

AVON FIRE AUTHORITY

MEETING:	Policy and Resources Committee
MEETING DATE:	18 April 2024
REPORT OF:	Chief Fire Officer/Chief Executive
SUBJECT:	Re-engagement, Re-employment and Abatement Policy

1. **SUMMARY**

The Policy and Resources Committee is tasked with discharging the Fire Authority's responsibilities for pension matters. The Committee is asked to consider approving a new Re-engagement, Re-employment and Abatement Policy (RRAP) to expand Avon Fire & Rescue Services' (AF&RS) ability to reemploy/re-engage AF&RS operational personnel following a competitive process, where that is in the best interests of the Service and provided the member of staff accepts an abatement of their pension.

2. **RECOMMENDATIONS**

2.1 The Committee is asked to:

- a) Approve a new AF&RS Re-engagement, Re-employment and Abatement Policy.

3. **BACKGROUND**

- 3.1 Several Fire and Rescue Services are asking their Fire Authorities to reconsider internal policies relating to the re-engagement or re-employment of operational staff, including senior officers, as the sector has an increasing number of vacancies being advertised and a shortage of suitable applicants.
- 3.2 The targeted application of re-engagement/re-employment and allowing staff to abate their pensions, allows a service to re-engage/re-employ to roles that prove hard to fill due to the specialist skills and experience required, the

length of time it takes to develop them and the limited numbers available to recruit from the market.

- 3.3 Many staff within the historic Firefighter Pension Schemes (FPS 1992 and 2006) are finding themselves in a position where their tax liabilities related to their pension funds are such that they are deciding to take retirement earlier than they would otherwise have planned. This has had a nationwide impact on the fire sector and availability of personnel to fill some vacancies until operational staff on the 2015 pension scheme have caught up in terms of experience and rank.

4. FINANCIAL IMPLICATIONS

- 4.1 All re-engagement/re-employment offers would be on the basis that the employee must accept pension abatement, which in effect would mean the reduction or freezing of a pension annuity whilst re-engaged/re-employed. No cost would therefore be incurred by the Service by the requirement in the regulations to pay sums into the pension fund equivalent to the abatement which would otherwise apply.

5. KEY CONSIDERATIONS

- 5.1 The Chief Fire Officer/Chief Executive (CFO/CE) would like to consider with the Committee expanding the Services' ability to re-engage/re-employ operational personnel only on a full-time basis, to provide appropriate value for money for the Service, and upon the basis that the individual's pension income would be abated appropriately. The proposal is that a new policy treats all operational staff the same, would follow external and internal advertisement and a fair recruitment process, with successful candidates' contracts' being limited in time **up to, and no more than** a 24-month fixed term contract, with no ability to renew contracts.
- 5.2 The Service would **not** seek to exercise its discretion under the pension regulations **not to abate** an individual's pension, so any re- engagement/re-employment offer would be on the basis that the employee **must** accept pension abatement, which in effect would mean the reduction or freezing of a pension annuity whilst re-engaged/re-employed. No cost would therefore be incurred by the Service by the requirement in the regulations to pay sums into the pension fund equivalent to the abatement which would otherwise apply.

5.3 The benefits of extending the ability to re-engage/re-employ staff are:

- Retention of expertise, skills, and experience
- Retention of organisational knowledge
- Reduced costs associated with recruitment and training.

5.4 The potential disadvantages are:

- Inhibiting promotion and succession planning opportunities
- Barrier to improving diversity of the workforce by maintaining the status quo.

Current position

5.5 AF&RS previously had a Re-employment and Re-engagement Framework which was reviewed by the Employment Committee on 8 November 2018 and revised in August 2019. It is proposed that the existing Framework be replaced with the new AF&RS RRAP at **Appendix 1**, submitted to this Committee for approval.

5.6 The AF&RS RRAP reflects the Fire and Rescue National Framework for England published in 2018, in that the National Framework contained provisions regarding the re-engagement of Principal Officers (defined as Brigade or Area Manager level and above). The National Framework stated that Fire and Rescue Authority's (FRA) '*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.

5.7 However, the proposed new AF&RS RRAP would allow decisions to be made at CFO/CE level to reflect the new Scheme of Delegation which underpins the Authority's commitment to '*operational independence*'. The Scheme of Delegation provides for the CFO/CE to '*exercise all matters of day-to-day administration and operational management of services and functions.*'

5.8 Therefore, in exceptional circumstances and in the interests of public safety, a Principal Officer (PO) may be re-appointed at the discretion of the CFO/CE. However, there will be no automatic right to re-engagement/re-employment and there will be no right of appeal following the CFO/CE's decision.

5.9 The reason why the re-appointment was necessary, and alternative approaches were deemed not appropriate, must be published and the PO's pension **must** be abated until they cease to be employed by AF&RS.

- 5.10 The Fire and Rescue Services Act 2004 requires the Secretary of State to prepare a Fire and Rescue National Framework (s 21) and FRAs '*must have regard to the Framework in carrying out their functions*'. There is concern within the Fire Sector that a new Framework is overdue, and the 2018 version requires an overhaul. There is no update from the Home Office as to when a new Framework might be issued.
- 5.11 Details regarding the current restrictions within the policy are set out below under the headings: 're-engagement' and 're-employment'.

Re-engagement

- 5.12 This is where an operational employee retires and returns to the '*same or similar job*' to that undertaken prior to retirement, irrespective of whether there has been a change in terms/conditions, hours, location etc.
- 5.13 AF&RS RRAP states that any re-engagement is only in exceptional circumstances, in the interests of public safety, and it has not been possible to fill the role through internal and external advertisement. The decision can only be made by the CFO/CE and any re-engagement will be **up to, and no more than** a 24-month fixed term contract without option to extend and abatement of pension must apply.

Re-employment

- 5.14 This is where an operational employee retires and returns to a 'substantially different role'. For all staff levels, applications will be accepted if the vacancy is advertised externally and if successful, re-employment will be on the advertised terms for the role, pay and pension, however the role will **be up to, and no more than** a 24-month fixed term contract. Abatement of pension must apply. A reduction or change in hours, job title, grade/rank or work location is not considered a substantial difference.

Pension Abatement

- 5.15 Abatement means that upon return to work following retirement from any FRA a retiree cannot receive annual remuneration (salary and pension combined) more than their remuneration received immediately prior to retirement. If the total amount of salary and pension upon re-engagement/re-employment exceeds the remuneration received prior to retirement the pension must be reduced/abated accordingly (this could mean that the individual receives a reduced pension annuity or only receives their pension lump sum, and their pension annuity is in effect 'frozen' until they cease the employment). It should be noted that the rules of abatement do not apply in the Firefighters Pension Scheme 2015 (only the 1992 and 2006 Schemes).

Firefighters' Pensions England Scheme Advisory Board/Local Government Association – Guidance on abatement

- 5.16 A factsheet on Abatement was issued by the SAB/LGA 18 May 2018 and, following an LGA FPS coffee morning on 25 January 2022, the LGA issued an updated 'Informal Abatement Guidance for FRAs' on 1 May 2022. A copy can be provided, on request.
- 5.17 The Guidance explains that HMT requires public service pensions to be abated in certain circumstances. Pension abatement remains an option within the 1992 and 2006 schemes, and it is therefore a matter for the scheme manager to decide. The Guidance sets out the relevant regulations to the pension schemes and the only cost to the Fire Authority in permitting reengagement/re-employment is where the Service decides to exercise its discretion '*not to abate*' an individual's pension; the Regulations provide in these circumstances that an equivalent payment would need to be paid by the Service into the pension fund account if abatement is not applied to the retiree's pension (in whole or in part). This is not an option being considered by AF&RS.

6. RISKS

- 6.1 Not having a robust process in place to determine outcomes relating to Pensions could potentially lead to a case being taken to the Pensions Ombudsman. A recent case, [determination PO 25374](#), found that Warwick Fire Authority did not follow a reasonable process when deciding to apply abatement. The cost of not implementing abatement would need to be funded from the Fire Authority budget, as this will not be funded centrally.

7. LEGAL/POLICY IMPLICATIONS

- 7.1 Guidance from the Firefighters' Pensions England Scheme Advisory Board/Local Government Association explaining the relevant provisions of the Firefighters' Pension Schemes is set out in the body of this paper.
- 7.2 A link to the Fire and Rescue National Framework for England is provided as background papers.

8. BACKGROUND PAPERS

- 8.1 The Fire and Rescue National Framework for England 2018 includes a section on 'Re-engagement of Senior Officers' which can be found on page 18 at the following link:

[Fire and rescue national framework for England - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

9. APPENDIX

1. Draft AF&RS Re-engagement, Re-employment and Abatement Policy.

10. REPORT CONTACT

Simon Shilton, Chief Fire Officer/Chief Executive.