

**Hampshire Fire and Rescue Authority**

**HR Committee**

**12 July 2011**

**Item 9**

**Re-employment of Grey Book Employees in the Firefighters Pension Scheme (FPS)/New Firefighters Pension Scheme (NFPS) and Green Book Employees in the Local Government Pension Scheme (LGPS) following Retirement**

Contact: Keely Stafford, HR Business Manager, Tel: 023 8064 4000 ext 5425  
E-mail: keely.stafford@hantsfire.gov.uk

**1 Summary**

- 1.1 On 1 December 2006 the Service Management Team (SMT) and the Hampshire Fire and Rescue Authority (HFRA) Human Resources (HR) Committee agreed that for Grey Book employees eligible employees may request to commute their pension lump sum and, following a break in service, be re-employed in their existing role. On 20 April 2007, the policy was extended to eligible Green Book employees.
- 1.2 It was also agreed that this policy would be reviewed on an annual basis to ascertain the impact on the Service's Equality and Diversity targets and career progression for staff.
- 1.3 Hampshire Fire and Rescue Service (HFRS) is facing funding and budget constraints as a result of the Comprehensive Spending Review (CSR), and as such it is timely to consider the effects of the continuation of the re-employment policy that HFRS currently has in place.

**2 Recommendations**

- 2.1 That the HR Committee commissions a review of the current policy on re-employment.
- 2.2 That the HR Committee instigates an immediate temporary freeze on all re-employment applications for eligible individuals whilst conducting a review as detailed in recommendation 2.1 above.

### **3 Introduction and Background**

- 3.1 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.
- 3.2 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 in service. If following this retirement the employee is re-employed, their monthly pension payment is abated, either in part or in whole, whilst they are in receipt of a salary payment. The monthly pension payment is based on their final salary prior to any period of re-employment.
- 3.3 Employees who are re-employed 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 New Firefighters' Pension Scheme (NFPS) if they are re-employed into the role of a Watch Manager or below. If they are re-employed into the role of a Station Manager or higher, or are a Green Book employee, they can request to join the Local Government Pension Scheme (LGPS). There is no provision to join the FPS.
- 3.4 The decision on whether or not to re-employ an employee who retires is entirely for individual employers to determine.
- 3.5 With effect from April 2011, based on a decision made by SMT and the HR Committee in November 2010, the Service's policy on re-employment was amended. The current policy is that a break in service must be of at least four weeks any subsequent re-employment after that is on an 11 month fixed term contract.

### **4 Analysis of Data**

- 4.1 The following is based on data available at the time of writing. Since the introduction of the original policy in 2006, a total of 79 employees have opted to take their lump sum pension and commence re-employment to the same role. Of this 79, four employees have 11 month fixed term contracts and there are a further two individuals who have requested re-employment on an 11 month fixed term basis who's applications are currently being processed .

## **5 Contribution to Corporate Aims and Objectives**

- 5.1 To ensure that the current policy does not have a detrimental impact on the Services' aim of achieving a more diverse workforce, it has been reviewed on an annual basis.
- 5.2 This policy impacts upon the Service's Efficient and Flexible Crewing (EFC) project and therefore the Services corporate objectives 2 and 7 within the 2008/09 Service Plan, as well as the 2009/10 objective regarding Staff Review.
- 5.3 The Service is currently engaged in a number of projects that are co-ordinated by the Financial Challenge Programme Board which is chaired by the Chief Officer. The Staff Review project and Efficient and Flexible Crewing project concentrate on making efficiency savings and reducing HFRS salary expenditure. This is in response to the overall reductions predicted within the CSR and the resultant forecasted reduction in our funding allocation as part of the public sector budget cuts.
- 5.4 Given that the largest cost to the organisation is salaries, HFRS is clear that a reduction in staff costs is required in order to achieve the savings that will be required in future years. Arguably, allowing re-employment encourages people to remain in employment with HFRS when they may have otherwise retired when they became eligible to collect their pension benefits. This is one aspect that will be considered within the review.

## **6 People Impact Assessment**

The revised People Impact Assessment for this policy indicates there are some risks and advantages to consider. These are summarised as follows:

- 6.1 Continuing to allow re-employment could be a barrier to HFRS in its long term aim to increase the diversity of the workforce, and in particular could have an adverse impact on recruitment opportunities for people in the wider community. However, as the Service is not currently recruiting, and is unlikely to do so in the short to medium term, this risk is reduced at this time.
- 6.2 As HFRS continues to concentrate on plans to reduce staff costs, whilst we have committed to contract via natural wastage, compulsory redundancies cannot be ruled out. If on one hand we have little choice but to make redundancies, and on the other we have a mechanism in place that effectively encourages employees to remain in employment, there is clearly a conflict. We also know that re-employment is most likely to benefit males, therefore female employees who face redundancy may have a case for sex discrimination by arguing that opportunities and encouragement for continued employment are more favourable for men.
- 6.3 HFRS is currently over its desired establishment levels for Firefighters if we work on the premise that all temporary promotion chains and secondments do not result in substantive appointments (i.e. all employees in these positions return to their base post). By continuing to allow re-employment, we are less likely to achieve the expected reductions in our workforce via natural turn over within the timeframes required.

- 6.4 Current recruitment at firefighter level is limited to the Retained Duty System (RDS) given that the organisation is using the EFC project to utilise its resources more effectively. There is some evidence that had they not been able to access their lump sum, some individuals who have taken re-employment would have retired and left the organisation permanently when they became eligible for retirement. It could be considered that employees are incentivised to take the re-employment option and continue working for the Service when they may have otherwise retired permanently. In general terms, this reduces the opportunity for the Service to recruit a more diverse workforce in the longer term, but more critically at present, to be able to reduce baseline salary costs. In light of the EFC project requirements, it is more the case that this policy slows down the 'vacancy factor' that is planned for. Employees who are eligible for re-employment are generally more expensive to employ (see 7.2). Therefore the review will need to take this into consideration.
- 6.5 HFRS has been exploring flexible working options for employees as Grey Book employees in particular have historically been employed on a full time basis only. Evidence suggests that a number of those Grey Book employees who have been re-employed under this policy have also requested part time working. There is a risk that, if allowed, all part time working options within the Service will be filled by this employee group (i.e. white British males over a certain age), leaving restricted opportunities for other employee groups to alter their working patterns, or for the Service to employ people directly on a part time basis. This could affect our ability to attract diverse and under-represented employee groups in the future.
- 6.6 Direct re-employment without advertising a vacancy could be seen as not openly recruiting. However, if the Service did not allow re-employment, eligible employees could remain in work but just not have access to their lump sum pension. If this was the case, eligible employees could equally argue that they are being penalised for this, or discriminated against on the grounds of age as they were employed when the workforce was not so diverse.
- 6.7 There is an argument that by continuing to allow re-employment, the Service's opportunity to attract younger employees to the Service is restricted. Whilst, there are no plans for recruitment currently, this policy will have a longer term effect.
- 6.8 Retention of existing employees has potential to prevent recruitment of individuals on a direct entry basis (i.e. recruitment for Grey Book roles of Crew Manager and above can now include external applicants who have not worked as a firefighter and worked their way up). Again, this could affect the ability to attract diverse and under-represented employee groups, although the immediate risk is reduced when HFRS is not planning to recruit in the short to medium term.
- 6.9 Promotion opportunities for existing staff can also be restricted currently for the same reasons as outlined above, as there is an argument that re-employment can have the effect of 'blocking' promotion opportunities for younger staff.

## **7 Resource Implications**

### **7.1 Physical Resources**

There is no impact on physical resources. Arguably, there is a cost saving as Grey Book employees who are re-employed will retain their existing Personal Protective Equipment which would otherwise have to have been purchased for new employees. In addition, there would be a cost saving on training for the same reason, employees who are re-employed would not require the same level of training as a new operational employee.

### **7.2 Financial Implications**

7.2.1 Retirement and re-employment is attractive to pension scheme members because it gives them a tax free lump sum through commutation, whilst allowing them to remain in employment in the same or very similar role. Potential positive financial impacts are that it could result in increased movement from the FPS to the NFPS or LGPS where employer contributions are lower.

7.2.2 The overall cost implication is that individuals with the required length of service to take re-employment will be paid the maximum possible in their roles. For example, a Green Book employee is likely to be at the top salary point scale within their pay grade.

7.2.3 If HFRS no longer permitted re-employment, whilst it is likely that some individuals would continue in their employment regardless, others would inevitably leave in order to access their lump sum and pension. Employer contributions would cease, and no further entitlement to join the LGPS or NFPS would be a consideration.

7.2.4 If re-employment were not permitted, it is anticipated that the vacancy factor would also increase at a faster pace, therefore more quickly reducing staff numbers via natural turn-over and reducing the potential need for redundancy measures with their associated costs.

7.2.5 Where recruitment was necessary following retirement, although this is unlikely for the foreseeable future, any employment offered would initially be based on a lower salary as a starting point with pension contributions being commensurately less.

## **8 Consultation**

8.1 Prior to the policy for re-employment being agreed in December 2006 formal consultation was undertaken with all relevant trade unions. Some offered their support for the policy, others did not make any submission one way or the other.

8.2 The Service is approaching the end of a period of collective consultation with recognised trade unions in respect of potential redundancies for this year proposed via the Staff Review. During this period of consultation, trade unions have requested that HFRS reconsiders its policy on re-employment as they believe it has a detrimental impact on the natural turnover rate within the Service. The view of FOA in particular is that HFRS should not continue to offer re-employment.

## **Background Information (Section 100D of Local Government Act 1972)**

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report:

Firefighters Pension Scheme Circular 8/2006 – 11 April 2006

[http://www.communities.gov.uk/pub/280/FPSC82006UpdateonamendmentstotheFirefightersPensionSchemeFPSandtheFirefightersCS\\_id1165280.pdf](http://www.communities.gov.uk/pub/280/FPSC82006UpdateonamendmentstotheFirefightersPensionSchemeFPSandtheFirefightersCS_id1165280.pdf)

Note: The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.