

Hampshire Fire and Rescue Authority

Human Resources Committee

Item 7

10 November 2011

Review of the Policy covering the 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

Report of the Chief Officer

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1 Summary

- 1.1 For Grey Book employees, on 1 December 2006 the Service Management Team (SMT) and the Hampshire Fire and Rescue Authority (HFRA) Human Resources (HR) Committee agreed that 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 Hampshire Fire and Rescue Service (HFRS) is facing funding and budget constraints as a result of the Comprehensive Spending Review (CSR), and as such a review of the current policy was authorised by the HFRA (HR) Committee on 12th July 2011 to consider the validity and form of any re-employment policy for HFRS into the future. A temporary freeze on further re-employment was put in place at that time pending any outcomes from this review.

2 Recommendation

- 2.1 That the HR Committee consider the attached review report and endorse the Service Management Team recommendation to action Option 2 of the report (cited below):

“The policy is removed at this time with the option to re-consider the position when the full effects of the current CSR have been absorbed by HFRS and when staffing and financial issues are once again relatively stable and balanced. This would provide future Service leaders the scope and freedom to make the best decision as to the validity and form of any new re-employment policy should they feel appropriate to introduce one at some point in the future.”

HFRS Service Management Team (SMT) also recommend that a date in late Summer/Autumn 2013 be noted as a potential first point from which the requirement for any new policy could be revisited. Any changes in the situation as described in the attached review report could then be considered.

If the HR Committee endorse these recommendations they will become effective immediately.

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 if this takes their earnings above their pre-retirement HFRS earnings. The monthly pension payment is based on their final salary prior to any period of re-employment.
- 3.3 Following recommendations made by SMT on 4th July 2011, the Hampshire Fire and Rescue Authority HR Committee ratified a freeze on the current re-employment policy with effect from 12th July 2011 and sanctioned a review of the policy.

4 Analysis of Data

- 4.1 Since the introduction of the original policy in 2006 and prior to the implementation of the freeze in July 2011 a total of 82 staff (all male) had utilised the option to retire, access their pension funds and gain re-employment with HFRS. Of these, 49 (60%) remain employed at the time of writing.
- 4.2 The effectiveness of this policy as a tool for staff retention can be seen in the figures and charts at appendix A in the attached report, with significant numbers remaining employed particularly at the more junior roles where staff reductions are being sought.
- 4.3 Further detailed data analyses are included in the attached report.

5 Contribution to Corporate Aims and Objectives

- 5.1 Whilst the policy has been reviewed annually in the past to ensure no detrimental impact on the Service's aim of achieving a more diverse workforce, the review identifies potential impacts on several Corporate Aims, Objectives and core values.
- 5.2 The Service's Efficient and Flexible Crewing (EFC) project and therefore Corporate Objectives 2 and 7 within the 08/09 Service Plan, as well as the 09/10 objective regarding the Staff Review are potentially adversely affected by retention of this policy. Any policy encouraging staff retention as successfully as the re-employment policy has done will inevitably reduce natural staff turnover. It could be viewed as wholly incompatible to be trying to reduce numbers and contemplating Voluntary and Compulsory Redundancies whilst at the same time continuing with a policy that actively encourages long term retention. The lack of recruitment enabling 'new blood'

to enter the work force could have long term implications for HFRS.

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 in response to the reductions predicted within the CSR and the resultant forecasted public sector budget cuts.

5.4 Given that the largest cost to the organisation is salaries equating to approximately 80% of our available budget, HFRS is clear that a reduction in staff costs is required in order to achieve the savings that will be required in future years. The review identifies that 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.

6 People Impact Assessment

6.1 The revised People Impact Assessment for the current (frozen) policy indicates there are a number of risks and advantages to consider. Please see the attached review report.

7 Resource Implications

7.1 Physical Resources

There is no impact on physical resources. Arguably, there is a cost saving in the current arrangement as Grey Book employees who are re-employed will retain their existing Personal Protective Equipment if the alternate consequence was that they would be replaced. If that was so, we would have to purchase for new PPE for those 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 Resource Implications

A number of financial considerations are identified in the attached policy review report.

8 Employment Law

8.1 There are risks to the current (frozen) policy associated with legitimately ending the 11 month fixed term contracts. An employee could argue that work is continuing, and therefore there is no reason to discontinue their employment, but for the purpose of re-employment and effectively preventing them from accruing employment rights. This of itself is not legitimate and is not a fair reason to end employment. However, the actual reason is decreasing demand in that the reorganisation of staff allows us to meet the current and predicted demand levels with reduced people.

8.2 Under the Prevention of Less Favourable Treatment Regulations 2002, part time and

fixed term contract employees are protected from being treated less favourably than their full time and/or permanent colleagues.

9 Consultation

- 9.1 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.
- 9.2 The Service has finished the period of individual consultation with regard to potential redundancies that may occur this year as a result of the changes agreed via the Staff Review. During the wider consultation on the Staff Review proposals, trade unions have requested that HFRS reconsiders the policy on re-employment as they believe it has a detrimental impact on the natural turnover rate within the Service. Utilisation of natural turnover and is one of the key measures agreed to reduce the risk to staff of redundancy.
- 9.3 Recent consultations with the Fire Officers Association (FOA), the FBU (Officers) section, RFU and Unison have unanimously indicated that HFRS should not continue to offer the current re-employment option. Additionally, views were expressed that if a policy were to be retained or re-introduced at a later date, greater emphasis should be placed on a robust business case supporting each application rather than re-employment being an automatic right. It was suggested a business case template specifically for this purpose be designed and used for all cases in any new policy. A further opinion that the Service should retain the option to offer re-employment in exceptional circumstances (even without a formal policy in place) was expressed.

10 Conclusion

Since the original decision to implement a policy to offer re-employment was taken the situation that the Service finds itself in has drastically changed, and has changed in a way that could not have been reasonably foreseeable. There have been finely balanced arguments as to whether to retain or remove the policy in the past. However, the critical financial drivers that now face us, make the retention of the policy an avoidable additional risk. The recommendation made reflects that imperative whilst leaving open the option for a reconsideration of the policy by future leaders when the situation may be more conducive.

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

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