

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).

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 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 it's 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.