



Re-engagement after Retirement Policy & Procedure

Policy No. 33

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People Area	Re-engagement after Retirement Policy & Procedure
Authored by (Responsible Officer):	Senior Head of People
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POLICY

1. Policy

1.1 Policy Statement

- 1.1.1 Cleveland Fire Authority is committed to maintaining an efficient and effective workforce and recognises the valuable contribution of all employees in achieving its objectives.
- 1.1.2 In certain circumstances the re-engagement of staff after retirement can support the Authority in achieving its objectives, and whilst there is no automatic right to re-engagement after retirement, Cleveland Fire Authority will consider re-engagement after retirement in the following circumstances:
- 1.1.3 **Re-employment** - retired employees will be eligible to apply for vacancies, through an open recruitment process, provided the role is fundamentally different from the post from which they retired. A simple change in hours will not be a materially different employment. To be a materially different employment the duties and/or the level of responsibility in the new employment must be different from those in the old employment. Where there is doubt, advice can be sought from the Head of Human Resources however individuals are responsible for obtaining their own independent advice on tax and financial implications of re-engagement.
- 1.1.4 **Re-appointment** - on occasions when it would be in the interests of public safety and/or efficiency, the Authority will permit retired employees to be temporarily re-appointed into the role they were undertaking prior to their retirement. This can only be done with the express agreement from the Chief Fire Officer or Fire Authority members in the case of re-engagement of principal officers.

1.2 Legal Considerations

Tax Simplification Rules 2006

- 1.2.1 Prior to 6 April 2006, tax legislation required any payments received from pension schemes as a lump sum payment to be paid as non-taxable if the employee actually retired. The advice given from Her Majesty's Revenue and Customs (HMRC) was that if employment was then taken up which utilised the skills from their previous employment (under which a pension was paid) then to all intents and purposes they were not 'retired' and as such could become subject to penalties over and above normal taxation rates.
- 1.2.2 From 6 April 2006, under the Tax Simplification Rules, employees were able to receive their lump sum from the pension scheme and could take up similar employment without incurring any penalties. In order to receive the lump sum payment the employee must retire from their present post, which requires a clear break of at least 7 calendar days (to span two clear Sundays). If, following this retirement, the employee is re-engaged; their monthly pension payment is abated, either in part or in whole, whilst they are in receipt of a salary payment.

- 1.2.3 Employees who are re-engaged can also request to join a pension scheme appropriate to their individual circumstances to build up benefits within that scheme under their new contract of employment. For Grey Book employees, this would be the Firefighter's Pension Scheme 2015 and for Green Book employees, this would be the Local Government Pension Scheme (LGPS). There is no longer an option to join the Firefighters Pension Scheme (FPS).
- 1.2.4 The decision on whether or not to re-employ an employee who retires is for individual employers to determine.

The Fire and Rescue National Framework for England 2018

- 1.2.5 Fire and rescue authorities must not re-appoint principal fire officers 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.
- 1.2.6 In the exceptional circumstance that a re-appointment is necessary in the interests of public safety, this decision should be subject to agreement by a public vote of the elected members of the fire and rescue authority, or a publicised decision by the appropriate elected representative of the fire and rescue authority, taking into account the legislative requirements of FRA Chief Fire Officer appointment procedures.
- 1.2.7 The reason why the re-appointment was necessary in the interests of public safety, and alternative approaches were deemed not appropriate, must be published and the principal fire officer's pension must be abated until they cease to be employed by a fire and rescue authority.
- 1.2.8 To ensure greater fairness and the exchange of talent and ideas, all principal fire officer posts must be open to competition nationally, and fire and rescue authorities must take account of this in their workforce planning.
- 1.2.9 While the above requirements only extend to principal fire officers, there is an expectation that fire and rescue authorities have regard to these principles when re-appointing at any level.

Cleveland Fire Authority's Pay Policy Statement

- 1.2.10 In accordance with the Regulations of the relevant Pension Schemes, if an employee retires and then returns to work and their earnings on re-engagement (including pension) exceed their earnings before they retired, the Fire Authority will reduce or stop ("abatement") the employees' pension to the point where the aggregate of the pension in payment and the salary received on re-engagement does not exceed the level of earnings directly prior to their retirement.

1.3 Policy Objectives

- 1.3.1 The objective of this policy is to ensure that the Authority consistently and fairly applies re-engagement after retirement procedures across all employment groups in accordance with relevant government guidance, legislation and pension regulations.

1.4 Scope

- 1.4.1 The policy applies to all employees who are directly employed by the Authority and are members of the Local Government Pension Scheme (LGPS), the Firefighters Pension Scheme (FPS), the New Firefighters Pension Scheme (NFPS) and the Firefighters Pensions Scheme 2015 who have retired from their role either on a voluntary basis, through ill health or through redundancy and are in receipt of their pension scheme benefits or who have submitted their notice to retire.

- 1.4.2 This policy and its associated procedure are one of several policies and procedures relating to re-engagement with Cleveland Fire Brigade, these are:

- Retirement Policy
- Redundancy Policy
- Recruitment, Selection and Promotion Policy
- Pay Policy Statement

1.5 Policy Category

- 1.5.1 This Policy is categorised as '**Corporate Authority**' within the Key Document Framework.

2. Organising

2.1 Cleveland Fire Authority is responsible for:

- approving the Authority's Re-engagement after Retirement Policy
- approving the re-engagement of principal officers

2.2 The Chief Fire Officer (CFO) is responsible for:

- having overall accountability for this policy and its execution
- reviewing, considering and determining the outcome of applications for re-appointment within the Brigade in line with the Authority's Scheme of Delegation

2.3 The Assistant Chief Fire Officer Strategic Planning and Resources (ACO SPR) is responsible for:

- reviewing, considering and determining the outcome of applications for re-employment within the Brigade in line with the Authority's Scheme of Delegation
- agreeing the implementation of a re-engagement opportunity as a resourcing tool for internal vacancies as appropriate
- liaising with HR in the context of employment legislation and pension regulations as applicable

2.4 The Senior Head of People (SHoP) is responsible for:

- monitoring arrangements within their areas of jurisdiction in relation to this policy

2.5 The Head of Human Resources (HHR) is responsible for:

- implementing this policy
- providing training and development to those involved in the application of this policy
- ensuring that the policy and procedure meets and continues to meet the requirements of employment legislation and pension regulations
- effectively communicating this policy and procedure to all staff
- evaluation, review, administration and management of the process of this policy
- providing accurate information regarding procedures to managers and employees.

2.6 Managers are responsible for:

- implementing and ensuring that employees are aware of this policy.

2.7 Individuals are responsible for:

- familiarising themselves and following the principles of this policy.
- obtaining their own independent advice on tax and other financial implications of re-engagement. The Authority will not accept liability for tax or other financial charges incurred by individuals.

2.8 Trade Unions and Representative Bodies are responsible for:

- supporting the implementation of, and adherence to, this policy and procedure

3. Planning & Implementing

- 3.1 This policy is underpinned and implemented through the Authority's Re-engagement after Retirement Procedure Appendix 1.
- 3.2 No formal training is anticipated in relation to this policy. However, the contents of this policy and the subsequent procedures will be published on the Brigade's intranet.
- 3.3 All new staff will be made aware of this policy and procedure during their induction.
- 3.4 Existing staff will be informed of this policy and procedure as per the accepted Policy Framework Procedure.

4. Resource Implications

- 4.1 There are no direct financial implications arising as a result of this policy.
- 4.2 There are people resources required to coordinate the procedure; recruitment, document administration, liaison with individuals and training and communication. Most of this work is regarded as core work of the Human Resource Department.

5. People Impact Assessment

- 5.1 This policy has been assessed in accordance with the Brigade's People Impact Assessment Procedure.
- 5.2 The findings of the People Impact Assessment conclude that the Re-engagement after Retirement Policy and Procedure does not have a detrimental impact on any group of staff, including those with one or more protected characteristics. Conversely it is considered to provide additional benefits to staff, in the way of professional and personal development opportunities and reinforces the message that there is no age related reason for termination of employment and supports the opportunities available for the employment of disabled staff.

6. Monitoring

- 6.1 The Head of Human Resources will monitor activities under this policy and procedure and will have responsibility to ensure performance management issues outlined in the policy are met. Continuous improvement involves ensuring this policy is in line with best practice and legislative changes.

7. Audit

- 7.1 This policy will be audited in accordance with the procedure detailed within the Authority's Policy Framework.

- 7.2 This policy and following procedure have been developed in accordance with the H.M. Revenue and Customs Tax Simplification Rules, the Fire & Rescue Services National Framework Document and Pension Scheme Regulations.

8. Review

- 8.1 The ACFO SPR will undertake a review of this policy in 2024 to ensure it is taking account of any new or emerging political, social, technological, legislative, environmental, competitive, citizen or reputational factors.

PROCEDURE

1. Introduction

- 1.1 This is the procedure that underpins and implements Cleveland Fire Authority's Re-engagement after Retirement Policy.

2. Principles

2.1 Re-employment

- 2.1.1 Re-employment after retirement into a vacant post that is fundamentally different to the post from which an individual retired will follow a fair, open and competitive recruitment and selection process in accordance with the Authority's Recruitment & Selection Policy.

2.2 Re-appointment

- 2.2.1 Re-appointment after retirement may be considered where:-

- the person who has retired/is retiring has critical skills and knowledge which are not widely available and which the Authority needs to retain
- the person who has retired/is retiring is engaged on a project which is near to completion and where retention of their skills is required on a temporary basis until project completion
- the appointment is required for the operational effectiveness of the Authority.
- it has been identified that there is a risk to the organisation of skills and knowledge being lost
- it is necessary in the interests of public safety

- 2.2.2 Any application for re-appointment must be supported by a detailed business case including the consideration that has been given to the following:

- the individual's performance, sickness/discipline record and fitness for
- role
- the skills and knowledge required for completion of the project
- the skills and knowledge of the individual
- the risk of not re-appointing the individual
- the wishes of the individual
- financial implications

- 2.2.3 When an employee tenders their retirement notice and it is determined by the CFO that the Brigade would be put at risk by the employee retiring they will offered a contract of employment for a fixed term duration.
- 2.2.4 For all appointments at Principal Officer level, approval will be subject to agreement by a public vote of the elected members of the fire and rescue authority, or a publicised decision by the appropriate elected representative of the fire and rescue authority, taking into account the legislative requirements of FRA Chief Fire Officer appointment procedures. The reason why the re-appointment was necessary in the interests of public safety, and alternative approaches were deemed not appropriate, must be published.

2.3 Break in service

- 2.3.1 Re-employment may be on a temporary or permanent basis, re-appointment will only be offered on a temporary basis. A formal break in service will be required for any appointment.
- 2.3.2 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-engaged into a grey book role.
- 2.3.3 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-engagement to a fundamentally different post, such as a green book role.
- 2.3.4 For all other cases, a break of one complete calendar month will be required. This is to ensure that in the event of a redundancy claim the service will not be continuous from the original date of appointment.
- 2.3.5 Breaks in service cannot be taken as paid leave.

2.4 Abatement

- 2.4.1 Employee's re-engaged after retirement who are in receipt of benefits from their government pension scheme will have their pension abated.
- 2.4.2 This means that the pension payment will be withheld in whole or part if the annual salary from the new post when added to the annual pension payment exceeds the annual salary payment at the time of retirement.
- 2.4.3 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.
- 2.4.4 All individuals should ensure they have discussed matters fully with their pension provider before they begin the re-engagement application process.

- 2.4.5 Inter service abatement - In determining whether to apply inter-service abatement, consideration will be given to any pension benefit currently being received by the employee concerned.
- 2.4.6 Employees retiring from Cleveland Fire Authority 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.

2.5 Protected Pension Age

- 2.5.1 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-engagement 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 the Authority will not accept liability for tax charges incurred by individuals who have lost their “Protected Pension Age” status.
- 2.5.2 The Authority 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 re-engagement would be confirmed.

2.6 Pension Entitlement on Re-engagement

- 2.6.1 Previous service will not count towards continuous service for any purpose.
- 2.6.2 If any former uniformed employee is re-engaged into a uniformed role on Gold or Grey Book terms and conditions they will automatically be enrolled into the Firefighter’s Pension Scheme 2015, provided that their new role includes a requirement to engage in fire-fighting duties or attendance at other emergencies. This applies if they work full time or part time on a permanent basis.
- 2.6.3 Former uniformed employees who are re-engaged into a non-uniformed role on Gold or Green Book terms and conditions and non-uniformed employees who are re-engaged will automatically be enrolled into the LGPS. This applies if they work full time or part time or on a temporary or permanent basis.
- 2.6.4 Employees can opt out of either pension scheme if they wish within 3 months of re-joining the Authority. To receive reimbursement of automatic pension contributions, employees must notify the HR department that they wish to opt out within 3 months of the commencement of their re-engagement.

2.7 Contractual Entitlements on Re-engagement

- 2.7.1 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 re-join the Authority in a Green Book 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”).

2.8 Re-employment after Ill Health Retirement

- 2.8.1 Individuals who have been retired on ill health grounds who are subsequently deemed fit to undertake at least 30 hours of work each week will be eligible to apply for re-engagement through open competition. Their entitlement to continue receiving their ill health pension benefits will depend on the scheme they are in therefore individuals are encouraged to take advice in relation to their specific scheme arrangements before making an application for re-engagement.