

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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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 This policy outlines Cheshire Fire Authority's (CFA) position in respect of 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) or staff who have been made redundant.
- 2.1 Abatement is when the Authority reduces or stops an employee's pension if that individual 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.

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 and 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:

Re-employment can take place provided that:

- An open recruitment exercise has taken place;
and
- The applicant is the best candidate at the end of the recruitment exercise;
and
- The candidate accepts all terms of employment, e.g. abatement of pension;
and
- The candidate has had the required break in service;
and
- The post is not an Area Manager or Brigade Manager (or equivalent level)

Exceptions

4.2 An open recruitment exercise is not necessary in the following circumstance:

- Retired wholetime and/or on call firefighters, crew managers and watch managers can take up an on-call position at the same level, i.e. as a firefighter, crew manager, or watch manager.

4.3 In addition, an open recruitment exercise may not be necessary in the following limited circumstances:

- An individual is required to complete a project, or a specific task and is engaged on a temporary basis of less than two years
- Where an individual is required for operational effectiveness
- Where an individual has critical skills and/or core knowledge that is not widely available and is engaged on a temporary basis of less than two years

In all of the above exceptions, any such appointment must be approved by the relevant Brigade Manager and Director of Transformation.

Abatement

4.4 CFA policy on **abatement** is as follows:

- The pension of any FPS or NFPS member re-employed into any role will 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.
- Abatement will be applied in all cases, as if it does not occur there will be a cost to the Service.

The rules on abatement do not apply to members of the LGPS or the FPS 2015.

A decision not to abate can only be taken by Members, in cases where exceptional circumstances may apply

5. RE-EMPLOYMENT OF PRINCIPAL FIRE OFFICERS

- 5.1 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.
- 5.2 The Fire and Rescue National Framework also states that any decision to re-appoint a principal fire officer, as described in paragraph 5.1 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.
- 5.3 A principal fire officer's pension will be abated following re-employment until they cease to be employed by a fire and rescue authority.

6. RE-EMPLOYMENT FOLLOWING REDUNDANCY

- 6.1 Employees who have been made redundant by Cheshire Fire & Rescue Service will not be re-employed.

7. PROTECTED PENSION AGE (PPA)

- 7.1 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.
- 7.2 Where a member has two roles and is in the "Protected Pension Age" category, they must retire from the On Call role before or at the same time as the Wholetime role. Failure to do so will result in the loss of their protections under the "Protected Pension Age" status.
- 7.3 The re-employment of someone subject to PPA can only take place if the necessary break in Service has taken place (if in doubt a longer break will be insisted upon).

- 7.4 In addition to the required break in Service, CFRS will require any member of the FPS who has a "Protected Pension Age" to confirm in writing that they have received tax advice, before any offer of employment is confirmed.

8. BREAK IN SERVICE

- 8.1 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.

- 8.2 For all other cases of re-employment after retirement, a break of one complete calendar week (Sunday to Saturday inclusive) will be required.
- 8.3 An employee who has received a redundancy payment from an organisation listed on the Redundancy Payments Modification Order (RPMO) will be required to have a break in service of 4 weeks before re-employment.
- 8.4 Breaks in service cannot be taken as paid leave.

9. TERMS & CONDITIONS UPON RE-EMPLOYMENT

- 9.1 Staff who are re-employed by the Service will be employed under the relevant NJC terms and conditions for the role they are appointed to, including automatic enrolment into the relevant Pension Scheme, unless they opt out.

10. INTER-SERVICE ABATEMENTS

- 10.1 Staff who have retired from other Fire & Rescue Authorities and who are subsequently employed by CFRS will be required to confirm that they have made their previous Pension Scheme employer aware of their new employment.
- 10.2 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, and they should consult their new employer directly. The Service will seek to apply abatement where this is feasible.

PART 2 – GUIDANCE SECTION

FREQUENTLY ASKED QUESTIONS

Q: What are the requirements for re-employment?

A: The re-employment of any employee following retirement will normally only be possible after an open and competitive recruitment and selection process and appointments will be made on merit.

In some exceptional circumstances, where approved by the relevant Brigade Manager and the Director of Transformation, re-employment can take place without an open recruitment process.

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 from another Authority 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. 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 will 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: 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.

