of Meetings**

Anyone attending the meeting should be aware the Authority audio-records its meetings. There is a protocol on reporting at meetings which provides further information. Copies are available on the Service's website [www.cheshirefire.gov.uk](http://www.cheshirefire.gov.uk) or alternatively contact Democratic Services for details

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## **MEETING OF THE STAFFING COMMITTEE**

**WEDNESDAY, 18 SEPTEMBER 2019**

**Time : 12.00 pm**

**Cheshire Fire and Rescue Service, Sadler Road, Winsford, Cheshire, CW7 2FQ**

## **AGENDA**

### **Part 1 - Business to be discussed in public**

#### **1 PROCEDURAL MATTERS**

**1A Recording of Meeting**

**1B Apologies for Absence**

**1C Declaration of Members' Interests**

Members are reminded that the Members' Code of Conduct requires the disclosure of Statutory Disclosable Pecuniary Interests, Non-Statutory Disclosable Pecuniary Interests and Disclosable Non-Pecuniary Interests.

**1D Minutes of the Staffing Committee** (Pages 1 - 2)

To approve the minutes of the Staffing Committee held on 10<sup>th</sup> June 2019.

**2 Re-employment and Pension Abatement Policy** (Pages 3 - 16)

**3 Exclusion of Press and Public** (Pages 17 - 18)

### **Part 2 - Business to be discussed in Private**

**4 Re-employment - Specialist Fire Investigator (Fixed Term Appointment)** (Pages 19 - 24)

This report is concerned with the filling of a post that is required to co-ordinate some complex and time-critical work. It is a fixed-term appointment. An individual has been identified with the specialist skills required. He is a former employee who retired and is now in receipt of a pension. The report is being dealt with in private as it contains information about the financial affairs of the individual.

This report is concerned with the application of a rule concerning the abatement (reduction) of pensions of employees who have retired and been re-employed to support on-call firefighter recruitment and training. The report is being dealt with in private as it includes details about the financial affairs of one individual to illustrate the issue being considered.

**Note:**

This agenda has been prepared on the basis that the Fire Authority will delegate certain responsibilities to the Staffing Committee prior to the meeting.



## MINUTES OF THE MEETING OF THE STAFFING COMMITTEE held on Monday, 10 June 2019 at Leadership Team Conference Room - Fire Service, Clemonds Hey at 3.00 pm

**PRESENT:** Councillors B Rudd (Chair), S Nelson, D Flude, S Parker and M Tarr

### 1 PROCEDURAL MATTERS

#### A Apologies for Absence

There were no apologies for absence.

#### B Declaration of Members' Interests

There were no declarations of Members' interests.

#### C Minutes of the Staffing Committee

**RESOLVED:**

That the minutes of the Staffing Committee held on 22<sup>nd</sup> May 2019 be confirmed as a correct record.

### 2 EXCLUSION OF PRESS AND PUBLIC

**RESOLVED:** That:

That under Section 100(A) (4) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Order 2006, the press and public be excluded from the meeting for the items of business listed below on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12A to the Act in the paragraphs indicated:

**Item 3 – Firefighter Pension Scheme Internal Dispute Resolution Procedure  
Stage 2 – Application for Reconsideration of Decision**

**Paragraph 1 - Information relating to any individual**

### 3 FIREFIGHTERS PENSION SCHEME INTERNAL DISPUTE RESOLUTION PROCEDURE STAGE 2 - APPLICATION FOR RECONSIDERATION OF DECISION

Consideration was given to a report of the Director of Transformation which requested the Committee to consider a Stage Two appeal, submitted in accordance with the Internal Dispute Resolution Procedure (IDRP) by a former member of staff.

**RESOLVED:** That

[1] the decision at Stage One of the IDPR be confirmed.

# Agenda Item 2

## CHESHIRE FIRE AUTHORITY

**MEETING OF:** STAFFING COMMITTEE  
**DATE:** 18<sup>TH</sup> SEPTEMBER 2019  
**REPORT OF:** DIRECTOR OF GOVERNANCE AND COMMISSIONING  
**AUTHOR:** ANDREW LEADBETTER

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**SUBJECT:** RE-EMPLOYMENT AND PENSION ABATEMENT POLICY

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### Purpose of Report

1. To provide Members with information about proposed changes to the policy on re-employment and pension abatement. This has been prompted by various issues that are reflected in this report and in other reports on the agenda. The changes are intended to provide some additional flexibility, further clarity where this is required and to incorporate changes in legal requirements.

**Recommended:** That;

- [1] the contents of the report be noted and the proposed changes to the policy be approved.

### Background

2. In 2014 the Policy Committee approved changes to the Authority's policy on the re-employment of staff following retirement and pension abatement as a result of changes to the Firefighters Pension Scheme and HMRC Guidance on Protected Pension Age (PPA).
3. Since then, a small number of former employees have been re-employed primarily as on-call firefighters but also to roles in fire protection.

### Information

4. The proposed changes to the policy are shown in red on Appendix 1.
  - Paragraph 1.1: For the avoidance of doubt, a definition of abatement is now included in the introduction to the policy.
  - Paragraph 4.1: Re-employment in this context is extended to on-call roles up to and including Watch Manager.
  - Paragraph 4.2: The 2015 FPS does not contain abatement provisions.
  - Paragraph 5.3: The policy requires the Authority to follow an open and competitive process in all cases. The amendment provides the Authority

with an alternative to this, in exceptional circumstances. Examples are provided.

- Paragraph 5.5 and 5.6: The Director of Transformation and the Head of Service Delivery can approve the re-employment of a retired firefighter to an on-call role up to and including the role of Watch Manager. For all other roles, the approval of the Staffing Committee is required.
- Paragraph 5.7, 5.8 and 5.9: The provisions from the National Framework have been added to the policy. Any decision concerning the re-employment of an Area Manager or above would need to be taken by the Fire Authority.
- Paragraph 6.4 and 6.5: There is a presumption that pension abatement will apply and only the Staffing Committee can agree not to abate.
- Paragraph 6.6: The National Framework requires the pension of a re-employed officer at Area Manager level or above to be abated on re-employment.
- Paragraph 6.12 and 6.13: Further information is provided about the rules on PPA.

## **Financial Implications**

5. If pension abatement is not applied, the Authority will be required to pay an amount equal to the amount which should be abated into the pension fund.

## **Legal Implications**

6. The rules on abatement are contained in Rule K4 of the FPS 1992 and Part 9 Rule 3 of the NFPS, as amended by the Firefighters Pension Scheme(Amendment) (No.2) (England) Order 2013.
7. Each Fire Authority should have a policy on abatement and how they will apply this to their employees.
8. The Authority must comply with the Fire and Rescue National Framework and the amendments to the policy incorporate these requirements.

## **Equality and Diversity Implications**

9. There are none.

## **Environmental Implications**

10. There are none.

**CONTACT: NAOMI THOMAS, GOVERNANCE AND CORPORATE PLANNING MANAGER**

**TEL [01606] 868804**  
**BACKGROUND PAPERS: NONE**

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# 1203

## RE-EMPLOYMENT & PENSION ABATEMENT POLICY (ALL STAFF)

This policy outlines Cheshire Fire Authority's (CFA) position on re-employment and abatement of pension following the re-employment of members of the Fire-fighters Pension Scheme 1992 (FPS), New Fire-fighters Pension Scheme 2006 (NFPS) or Local Government Pension Scheme 1997 (LGPS).

OWNER	HR Advisor – Policy, Human Resources
LAST REVIEW	February 2018
REVIEW DUE DATE	February 2021
VERSION CONTROL	3.0

### OTHER (CROSS) REFERENCES:

Fire-fighters Pension Scheme 1992 (FPS); Fire-fighters Pension Scheme 2015 (FPS 2015); New Fire-fighters Pension Scheme 2006 (NFPS) [Part 9, Rule 3]; The Firefighters' Pension Scheme (Amendment) (No 2) (England) Order 2013; FPS – SI 2013/1392; NFPS – SI 2013/1393; Local Government Pension Scheme 1997 (LGPS) (as amended) and **Fire and Rescue National Framework for England May 2018**

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# PART 1 – POLICY SECTION

## 1. INTRODUCTION

- 1.1 Abatement is when the Authority reduces or stops a member's pension if that member is re-employed in any capacity after retiring. The general abatement rule is that on re-employment the salary paid for the new employment added to the pension in payment cannot be more than the member's salary at the point they retired.
- 1.2 This policy outlines Cheshire Fire Authority's (CFA) position in respect to re-employment and the abatement of pension following the re-employment of members of the Fire-fighters Pension Scheme 1992 (FPS), Firefighters Pension Scheme 2015, New Fire-fighters Pension Scheme 2006 (NFPS) or Local Government Pension Scheme 1997 (LGPS).

## 2. SCOPE

- 2.1 This policy applies to both uniformed employees (employed under Gold/Grey Book conditions of service) who are members of either the FPS, FPS 2015 or the NFPS and non-uniformed support staff (employed under Green Book conditions of service) who are members of the LGPS.

## 3. ROLES & RESPONSIBILITIES

- 3.1 **The Director of Transformation** has overall responsibility for keeping the provisions within this policy in line with employment/pension legislation and best practice.
- 3.2 **Line managers, the Human Resources (HR) Department and Trade Union Representatives** are responsible for providing advice and guidance to employees on the application of this policy.
- 3.3 **Employees** should make themselves aware of its content and ensure that all aspects are adhered to and to ensure the effectiveness of this policy.
- 3.4 **Employees** considering re-employment are responsible for obtaining their own independent advice on the tax and other financial implications of re-employment. Cheshire Fire & Rescue Service will not accept liability for tax or other financial charges incurred by individuals.

## 4. PRINCIPLES

- 4.1 CFA policy on **re-employment** is as follows:

- The re-employment of an employee following retirement or redundancy will only occur in exceptional circumstances. ~~and with the approval of Members.~~
- Member approval will not be required for the re-employment of a retired firefighter ~~as an on-call firefighter to an on-call role (Firefighter, Crew Manager or Watch Manager)~~, where this is necessary for the operational effectiveness of the Service. Such appointments will require the approval of the Head of Service Delivery and the Director of Transformation.
- ~~The re-employment of an employee following retirement in all other circumstances will require the approval of Members.~~
- ~~The re-employment of any employee will only be possible after an open and competitive recruitment and selection process and appointments will be made on merit.~~

#### 4.2 CFA policy on **abatement** is as follows:

- The pension of any FPS/FPS 2015/ or NFPS member re-employed into any role will always be abated in whole or in part to ensure that the annual rate of pay in the new role plus the annual rate of pension does not exceed the annual rate of pay received immediately prior to retirement.
- ~~Each potential abatement case will be considered on its merits and Abatement will normally apply unless there are exceptional circumstances.~~
- ~~The rules on abatement do not apply to members of the LGPS or the FPS 2015.~~
- ~~All decisions on abatement will be taken by Members, excluding cases involving the re-employment of retired firefighters as on-call firefighters.~~

### **5. RE-EMPLOYMENT**

- 5.1 Re-employment of any employee following retirement will only occur in exceptional circumstances.
- 5.2 Appointment to any post within the Authority will follow a fair, open and competitive recruitment process and appointment will be on merit, ~~unless paragraph 5.3 applies.~~
- 5.3 There may be circumstances where an open and competitive process is not followed, for example:
  - where a retired member has the specialist skills and experience required for a particular role and where there is an urgent need

- to make an appointment. Such appointments will be on a fixed term basis only.
- Where a recently retired firefighter is re-employed to an on-call role and there is an urgent need to appoint for the operational effectiveness of the station.

5.4 Re-employment may be considered where:-

- (a) The person who has retired has critical skills and knowledge which are not widely available. ~~and which the Authority needs to retain;~~
- (b) The person who has retired is engaged on a project which is near to completion and where retention of his or her skills is required on a temporary basis until project completion.
- (c) ~~The appointment is required for the operational effectiveness of the Service.~~

5.5 The Head of Service Delivery and the Director of Transformation can approve the re-employment of a retired firefighter to an on-call role, up to and including Watch Manager, where this is necessary for the operational effectiveness of the Service.

5.6 ~~Prior to re-engagement~~ For all other appointments, approval must be sought from the Staffing Committee whose Terms of Reference include decisions on re-employment of staff. ~~The Head of Service Delivery in conjunction with the Director of Transformation, will consider the re-employment of retired firefighters as on call firefighters.~~ Any application for re-engagement must be supported by a detailed business case containing all relevant financial information outlining the cost to the Authority.

5.7 The Fire and Rescue National Framework for England (May 2018) states that fire and rescue authorities **must not** re-appoint principal fire officers (Brigade or Area Managers) after retirement to their previous, or a similar, post save for in exceptional circumstances when such a decision is necessary in the interests of public safety. Any such appointment must be transparent, justifiable and time limited. All principal fire officer posts must be open to competition nationally.

5.8 The Fire and Rescue National Framework also states that any decision to re-appoint a principal fire officer, as described in paragraph 5.7 above, should be subject to agreement by a public vote of the fire and rescue authority, or a publicised decision by the appropriate elected representative of the fire and rescue authority. The reason why the re-appointment was necessary in the interests of public safety, and alternative approaches were deemed not appropriate, must be published.

5.9 The Authority must comply with the Fire and Rescue National Framework and will adhere to the requirements outlined in Paragraphs

5.7 and 5.8 above if considering the re-employment of a principal fire officer to their previous, or a similar, post.

## 6. UNIFORMED STAFF

### RE-EMPLOYMENT OF UNIFORMED EMPLOYEES

#### **Abatement of Pension on Re-employment**

- 6.1 Abatement will only be considered on re-employment where the annual rate of pay on re-employment plus the annual rate of pension payable exceeds the annual rate of pay received in the previous role, immediately prior to retirement.
- 6.2 Where this is the case, the annual pension ~~may~~ will normally be reduced by the amount by which the pension received and pay in the new post exceeds the pay received in the previous role.
- 6.3 Abatement must be considered in all cases where a uniformed employee who is a member of the FPS, ~~FPS 2015~~ or NFPS applies for re-engagement to any role within the Authority.
- 6.4 ~~If re-engagement without abatement is being considered, a report must be submitted to and the financial implications will be included in the report which is submitted to the Staffing Committee outlining the financial implications to the Authority.~~ referred to in Paragraph 5.3-4 above.
- 6.5 If abatement is ~~possible~~, but ~~should apply~~ but there are exceptional circumstances, the Staffing Committee can elect to exercise ~~it's~~ their discretion to continue full payment of the pension ~~and~~ the Authority will be required to pay an amount equal to the amount which should be abated, into the pension fund.
- 6.6 As required by the Fire and Rescue National Framework, a principal fire officer's pension will be abated following re-employment until they cease to be employed by a fire and rescue authority. Principal fire officers include Area Managers and above.

#### **Protected Pension Age**

- 6.7 Employees who are members of the FPS who are able to retire between 50 and before 55 years of age are able to do so because they have a "Protected Pension Age". Re-employment under certain conditions can result in them losing protections afforded to them under the "Protected Pension Age" rules and may result in them incurring a tax liability on pension. Employees must ensure that they have taken advice from an appropriate person e.g. tax advisor as Cheshire Fire & Rescue Service (CFRS) will not accept liability for tax charges incurred by individuals who have lost their "Protected Pension Age" status.

- 6.8 CFRS will require any member of the FPS who has a “Protected Pension Age” to confirm in writing that they have taken tax advice, before any offer of employment would be confirmed.

### **Pension Entitlement on Re-employment**

- 6.9 If any former uniformed employee is re-employed to a uniformed role on Gold or Grey Book terms and conditions, they would be eligible to join the NFPS, provided that their new role included a requirement to engage in firefighting duties or attendance at other emergencies.
- 6.10 If any former uniformed employee is re-employed to a non-uniformed role on Green Book terms and conditions, they will automatically be entered into the LGPS. This applies if they work full time or part time or on a temporary or permanent basis. Employees can opt out of the LGPS if they wish within 3 months of re-joining the Service. To receive reimbursement of automatic pension contributions, employees must notify the HR department that they wish to opt out of the LGPS within 3 months of the commencement of their re-employment.

### **Contractual Entitlements on Re-employment**

- 6.11 Specific details of entitlements to annual leave, sick leave etc will be detailed in the employee’s new contract of employment and uniformed employees who subsequently rejoin the Service in a Support Staff role will be subject to the terms and conditions of employment outlined in the National Joint Council for Local Government National Agreement on Pay and Conditions of Service (“The Green Book”).

### **Break in Service**

- 6.12 Re-employment may be on a temporary or permanent basis and a formal break in service **will be required**:

For members of the FPS or NFPS who have retired between the age of 50 and 55 and have a Protected Pension Age a break in service of at least six months is required if re-employed into a firefighting role.

For members of the FPS or NFPS who have retired between the age of 50 and 55 and have a Protected Pension Age a break in service of at least one month is required for re-employment to a materially different post, such as a support staff role.

- 6.13 **For all other cases, a break** of one complete calendar week (Sunday to Saturday inclusive) **will be required**.
- 6.14 Breaks **in service** cannot be taken as paid leave.

## **7. RE-EMPLOYMENT OF SUPPORT STAFF**

This section of the policy applies to those members of staff who are members of the Local Government Pension Scheme (i.e. employees

conditioned to the Green Book conditions of service). HMRC rules about “Protected Pension Age” do not apply to support staff.

### **Abatement of Pension on Re-employment**

- 7.1 The abatement rules do not apply to support staff who are re-employed by the Authority. A support staff employee’s monthly pension payment will not be abated upon re-employment to a Green Book role.

### **Pension Entitlement on Re-employment**

- 7.2 Employees will be automatically entered into the LGPS. This applies if they work full time or part time, or on a temporary or permanent basis. Employees can opt out of the LGPS if they wish within 3 months of re-joining the Service. To receive reimbursement of automatic pension contributions, employees must notify the HR department that they wish to opt out of the LGPS within 3 months of the commencement of their re-employment.

### **Contractual Entitlements on Re-employment**

- 7.3 Employees will be issued with a new contract of employment on re-employment to the Service.

### **Break in Service**

- 7.4 A formal break in service of one complete calendar week (Sunday to Saturday inclusive) will be required before an individual can be re-employed, albeit in a different capacity, with CFRS. This break cannot be taken as paid leave. An employee who has received a redundancy payment from CFRS will be required to have a break in service of four weeks before re-employment.

## **8. INTER-SERVICE ABATEMENTS**

- 8.1 In determining whether to apply inter-service abatement, consideration will be given to any pension benefit currently being received by the employee concerned.
- 8.2 Employees retiring from CFRS but recommencing employment with a different “scheme employer” (i.e. another Local Authority) should be aware that abatement rules may vary depending on the scheme employers own specific policy.

## **9. REVIEW OF POLICY**

This policy will be reviewed every 3 years or in light of new employment legislation or pension rule changes and/or relevant case law.

## PART 2 – GUIDANCE SECTION

### FREQUENTLY ASKED QUESTIONS

**Q: What are the requirements for re-employment?**

**A:** The re-employment of any employee following retirement or voluntary redundancy will only occur in exceptional circumstances and **normally** with the approval of Members. Member approval will not be required for the re-employment of a retired firefighter as an on-call firefighter, where this is necessary for the operational effectiveness of the Service. Such appointments will require the approval of the Head of Service Delivery **and the Director of Transformation**. The re-employment will **normally** only be possible after an open and competitive recruitment and selection process and appointments will be made on merit.

**Q: Is a formal break in Service required before re-employment?**

**A:** Yes. Support staff are required to have a formal break in service of one complete calendar week (Sunday to Saturday inclusive) before they can be re-employed. An employee who has received a redundancy payment will be required to have a break in service of four weeks before re-employment.

Uniformed staff are required to have a formal break in service of one complete calendar week (Sunday to Saturday inclusive). **Different rules apply to anyone with a Protected Pension Age as outlined in the Policy.** ~~six calendar months where the retiree is under 55 years of age before re-employment.~~ These breaks cannot be taken as paid leave.

**Q: Will employees receive a new contract of employment on re-employment?**

**A:** Yes, both support and uniformed staff will receive a new contract of employment on re-employment into the service.

**Q: What is the criteria for abatement of pension on re-employment for uniformed employees?**

**A:** Abatement will only be considered on re-employment where the annual rate of pay on re-employment plus the annual rate of pension payable exceeds the annual rate of pay received in the previous role, immediately prior to retirement.

Where this is the case, the annual pension may be reduced by the amount by which the pension received and pay in the new post exceeds the pay received in the previous role.

**Q: Who approves uniformed abatement on re-employment?**

**A:** Abatement must be considered in all cases where a uniformed employee (who is a member of the FPS or NFPS) applies for re-engagement to any role within the Authority. **If re-engagement without abatement is being considered a report must be submitted** to the Staffing Committee outlining the financial implications. If abatement **should apply** is possible, but the Staffing Committee elect to exercise its discretion to continue full payment of the pension, the Authority will be required to pay an amount equal to the amount which should be abated, into the pension fund.

**Q: What is the criteria for abatement of pension on re-employment for support staff?**

**A:** The abatement rules do not apply to support staff who are re-employed by the Authority. A support staff employee's monthly pension payment will not be abated upon re-employment to a Green Book role.

**Q: Whose responsibility is it to check the implications regarding 'Protected Pension Age' for re-employment of an employee who retires between 50 and 55 years of age?**

**A:** Employees who are members of the FPS who are able to retire between 50 and before 55 years of age are able to do so because they have a "Protected Pension Age". Re-employment under certain conditions can result in them losing protections afforded to them under the "Protected Pension Age" rules and may result in them incurring a tax liability on pension. Employees must ensure that they have taken advice from an appropriate person e.g. tax advisor as Cheshire Fire & Rescue Service (CFRS) will not accept liability for tax charges incurred by individuals who have lost their "Protected Pension Age" status.

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# Agenda Item 3

## CHESHIRE FIRE AUTHORITY

**MEETING OF:** STAFFING COMMITTEE  
**DATE:** 18 SEPTEMBER 2019  
**REPORT OF:** GOVERNANCE AND CORPORATE PLANNING  
MANAGER  
**AUTHOR:** NAOMI THOMAS

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**SUBJECT : EXCLUSION OF THE PRESS AND PUBLIC**

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### **Exclusion of the Press and Public**

#### **Recommended:**

That under Section 100(A) (4) of the Local Government Act 1972, as amended by the Local Government (Access to Information) Order 2006, the press and public be excluded from the meeting for the items of business listed below on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12 A to the Act in the paragraphs indicated:

#### **Item 4**

#### **Re-employment – Specialist Fire Investigator (Fixed Term Appointment)**

##### **Paragraph**

- (1) Information relating to an individual;
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

#### **Item 5**

#### **On-call Recruitment and Training and Pension Abatement**

##### **Paragraph**

- (1) Information relating to an individual;
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

**CONTACT OFFICER: NAOMI THOMAS, FIRE SERVICE HQ, WINSFORD  
TEL: [01606] 868804**

**BACKGROUND DOCUMENTS: NONE**

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# Agenda Item 4

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 5

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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