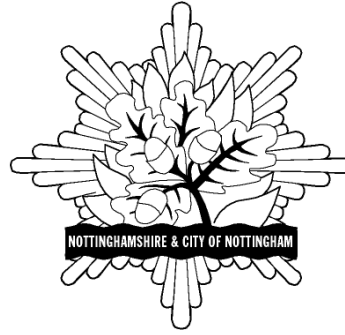


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NOTTINGHAMSHIRE & CITY OF NOTTINGHAM FIRE & RESCUE AUTHORITY - POLICY & STRATEGY COMMITTEE

Date: Friday, 6 February 2015 **Time:** 10.00 am

Venue: Fire and Rescue Services HQ, Bestwood Lodge, Arnold Nottingham NG5 8PD

Members are requested to attend the above meeting to be held at the time, place and date mentioned to transact the following business

A handwritten signature in black ink, appearing to read "M. J. [unclear]". The signature is written in a cursive style.

Clerk to the Nottinghamshire and City of Nottingham Fire and Rescue Authority

AGENDA

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ANY COUNCILLOR WHO IS UNABLE TO ATTEND THE MEETING AND WISHES TO SUBMIT APOLOGIES SHOULD DO SO VIA THE PERSONAL ASSISTANT TO THE CHIEF FIRE OFFICER AT FIRE SERVICES HEADQUARTERS ON 0115 967 0880

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ABOVE, PLEASE CONTACT THE CONSTITUTIONAL SERVICES OFFICER SHOWN ON THIS AGENDA, IF POSSIBLE BEFORE THE DAY OF THE MEETING.

Governance Officer: *Catherine Ziane-Pryor*
0115 8764298
catherine.pryor@nottinghamcity.gov.uk

Agenda, reports and minutes for all public meetings can be viewed online at:-
<http://committee.nottinghamcity.gov.uk/ieListMeetings.aspx?Committeeld=219>



**NOTTINGHAMSHIRE & CITY OF NOTTINGHAM FIRE & RESCUE AUTHORITY -
POLICY & STRATEGY COMMITTEE**

**MINUTES of the meeting held at Fire and Rescue Services HQ Bestwood Lodge
Arnold Nottingham NG5 8PD on 7 November 2014 from 10.00 am – 11.40 am.**

Membership

Present

Councillor Darrell Pulk (Chair)
Councillor Chris Barnfather
Councillor John Wilmott

Absent

Councillor Brian Grocock
Councillor Jon Collins
Councillor Gordon Wheeler

Councillor Roger Jackson (substitute for Councillor Gordon Wheeler)
Councillor David Smith (substitute for Councillor Jon Collins)

Colleagues, partners and others in attendance:

John Buckley	Chief Fire Officer
Peter Hurford	Treasurer to the Nottinghamshire and City of Nottingham Fire and Rescue Authority
Craig Parkin	Assistant Chief Fire Officer
Neil Timms	Strategic Director of Finance and Resources
Malcolm Townroe	Clerk and Monitoring Officer to the Nottinghamshire and City of Nottingham Fire and Rescue Authority
Carol Jackson	Governance Officer, Nottingham City Council

10 APOLOGIES FOR ABSENCE

Councillor Brian Grocock
Councillor Jon Collins
Councillor Gordon Wheeler

The Chair welcomed Councillor Roger Jackson both to the meeting and to the Fire Authority.

11 DECLARATIONS OF INTERESTS

John Buckley, Chief Fire Officer and Craig Parkin, Assistant Chief Fire Officer, both declared a personal interest in agenda item 4, 'Conditions of Service Questionnaire', in so far as it related to the Gold Book and left the meeting whilst this part of the report was considered.

Councillor Chris Barnfather declared an interest in agenda item 7, 'Complaint from Fire Industry Association' as he is a Director of Nottinghamshire Fire and Rescue Service (Trading) Limited.

12 MINUTES

The Committee confirmed the minutes of the meeting held on 18 July 2014 as a correct record and they were signed by the Chair.

13 CONDITIONS OF SERVICE QUESTIONNAIRE

John Buckley, the Chief Fire Officer, introduced his report seeking approval of a formal response to the Department for Communities and Local Government (DCLG) conditions of service questionnaire.

The following points were highlighted for Members;

- the questionnaire is the result of the Government (following the review by Sir Ken Knight) commissioning a consultant to undertake an independent review to establish; 'whether the conditions of service for fire fighters (Grey and Gold Books) are seen as actual or perceived barriers to change that could otherwise provide a more efficient service to the public';
- the consultant undertaking the review has issued separate questionnaires to both Authorities and their employees. The consultant has been offered a face to face meeting with the Authority but has declined the invitation;
- the Consultant is expected to report to Government on the review by February 2015;

Members were invited to comment on the proposed response by the Authority attached to the report. Members approved the proposed responses save for those to question 28. Members agreed that the proposed response to question 28(b) be amended to read;

'It is a fundamental right to withdraw labour. Locally, staff have responded to a life risk incident during a period of industrial action.'

Councillors Barnfather and Jackson did not agree that fire-fighters should have a blanket right to strike.

John Buckley, Chief Fire Officer and Craig Parkin, Assistant Chief Fire Officer, left the meeting whilst the Gold Book element of the report was considered.

The Chair asked the Chief Fire Officer to pass on the Committee's thanks to colleagues in Corporate Services and Human Resources for their work on the questionnaire.

RESOLVED to approve the final version of the response to the questionnaire as the formal submission of the Fire Authority.

Councillors Barnfather and Jackson requested that their disagreement with the answer to question 28 be noted in that they did not agree that fire fighters should have a blanket right to strike.

14 PERFORMANCE MONITORING REPORT

John Buckley, the Chief Fire Officer, introduced his report updating members on the proposed arrangements for performance monitoring following the decision of the Authority to remove the Performance Monitoring Committee.

The proposed arrangements are:

- Finance and Resources Committee currently receives reports on;
 - revenue/capital monitoring;
 - outcomes of financial audits;
 - treasury management;
 - value for money programme;
 - prudential code;
 - risk management;
 - road risk;
 - insurance claims;

and it is intended that it will now also receive reports on;

- expenditure per head;
- % undisputed invoices paid within 30 days;
- Human Resources Committee currently receives reports on;
 - sickness/absence;
 - retirements;
 - establishment figures;
 - disciplines;
 - grievances;
 - redundancies;

and it is intended that it will now also receive reports on;

- staffing equalities issues;
- Policy and Strategy Committee currently receives reports on;
 - statement of assurance;
 - transparency compliance;
 - peer assessment outcomes

and it is intended that it will now also receive reports on;

- organisational assessments;
- community equalities issues;
- IRMP progress;

- Community Safety Committee currently receives reports on;
 - response statistics;
 - prevention statistics;
 - protection statistics;
 - benchmarking

and it is intended that it will now also receive reports on;

- % of Home Safety Checks in high risk properties,
- customer satisfaction;
- operational activity.

RESOLVED to approve the arrangements set out above.

15 INFORMATION MANAGEMENT AND COMPLIANCE

John Buckley, the Chief Fire Officer, introduced his report providing Members with an overview of the measures in place for effective information management to ensure transparency and compliance.

The following key issues were drawn to the attention of Members;

- the Coalition Government has sought to unburden local government in terms of performance reporting but the requirement for greater transparency about the services being provided is putting increasing demands upon the Service in terms of the publication and provision of information;
- the number of Freedom of Information Act requests received has increased from 56 in 2012 to 112 to date in 2014;
- the Service can charge for the provision of information but only when the time taken to gather it is likely to exceed 18 hours;
- the majority of FOI requests are received from the media, disaffected employees and those being prosecuted by the Service. There are relatively few genuine public enquiries;
- there are procedures in place for dealing with FOI requests once they are received. Nevertheless dealing with them does require resources, including senior officer's time;
- by making greater use of the internet and publishing more information proactively it is hoped that this will lead to a reduction in individual requests and reduce the day to day demands on the Service;

RESOLVED to note the report.

16 COMPLAINT FROM THE FIRE INDUSTRY ASSOCIATION

Neil Timms, Strategic Director of Finance and Resources, introduced the Chief Fire Officer's report informing Members of a complaint from the Fire Industry Association (FIA) concerning Fire Authority trading companies.

The key facts are;

- the FIA represents 620 businesses operating in the same areas as the 'arms length trading companies' set up by Fire and Rescue Authorities;
- the FIA complaint is not against any individual Fire Authority but against the UK Government, accusing it of providing unlawful state aid to 'arms length companies' by allowing them the free use of the Fire and Rescue Service 'brand';
- in order to assist the Government in replying to the complaint, the Chief Fire Officer's Association and the Local Government Association, with appropriate legal advice, are drafting a joint paper which the Government may choose to use in their response to the Commission;
- as NFRS have been cited specifically in the complaint it was considered that an individual letter should be written to the Department for Communities and Local Government setting out the NFRS position and this is attached to the report;
- this is a complaint against the UK Government who will have to refute the complaint. There is no suggestion that NFRS have failed to act within the existing legislation. Management will keep a watch for any developments and report them to Members.

RESOLVED to note the report.

17 EXCLUSION OF THE PUBLIC

The Committee decided to exclude the public from the meeting during consideration of the remaining agenda item in accordance with Section 100A(4) of the Local Government Act 1972 on that basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

18 MULTI CAPABILITY ASSURANCE PROCESS OUTCOMES

John Buckley, the Chief Fire Officer, introduced his report updating Members and providing them with assurance of the operational capability of Nottinghamshire Fire and Rescue Service in relation to its national resilience role.

RESOLVED to accept the outcomes of the report and to endorse the steps being taken within Paragraph 2.9 of the report.

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NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority
Policy and Strategy Committee

PROTECTED PENSION AGE

Report of the Chief Fire Officer

Date: 6 February 2015

Purpose of Report:

To report the findings of an internal audit report into the Loss of Protected Pension Age, and the actions taken to date to prevent a recurrence of the issues which led to HMRC penalty charges being applied.

CONTACT OFFICER

Name : Craig Parkin
Assistant Chief Fire Officer

Tel : 0115 967 0880

Email : craig.parkin@notts-fire.gov.uk

Media Enquiries Contact : Bridget Aherne
(0115) 967 0880 bridget.aherne@notts-fire.gov.uk

1. BACKGROUND

- 1.1 At the meeting on 31 January 2014, Members considered a report, “Loss of Protected Pension Age”, by the Head of Finance and Resources. The report set out the circumstances which led to the taxation of pension benefits for two employees who had retired from wholetime service and taken pension benefits, but continued employment in their retained duty roles after retirement.
- 1.2 Her Majesty’s Revenue and Customs considered this a breach of the provisions which protected pension benefits for members of the Fire-fighters Pension Scheme (1992) who retire before reaching the age of 55, and became subject to taxation of their lump sum and pension payments.
- 1.3 This matter has now been resolved with Her Majesty’s Revenue and Customs, in line with the decision of Committee, and the internal auditor has subsequently been asked to undertake an audit of the current position.

2. REPORT

- 2.1 The Internal Auditor report is attached as Appendix A of this report.
- 2.2 The outcome of the review is that controls put in place provide substantial assurance that risk has been mitigated following actions to address those key risks set out in Paragraph 3.1 of the report. Paragraph 4.1 of the report further details the controls identified as effective in providing such controls.
- 2.3 The report has also identified some areas which represent a low to medium risk in Paragraph 4.2 and an action plan has been produced which documents recommended actions or considerations.
- 2.4 The medium risk issue relates to the potential liability of the former Pensions Administrator for costs incurred from its failure to advise the Service of the loss of protected pension age for one of the pensioners, whose position was notified to the Pensions Administrator, and whose continued employment was in contravention of the Her Majesty’s Revenue and Customs rules. The Head of Finance and Resources is currently engaged with the Pensions Administrator in negotiating a resolution to this issue.
- 2.5 The low risk issues relate to further administrative procedures to ensure that employees fully understand the taxation position on re-employment following retirement. The majority of these recommendations are completed or are in the process of completion, as set out in the column marked “Management Response”.
- 2.6 An amended draft Retirement Policy (currently under consultation) and the letter sent to employees who are employed on dual contract arrangements, setting out the implications and conditions of re-employment on their protected pension age, are attached as appendices to this report.

3. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

The human resources implications are set out within the body of the report.

5. EQUALITIES IMPLICATIONS

An equality impact assessment has not been undertaken as this does not impact upon a policy, service or function.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. LEGAL IMPLICATIONS

There are no legal implications arising from this report.

8. RISK MANAGEMENT IMPLICATIONS

The application of the control measures set out in the Internal Audit report provide substantial assurance that controls are in place to mitigate the risks identified. The recommendations regarding Medium and Low level risks, contained within the Action Plan, have been or are in the process of being implemented and further mitigate the risks associated with contravention of the Protected Pension Age provisions.

9. RECOMMENDATIONS

That Members note the contents of this report.

10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None.

John Buckley
CHIEF FIRE OFFICER

To: Chief Fire Officer
Subject: Loss of Protected Pension Age
Date: January 2015

1 Introduction

- 1.1 We have audited the arrangements established by management to prevent a recurrence of the tax penalties incurred following the loss of protected pension age for firefighters in the 1992 Pension Scheme with dual contracts.
- 1.2 Two firefighters with dual contracts (wholetime and retained) retired from their wholetime posts, but continued their employment as retained firefighters. Following the Finance Act 2004, an arrangement was made with HMRC for members of the 1992 Firefighters' Pension Scheme, to be given a protected pension age of 50 and retain their entitlement to a tax free lump sum. However this protected pension age will be lost if firefighters are subsequently re-employed without a break in service. The Service did not consider the firefighters to be re-employed as they had two separate contracts for their wholetime and retained roles. HMRC took the view that there are tax implications for employees with dual contracts. If a firefighter retires from their wholetime contract, but carries on working on their second retained contract, they are deemed to have been in breach of the protection arrangements and their lump sum and pension payments are subject to taxation and the Service is liable for a scheme sanction charge.

2 Audit opinion

- 2.1 In the areas examined, we have assessed the controls in place to determine the level of assurance is provided that risks are mitigated.
- 2.2 Following this audit, in our opinion the level of assurance we can provide is: -



Limited assurance



Reasonable Assurance



SUBSTANTIAL ASSURANCE

Risk levels are low

3 Risk areas examined

- 3.1 We would highlight the key risks as: -

<i>Risk description</i>	<i>Significance</i>
Protected pension age is lost if firefighters with dual contracts are allowed to continue in their retained employment following retirement from their wholetime employment without the required break in employment	The Service will be liable for scheme sanction charges and the firefighters will be liable for tax on their lump sum and pension payments.
Firefighters in the 1992 Pension Scheme are not informed of the potential tax penalties if they continue in their retained employment	The Service may be liable to compensate firefighters
The Service is not aware of current legislation with regard to pensions	Penalties may be incurred if the Service contravenes legislation

3.2 The scale of the area reviewed is: -

<i>1992 Firefighters Pension Scheme</i>	<i>2011-12</i>	<i>2012-13</i>	<i>2013-14</i>
<i>Benefits paid (net of transfers in) (£'000)</i>	<i>13,326</i>	<i>13,047</i>	<i>14,005</i>

4 Audit findings

4.1 We consider the controls to be effective in the following areas: -

- The letter sent by HR to retirees has been amended to contain a paragraph advising the retiree of the tax penalties of holding dual contracts and continuing to be employed as a retained firefighter. Employees are advised to seek further advice from an independent taxation advisor.
- The 'procedure-wholetime leaver' form used by HR now documents whether retirees are less than 55 years of age with dual contracts who are remaining in their retained role.
- A separate Retirement Policy for the Firefighters Pension Scheme was completed in September 2014 and advises members of the 1992 Pension Scheme of the tax implications if they retire before the age of 55 and commence employment with any Fire and Rescue Service in a similar role to their previous role within six months of retirement. The policy also states the Service will not employ retired members of the pension scheme within six months of retirement into an operational role, including the Retained Duty System, unless they agree in writing to be bound by the tax liability and the sanction charge applied to the Authority as a condition of their new employment.
- Pre-retirement courses are held twice a year and include advice on dual contracts and their tax implication.
- The Service has informed the Fire Brigade Union who will advise their members of the loss of protected pension age for retirees with dual contracts.
- The re-engagement policy 2006 was rescinded and removed from the intranet during the summer 2014.
- Leicestershire County Council was appointed as the Pensions' Administrator in April 2013 and hold quarterly meetings with the three Fire and Rescue Services they provide the service to. Guidance is issued regularly by the Administrator, including a briefing paper issued on the 1 October 2013 regarding loss of protected pension age.
- A technical expert has recently been appointed by the Local Government Association to provide advice and support on fire service specific pension issues. The post will be funded by Fire Authorities in England and Wales.

- HR receives advice and training on changes to employment law and HR issues.
- The Strategic Director of Finance and Resources liaises with other Fire Authorities and obtains financial and legal updates. Tax updates issued by HMRC with regard to payroll are received and HMRC or an accountancy firm have been consulted for tax advice.

4.2 However, there were some control weaknesses. The attached Action Plan sets out these weaknesses and our recommendations to address them.

4.3 A summary of the recommendations made, together with a brief summary of the high and medium risk areas, is set out below: -

<i>Control risk – by category</i>	<i>Number of Recommendations</i>	<i>Recommended speed of attention</i>
High Risk		Immediate
Medium Risk	1	Within two months
Low Risk	4	Within six months
Value for money		As soon as practicable

Medium risk areas:

- The Pensions' Administrator had documented one of the pensioners affected was continuing with his retained post, but there is no record of them providing the Service with the necessary advice with regard to the loss of protected pension age. (See Action Plan 1)

Audit conducted by: C Buckley ACA

Audit supervised by: J M Bailey CPFA

J M Bailey CPFA, Head of Internal Audit

Audit Finding	Recommendation	Management Response
Medium risk areas (highly desirable for effective internal control, should implement recommendations to improve existing control arrangements)		
<p>1. Pensions' Administrator advice</p> <p>We were advised by NFRS staff that they rely on the Pensions' Administrator for advice on pensions. However, as the Administrator was unaware the pensioners affected had dual contracts due to them not being in the pension scheme for their retained post, they were unable to offer advice with regard to dual contracts.</p> <p>We examined the records maintained by Nottinghamshire County Council who were the Pensions' Administrator until April 2013.</p> <p>We found the checklist for one of the pensioners affected (PH) documented he was continuing with the concurrent employment of his retained post. This form had been completed by one member of staff and independently checked.</p> <p>However there is no record of the Fire Service being advised of the loss of protected pension age if the pensioner continues with his retained post without a break in service. The letter to the pensioner from the administrator referred to the lump sum as being tax free.</p> <p>The checklist for the other pensioner (WPB), which included a box to document whether or not the retiree was continuing with the concurrent employment, had not been fully completed.</p> <p>Risk: <i>the Pensions' Administrator did not advise the pensioners and Fire Service of the implications of continuing in their retained posts</i></p>	<p><i>The Fire Service should examine whether the Pensions' Administrator is liable for the costs incurred from its failure to advise the Service and pensioner of the loss of protected pension age and resulting tax implications if he continues in his retained post.</i></p>	<p><u>Response of Chief Fire Officer</u></p> <p>Discussions are currently taking place between the Director of Finance and Resources and the County Council with a view to resolving this and other issues connected with administrative issues.</p> <p><u>Date for implementation</u> Way forward to be agreed by April 2015</p> <p><u>Officer responsible for implementation</u> Director of Finance and Resources</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>2. Notifying the Pensions' Administrator of all employees with dual contracts</p> <p>The 'procedures-whole-time leaver' form has been amended to include a check box to document whether a retiree is a dual employee under the age of 55 but remaining in retained role.</p> <p>We were informed the Pensions' Administrator would be informed by email that a whole-time retiree has a dual contract. However we were unable to test the procedure as there had been no retirees with dual contracts since November 2013, when the two retirees with dual contracts for whom there was the loss of protected pensions age, were identified.</p> <p>The Pensions' Administrator was unaware the two retirees had dual contracts as they were not in a pension scheme for their retained employment. Reliance is currently placed on the Administrator being informed of the dual contract in the email sent by HR informing them of a retiree. The Pensions Act 2008 requires all firefighters to be automatically enrolled in the pension scheme or formally opt out. We were informed once this has been introduced, the Pensions' Administrator should therefore be aware of all dual contracts.</p> <p>The report to members on the Loss of Protected Pension Age dated 31 January 2014 stated "an audit of dual contractors would take place and the information passed to the new Pensions' Administrator so that they are aware as well". We were informed details of dual contractors had not been sent to the Pensions' Administrator.</p> <p>Risk: <i>The Pensions' Administrator is unaware a retiree has a dual contract</i></p>	<p>There should be a standard form issued by HR to the Pensions' Administrator which would document whether the retiree has a dual pension or not.</p> <p>The Pensions' Administrator should be provided with details of all employees in the 1992 Scheme with dual contracts as stated in the report to members on the "Loss of Protected Pension Age" dated 31 January 2014.</p>	<p><u>Response of Chief Fire Officer</u> Agreed</p> <p><u>Date for implementation</u> Completed</p> <p><u>Officer responsible for implementation</u> Both recommendations have now been completed.</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>3. Letter sent by HR to retirees</p> <p>The letter sent by HR to retirees has been amended and includes the following paragraph: 'from 6 April 2010, those employees who have not already retired and taken their pension benefits before the age of 55 become subject to significant tax penalties if they are subsequently re-engaged in the same or similar role with the Fire and Rescue Service.'</p> <p>We consider the letter adequately advises the retiree that if they retire as a wholetime firefighter but continue to work as a retained fire fighter they are liable for tax on their pension benefits. However the criteria when the loss of protected pension age occurs are unclear.</p> <p>Risk: Firefighters may not consider the advice applies to them and may continue with their retained employment</p>	<p>The letter issued to retirees should be amended to make it clear that the loss of protected pension age may occur for firefighters in the 1992 Pension Scheme with a protected pension age of 50 who wish to retire before the age of 55 years.</p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> Completed</p> <p><u>Officer responsible for implementation</u> Action implemented.</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>4. Retirement Policy A new Retirement Policy for Uniformed Employees dated September 2014 was written by the Manager HR. The Policy adequately details the loss of protected pension protection for members of the 1992 Scheme who retire before the age of 55 and commence employment with any Fire and Rescue Service within six months of retirement. It also states the Service will not employ retired members of the pension scheme within six months of retirement, into an operational role, including the Retained Duty System, unless they agree in writing to be bound by the tax liability and the sanction charge applied to the Authority as a condition of their new employment.</p> <p>The policy does not make clear that firefighters employed as wholetime and retained firefighters when they retire, will also be subject to the tax liability if they continue their retained job.</p> <p>Risk: <i>The Service may not be aware of loss of protected pension age and tax penalties may occur for firefighters with dual contracts</i></p>	<p><i>The Retirement Policy should clearly state that firefighters with dual contracts when they retire, will be subject to a tax liability on their wholetime firefighter pension benefits if they continue in their retained role.</i></p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> Jan 2015</p> <p><u>Officer responsible for implementation</u> A draft Retirement Policy has been developed and includes reference to the tax liability for dual contract employees. Consultation on the revised policy will commence with the representative bodies as soon as possible.</p>
<p>5. Letter to retirees issued by the Pensions' Administrator There is no mention in the correspondence between the Pensions' Administrator and the retiree of the tax implications of dual contracts or re-employment.</p> <p>Risk: <i>Firefighters may be unaware of the tax implications of the loss of protected pension age from dual contracts</i></p>	<p><i>The pensions letter issued by the Pensions' Administrator to retirees should enquire whether a firefighter has a dual contract and ensure the retiree understands the implications of continuing in this employment.</i></p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> This is currently being dealt with the pensions administrator.</p> <p><u>Officer responsible for implementation</u> The pensions administrator (Leicestershire County Council) have been informed that this is required.</p>



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Retirement Policy – Uniformed employees

Policy No: 1025

Scope:

This policy is mandatory .

Summary:

The purpose of this policy is to set out the Service position on retirement for members of the Firefighter's Pension Schemes.(1992 and 2006)

Version Control:

<i>Person Responsible</i>	<i>Version</i>	<i>Date</i>
HR Manager (Corporate)	0.5	Sept 2014
Revisions		

Review Date:

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Waiver

This policy only sets out the circumstances in which members of the Firefighter's Pension Scheme 1992 and 2006 can retire from the Service and access pension scheme benefits. As the circumstances of individual scheme members will differ, all matters relating to provisions and conditions of the respective pension schemes must be raised by individual scheme members with the pension scheme administrator (email address) before making any decisions about retirement. The Service is unable to provide advice on individual pension issues.

Please note that pension scheme regulations will be changing from 2015. The details of the changes are not yet determined and this policy will be updated once the new arrangements are in place.

1.0 Definitions

- 1.1 This policy relates to those employees who reach an age when they can access state pensions benefits and/or benefits payable under an occupational pension scheme and make a decision to retire from the Service.
- 1.2 The Service does not operate a default retirement age for operational roles. Employees may remain in Service whilst they remain fit and competent to perform their role. In certain circumstances, in line with statutory provisions, the Service may apply a compulsory retirement date if this can be objectively justified.
- 1.3 This policy does not provide details of the RDS Modified Scheme, which applies to RDS employees between 2000 and 2006. If you require any information about this scheme, you should contact our Pensions Administrators at: firepensions@leics.gov.uk

2.0 General Principles

- 2.1 The Service Retirement Policy will be compliant with the Employment Equality (Age) Regulations 2006, the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 and the provisions of the Fire-fighter's Pension Scheme (1992) and Fire-fighter's Pension Scheme (2006).

Employee initiated retirement

- 2.2 Service employees are able to retire under the provisions of the relevant occupational pension scheme and take pension benefits, as follows:
 - Employees who are members of the Firefighter's Pension Scheme 1992, from age 50 provided they have at least 25 years service, with pension benefits based on the service they have accrued

- Employees who are members of the Firefighter's Pensions Scheme 2006, from age 60. The maximum service a member can accrue is 40 years. Retirement is possible from age 55 with the employers consent but a reduction will be applied due to the early payment of the pension.
- Taking early retirement (i.e. before full pensionable service is obtained) will have the effect of reducing pension benefits, advice should always be sought from the Pensions Section at Leicestershire County Council (firepensions@leics.gov.uk).

2.3 Whilst the Service will seek to review the Policy as changes to pension scheme provisions arise, it cannot be relied upon to protect entitlement where statutory changes are made which affect the benefits referred to in this Policy. Provisions relating to entitlement to pension benefits will always relate to the specific provisions of the relevant pension scheme operating at the time of retirement.

Employer Initiated Retirement

2.4 Under the provisions of the 2006 scheme, the Service may require an employee who has sufficient service to qualify for a pension who has reached age 55 but not age 60, to be retired in the interests of the management of the service. In this situation, benefits would be paid in accordance with the following formula:

annual pension = 1/60 x pensionable service x final pensionable pay.

2.5 Employees who, in the view of an Independent Qualified Medical Practitioner, are unable to perform their normal job role due to permanent ill-health following the consideration of reasonable adjustments and who cannot be redeployed to an alternative job role, may be retired from the Service on the grounds of permanent ill-health. For further information, please refer to the Management of Long Term Sickness policy.

2.6 The Service may impose retirement dismissals if this can be objectively justified, i.e. it is able to show that it is a proportionate means of achieving a legitimate aim.

Re-employment and abatement

2.7 Firefighter's Pension Scheme members (92 and 2006 scheme) who return to employment with any Fire and Rescue Service in a role of a similar nature to their previous role (before retirement) within six months after taking pension benefits will be subject to pension abatement depending on the salary earned in the new employment. It is the responsibility of the retired person to notify the Service of any such employment.

2.8 Members of the 1992 FPS may be re-employed into a role which is not deemed to be of a "similar nature" after one month, with protection of the pension protected age (see below) if abatement is applied.

Protected Pension Age

- 2.9 Members of the Firefighters Pension Scheme 1992 have a right to retire from 50 provided they have 25 or more years of pensionable service. The right to retire at an age below 55 (Minimum Pension Age) is protected and on retirement members will receive a 'protected pension age'. However, members of this scheme should be aware that this protection can be lost. Specifically, from the 6 April 2010 those employees who have not already retired and taken their pension benefits before the age of 55 became subject to significant tax penalties if they are subsequently re-engaged in the same or a similar role with the Fire and Rescue Service. The pension benefit is taxed at a rate of 40% and a sanction charge is payable. The pension commutation sum also being taxable at a rate of 40%.
- 2.10 The HMRC have confirmed that the definition of 're-employment' applies to situations in which employees who hold dual contracts (ie both whole-time and retained contract) prior to retirement fall within the scope of the new regulations applied. This means that employees who retire from their whole-time contract but continue employment in a retained contract are subject to taxation on their pension benefits as set out above. Employees in this position are strongly advised to seek further advice from an independent taxation advisor prior to retirement.
- 2.11 This provisions of paragraph 2.8 will not apply if the role is materially different and if abatement is applied from the commencement of the new employment (see 1.7 above).
- 2.12 For this reason, the Service will not employ retired members of the pension scheme, within six months of their retirement, into an operational role or broadly similar role. This will include employment on the Retained Duty System even where the employee has been previously employed on a dual contract basis before retirement.
- 2.13 Whilst members of the Personnel section can provide information about pension benefits, they are not able to offer financial advice or recommend a particular course of action.

Pre-retirement course

- 2.14 All employees will be given the opportunity to attend a Pre-Retirement course prior to their retirement. Employees may attend the course even if they have retired from Service and may be accompanied by a partner. Employees are strongly advised to attend these courses, which are free of charge, as they provide valuable information about benefits in retirement, financial management and lifestyle changes. Further details of the course are available from the Human Resources Department.

3 Application

Normal or employee initiated early retirement

- 3.1 Employees may choose to take normal retirement from age 50 with 30 years service (92 scheme) or from age 60 (2006 scheme) or early retirement under the provisions of their respective occupational pension scheme. Notification procedures will be those set out in employment contracts. In general, written notice of retirement will be one month for roles up to and including Station Manager, two months for Group Managers, three months for Area Managers and six months for Brigade Managers.
- 3.2 To assist with workforce planning, the Service may write to employees prior to the age that they could take normal retirement under the provisions of their respective pension scheme to indicate their likely intentions regarding retirement and to deal with any queries that they may have. This does not obligate the employee in any way. Employees must notify the Human Resources Department of their intention to retire in line with the notice requirements of their contract.
- 3.3 Information about Firefighter Pension Scheme retirement benefits will be provided by the Pensions section at Leicestershire County Council directly to the employee. Their contact email address is: firepensions@leics.gov.uk
- 3.4 The lump sum is paid by the NFRS Payroll section as soon as possible after the retirement date following information being received from the Pension Section.
- 3.5 Pension payments commence one month after the retirement date and are paid on the last day of the month.
- 3.6 Enquiries about pension payments should be directed to the Pensions Section at Leicestershire County Council: . firepensions@leics.gov.uk.
- 3.7 Appeals against decisions regarding the application of pension scheme provisions will be dealt with through the Internal Disputes Resolution Procedure. Please note that under the provisions of the Fire-fighter's Pension Scheme (1992) and Fire-fighter's Pension Scheme (2006) appeals in relation to medical decisions will be dealt with under Rule H2 of the relevant pension scheme. Further details about the appeals process can be obtained from the Human Resources Department.

Retirement on the grounds of the efficiency of the service

- 3.8 Under Regulation 6 of the New Firefighters' Pension Scheme 2006, members may be required by the Fire Authority, where they are aged over 55 (but not aged 60), to retire from the service on the grounds of the economical, effective and efficient management of service functions.
- 3.9 In all cases involving employer initiated early retirement, the employee will have a right of appeal against the decision. The appeal to be heard at Area Manager or equivalent level.

III Health Retirement

- 3.10 The provisions of the respective occupational pension scheme will apply to members of those schemes. The provisions are complex and an HR Business Partner will advise individuals of the benefits applicable at the time that a decision to retire the employee from service is made.
- 3.11 Further information can be obtained in the Service's Management of Long Term Ill Health Policy which can be found on the intranet at: Reference library>policies and procedures>policies>management of long term ill health

4 Role & Responsibilities

The Human Resources Department will be responsible for implementing the Retirement Policy

The Payroll section will liaise with the Pension section regarding the payment of pension benefits

The Pensions section will administer the payment of pension benefits and provide advise to members of occupational schemes.

5 Monitoring - Audit & Review

The Policy will be reviewed and updated by the Head of HR Services in line with changes to legislation and to pension scheme regulations.

6 Related Documents.

Equalities Impact Assessment

Firefighter's Pension Scheme (1992)

Firefighter's Pension Scheme (2006)

Management of long-term ill health policy

Internal Disputes Resolution Procedure

RELEVANT LEGISLATION

Employment Equalities (Age) Regulations 2006

Employment Equality (Repeal of Retirement Age Provisions) Regulations

2011

Nottinghamshire Fire and Rescue Service
Headquarters
Bestwood Lodge
Arnold
Nottingham
Tel: 0115 9670880
Fax: 0115 9261081
Email: HumanResources@notts-fire.gov.uk

Your Ref:
Our Ref:
Please Ask For: Rachel Rodda
Direct Line/Ext: 225
Date:

Dear

Thank you for your letter dated in which you inform me of your intention to retire from the Service with effect from after completing year's service with the Nottinghamshire Fire and Rescue Service.

As always there are a few administrative points to clarify in respect of your retirement. A pension pack will be sent to you directly from Leicestershire County Council. Forms should be completed as soon as possible and returned to Leicestershire County Council Pensions Section as the Pensions Section/Payroll Department cannot pay you your pension until these are received.

All leave including any outstanding bank holidays should be taken prior to your leaving date with the approval of your Line Manager.

If you have not already taken advantage of attending a Pre-Retirement Course, the HR Section can arrange a place for you on the next course. You can also ask for the opportunity of a leaver's interview with a member of the HR Section. Both of these will assist you with any queries you may have regarding your impending retirement and if you decide that you wish to attend any one of these, do not hesitate to contact them on (0115) 9675946.

I confirm that your membership of Westfield will unfortunately cease with effect from and therefore your monthly subscription and any subsequent benefits will also cease from this date. The HR Section will automatically inform Westfield of your leaving date. Should you wish to continue with Westfield on a personal basis, you should contact the HR Section who will provide you with the necessary information.

I would also ask that you ensure the return of the following items to your Line Manager (if applicable), prior to your leaving date:

- Identity card
- Fire kit
- Mobile phone/pager
- Keys
- Fireground radio
- Business Cards

We would like to carry out an exit interview with you before you leave. Please complete the enclosed questionnaire prior to your Line Manager contacting you in the near future to arrange a meeting.

Protected Pension Age

Members of the Firefighters Pension Scheme (1992) have a right to retire from 50 provided they have 25 or more years of pensionable service. The right to retire at an age below 55 (Minimum Pension Age) is protected and on retirement members will receive a 'protected pension age'. However, members of this scheme should be aware that this protection can be lost.

As a member of the Firefighters Pension Scheme (1992) I need to advise you that from 6th April 2010, those employees who have not already retired and taken their pension benefits before the age of 55 became subject to significant tax penalties if they are subsequently re-engaged in the same or a similar role with the Fire and Rescue Service. The pension benefit is taxed at a rate of 40% and a sanction charge is payable. The pension commutation sum also being taxable at a rate of 40%.

Please note that the Service will therefore prohibit re-employment within six months of retirement into roles which may be construed as similar in nature to roles undertaken by members of the Firefighter Pension Scheme. Members of the FPS (1992) may be re-employed into a role which is not deemed to be of a "similar nature" after one month, with protection of the pension protected age if abatement is applied.

The HMRC have confirmed that the definition of 're-employment' applies to situations in which employees who hold dual contracts (ie both wholetime and retained contract) prior to retirement fall within the scope of the new regulations applied. This means that employees who retire from their wholetime contract but continue employment in a retained contract are subject to taxation on their pension benefits as set out above. (paragraph dual only)

Employees in this position are strongly advised to seek further advice from an independent taxation advisor prior to retirement before undertaking any future employment in the public sector. Further advice can be sought from an HR Business Partner.

It only remains for me to pass on my best wishes to you from your colleagues within the service and, on behalf of Nottinghamshire Fire and Rescue Service, to recognise and thank you for the years of loyal service which you have given to the people of Nottinghamshire. I hope that you have a long, happy and rewarding retirement and that you will take with you some good memories of your time with the Fire Service.

Yours sincerely

Tracy Crump
Head of HR Services

To: Chief Fire Officer
Subject: Loss of Protected Pension Age
Date: January 2015

1 Introduction

- 1.1 We have audited the arrangements established by management to prevent a recurrence of the tax penalties incurred following the loss of protected pension age for firefighters in the 1992 Pension Scheme with dual contracts.
- 1.2 Two firefighters with dual contracts (wholetime and retained) retired from their wholetime posts, but continued their employment as retained firefighters. Following the Finance Act 2004, an arrangement was made with HMRC for members of the 1992 Firefighters' Pension Scheme, to be given a protected pension age of 50 and retain their entitlement to a tax free lump sum. However this protected pension age will be lost if firefighters are subsequently re-employed without a break in service. The Service did not consider the firefighters to be re-employed as they had two separate contracts for their wholetime and retained roles. HMRC took the view that there are tax implications for employees with dual contracts. If a firefighter retires from their wholetime contract, but carries on working on their second retained contract, they are deemed to have been in breach of the protection arrangements and their lump sum and pension payments are subject to taxation and the Service is liable for a scheme sanction charge.

2 Audit opinion

- 2.1 In the areas examined, we have assessed the controls in place to determine the level of assurance is provided that risks are mitigated.
- 2.2 Following this audit, in our opinion the level of assurance we can provide is: -



Limited assurance



Reasonable Assurance



SUBSTANTIAL ASSURANCE

Risk levels are low

3 Risk areas examined

- 3.1 We would highlight the key risks as: -

<i>Risk description</i>	<i>Significance</i>
Protected pension age is lost if firefighters with dual contracts are allowed to continue in their retained employment following retirement from their wholetime employment without the required break in employment	The Service will be liable for scheme sanction charges and the firefighters will be liable for tax on their lump sum and pension payments.
Firefighters in the 1992 Pension Scheme are not informed of the potential tax penalties if they continue in their retained employment	The Service may be liable to compensate firefighters
The Service is not aware of current legislation with regard to pensions	Penalties may be incurred if the Service contravenes legislation

3.2 The scale of the area reviewed is: -

<i>1992 Firefighters Pension Scheme</i>	<i>2011-12</i>	<i>2012-13</i>	<i>2013-14</i>
<i>Benefits paid (net of transfers in) (£'000)</i>	<i>13,326</i>	<i>13,047</i>	<i>14,005</i>

4 Audit findings

4.1 We consider the controls to be effective in the following areas: -

- The letter sent by HR to retirees has been amended to contain a paragraph advising the retiree of the tax penalties of holding dual contracts and continuing to be employed as a retained firefighter. Employees are advised to seek further advice from an independent taxation advisor.
- The 'procedure-wholetime leaver' form used by HR now documents whether retirees are less than 55 years of age with dual contracts who are remaining in their retained role.
- A separate Retirement Policy for the Firefighters Pension Scheme was completed in September 2014 and advises members of the 1992 Pension Scheme of the tax implications if they retire before the age of 55 and commence employment with any Fire and Rescue Service in a similar role to their previous role within six months of retirement. The policy also states the Service will not employ retired members of the pension scheme within six months of retirement into an operational role, including the Retained Duty System, unless they agree in writing to be bound by the tax liability and the sanction charge applied to the Authority as a condition of their new employment.
- Pre-retirement courses are held twice a year and include advice on dual contracts and their tax implication.
- The Service has informed the Fire Brigade Union who will advise their members of the loss of protected pension age for retirees with dual contracts.
- The re-engagement policy 2006 was rescinded and removed from the intranet during the summer 2014.
- Leicestershire County Council was appointed as the Pensions' Administrator in April 2013 and hold quarterly meetings with the three Fire and Rescue Services they provide the service to. Guidance is issued regularly by the Administrator, including a briefing paper issued on the 1 October 2013 regarding loss of protected pension age.
- A technical expert has recently been appointed by the Local Government Association to provide advice and support on fire service specific pension issues. The post will be funded by Fire Authorities in England and Wales.

- HR receives advice and training on changes to employment law and HR issues.
- The Strategic Director of Finance and Resources liaises with other Fire Authorities and obtains financial and legal updates. Tax updates issued by HMRC with regard to payroll are received and HMRC or an accountancy firm have been consulted for tax advice.

4.2 However, there were some control weaknesses. The attached Action Plan sets out these weaknesses and our recommendations to address them.

4.3 A summary of the recommendations made, together with a brief summary of the high and medium risk areas, is set out below: -

<i>Control risk – by category</i>	<i>Number of Recommendations</i>	<i>Recommended speed of attention</i>
High Risk		Immediate
Medium Risk	1	Within two months
Low Risk	4	Within six months
Value for money		As soon as practicable

Medium risk areas:

- The Pensions' Administrator had documented one of the pensioners affected was continuing with his retained post, but there is no record of them providing the Service with the necessary advice with regard to the loss of protected pension age. (See Action Plan 1)

Audit conducted by: C Buckley ACA

Audit supervised by: J M Bailey CPFA

J M Bailey CPFA, Head of Internal Audit

Audit Finding	Recommendation	Management Response
<p>Medium risk areas (highly desirable for effective internal control, should implement recommendations to improve existing control arrangements)</p>		
<p>1. Pensions' Administrator advice</p> <p>We were advised by NFRS staff that they rely on the Pensions' Administrator for advice on pensions. However, as the Administrator was unaware the pensioners affected had dual contracts due to them not being in the pension scheme for their retained post, they were unable to offer advice with regard to dual contracts.</p> <p>We examined the records maintained by Nottinghamshire County Council who were the Pensions' Administrator until April 2013.</p> <p>We found the checklist for one of the pensioners affected (PH) documented he was continuing with the concurrent employment of his retained post. This form had been completed by one member of staff and independently checked.</p> <p>However there is no record of the Fire Service being advised of the loss of protected pension age if the pensioner continues with his retained post without a break in service. The letter to the pensioner from the administrator referred to the lump sum as being tax free.</p> <p>The checklist for the other pensioner (WPB), which included a box to document whether or not the retiree was continuing with the concurrent employment, had not been fully completed.</p> <p>Risk: <i>the Pensions' Administrator did not advise the pensioners and Fire Service of the implications of continuing in their retained posts</i></p>	<p><i>The Fire Service should examine whether the Pensions' Administrator is liable for the costs incurred from its failure to advise the Service and pensioner of the loss of protected pension age and resulting tax implications if he continues in his retained post.</i></p>	<p><u>Response of Chief Fire Officer</u></p> <p>Discussions are currently taking place between the Director of Finance and Resources and the County Council with a view to resolving this and other issues connected with administrative issues.</p> <p><u>Date for implementation</u> Way forward to be agreed by April 2015</p> <p><u>Officer responsible for implementation</u> Director of Finance and Resources</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>2. Notifying the Pensions’ Administrator of all employees with dual contracts</p> <p>The ‘procedures-whole-time leaver’ form has been amended to include a check box to document whether a retiree is a dual employee under the age of 55 but remaining in retained role.</p> <p>We were informed the Pensions’ Administrator would be informed by email that a whole-time retiree has a dual contract. However we were unable to test the procedure as there had been no retirees with dual contracts since November 2013, when the two retirees with dual contracts for whom there was the loss of protected pensions age, were identified.</p> <p>The Pensions’ Administrator was unaware the two retirees had dual contracts as they were not in a pension scheme for their retained employment. Reliance is currently placed on the Administrator being informed of the dual contract in the email sent by HR informing them of a retiree. The Pensions Act 2008 requires all firefighters to be automatically enrolled in the pension scheme or formally opt out. We were informed once this has been introduced, the Pensions’ Administrator should therefore be aware of all dual contracts.</p> <p>The report to members on the Loss of Protected Pension Age dated 31 January 2014 stated “an audit of dual contractors would take place and the information passed to the new Pensions’ Administrator so that they are aware as well”. We were informed details of dual contractors had not been sent to the Pensions’ Administrator.</p> <p>Risk: <i>The Pensions’ Administrator is unaware a retiree has a dual contract</i></p>	<p>There should be a standard form issued by HR to the Pensions’ Administrator which would document whether the retiree has a dual pension or not.</p> <p>The Pensions’ Administrator should be provided with details of all employees in the 1992 Scheme with dual contracts as stated in the report to members on the “Loss of Protected Pension Age” dated 31 January 2014.</p>	<p><u>Response of Chief Fire Officer</u> Agreed</p> <p><u>Date for implementation</u> Completed</p> <p><u>Officer responsible for implementation</u> Both recommendations have now been completed.</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>3. Letter sent by HR to retirees</p> <p>The letter sent by HR to retirees has been amended and includes the following paragraph: 'from 6 April 2010, those employees who have not already retired and taken their pension benefits before the age of 55 become subject to significant tax penalties if they are subsequently re-engaged in the same or similar role with the Fire and Rescue Service.'</p> <p>We consider the letter adequately advises the retiree that if they retire as a wholetime firefighter but continue to work as a retained fire fighter they are liable for tax on their pension benefits. However the criteria when the loss of protected pension age occurs are unclear.</p> <p>Risk: <i>Firefighters may not consider the advice applies to them and may continue with their retained employment</i></p>	<p>The letter issued to retirees should be amended to make it clear that the loss of protected pension age may occur for firefighters in the 1992 Pension Scheme with a protected pension age of 50 who wish to retire before the age of 55 years.</p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> Completed</p> <p><u>Officer responsible for implementation</u> Action implemented.</p>

Audit Finding	Recommendation	Management Response
Low risk areas (desirable for effective internal control, may implement recommendations to improve existing control arrangements)		
<p>4. Retirement Policy A new Retirement Policy for Uniformed Employees dated September 2014 was written by the Manager HR. The Policy adequately details the loss of protected pension protection for members of the 1992 Scheme who retire before the age of 55 and commence employment with any Fire and Rescue Service within six months of retirement. It also states the Service will not employ retired members of the pension scheme within six months of retirement, into an operational role, including the Retained Duty System, unless they agree in writing to be bound by the tax liability and the sanction charge applied to the Authority as a condition of their new employment.</p> <p>The policy does not make clear that firefighters employed as wholetime and retained firefighters when they retire, will also be subject to the tax liability if they continue their retained job.</p> <p>Risk: <i>The Service may not be aware of loss of protected pension age and tax penalties may occur for firefighters with dual contracts</i></p>	<p><i>The Retirement Policy should clearly state that firefighters with dual contracts when they retire, will be subject to a tax liability on their wholetime firefighter pension benefits if they continue in their retained role.</i></p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> Jan 2015</p> <p><u>Officer responsible for implementation</u> A draft Retirement Policy has been developed and includes reference to the tax liability for dual contract employees. Consultation on the revised policy will commence with the representative bodies as soon as possible.</p>
<p>5. Letter to retirees issued by the Pensions' Administrator There is no mention in the correspondence between the Pensions' Administrator and the retiree of the tax implications of dual contracts or re-employment.</p> <p>Risk: <i>Firefighters may be unaware of the tax implications of the loss of protected pension age from dual contracts</i></p>	<p><i>The pensions letter issued by the Pensions' Administrator to retirees should enquire whether a firefighter has a dual contract and ensure the retiree understands the implications of continuing in this employment.</i></p>	<p><u>Response of Chief Fire Officer –</u> Agreed</p> <p><u>Date for implementation</u> This is currently being dealt with the pensions administrator.</p> <p><u>Officer responsible for implementation</u> The pensions administrator (Leicestershire County Council) have been informed that this is required.</p>

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NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Retirement Policy – Uniformed employees

Policy No: 1025

Scope:

This policy is mandatory .

Summary:

The purpose of this policy is to set out the Service position on retirement for members of the Firefighter's Pension Schemes.(1992 and 2006)

Version Control:

<i>Person Responsible</i>	<i>Version</i>	<i>Date</i>
HR Manager (Corporate)	0.5	Sept 2014
Revisions		

Review Date:

Contents:

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Waiver

This policy only sets out the circumstances in which members of the Firefighter's Pension Scheme 1992 and 2006 can retire from the Service and access pension scheme benefits. As the circumstances of individual scheme members will differ, all matters relating to provisions and conditions of the respective pension schemes must be raised by individual scheme members with the pension scheme administrator (email address) before making any decisions about retirement. The Service is unable to provide advice on individual pension issues.

Please note that pension scheme regulations will be changing from 2015. The details of the changes are not yet determined and this policy will be updated once the new arrangements are in place.

1.0 Definitions

- 1.1 This policy relates to those employees who reach an age when they can access state pensions benefits and/or benefits payable under an occupational pension scheme and make a decision to retire from the Service.
- 1.2 The Service does not operate a default retirement age for operational roles. Employees may remain in Service whilst they remain fit and competent to perform their role. In certain circumstances, in line with statutory provisions, the Service may apply a compulsory retirement date if this can be objectively justified.
- 1.3 This policy does not provide details of the RDS Modified Scheme, which applies to RDS employees between 2000 and 2006. If you require any information about this scheme, you should contact our Pensions Administrators at: firepensions@leics.gov.uk

2.0 General Principles

- 2.1 The Service Retirement Policy will be compliant with the Employment Equality (Age) Regulations 2006, the Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 and the provisions of the Fire-fighter's Pension Scheme (1992) and Fire-fighter's Pension Scheme (2006).

Employee initiated retirement

- 2.2 Service employees are able to retire under the provisions of the relevant occupational pension scheme and take pension benefits, as follows:
 - Employees who are members of the Firefighter's Pension Scheme 1992, from age 50 provided they have at least 25 years service, with pension benefits based on the service they have accrued

- Employees who are members of the Firefighter's Pensions Scheme 2006, from age 60. The maximum service a member can accrue is 40 years. Retirement is possible from age 55 with the employers consent but a reduction will be applied due to the early payment of the pension.
- Taking early retirement (i.e. before full pensionable service is obtained) will have the effect of reducing pension benefits, advice should always be sought from the Pensions Section at Leicestershire County Council (firepensions@leics.gov.uk).

2.3 Whilst the Service will seek to review the Policy as changes to pension scheme provisions arise, it cannot be relied upon to protect entitlement where statutory changes are made which affect the benefits referred to in this Policy. Provisions relating to entitlement to pension benefits will always relate to the specific provisions of the relevant pension scheme operating at the time of retirement.

Employer Initiated Retirement

2.4 Under the provisions of the 2006 scheme, the Service may require an employee who has sufficient service to qualify for a pension who has reached age 55 but not age 60, to be retired in the interests of the management of the service. In this situation, benefits would be paid in accordance with the following formula:

annual pension = 1/60 x pensionable service x final pensionable pay.

2.5 Employees who, in the view of an Independent Qualified Medical Practitioner, are unable to perform their normal job role due to permanent ill-health following the consideration of reasonable adjustments and who cannot be redeployed to an alternative job role, may be retired from the Service on the grounds of permanent ill-health. For further information, please refer to the Management of Long Term Sickness policy.

2.6 The Service may impose retirement dismissals if this can be objectively justified, i.e. it is able to show that it is a proportionate means of achieving a legitimate aim.

Re-employment and abatement

2.7 Firefighter's Pension Scheme members (92 and 2006 scheme) who return to employment with any Fire and Rescue Service in a role of a similar nature to their previous role (before retirement) within six months after taking pension benefits will be subject to pension abatement depending on the salary earned in the new employment. It is the responsibility of the retired person to notify the Service of any such employment.

2.8 Members of the 1992 FPS may be re-employed into a role which is not deemed to be of a "similar nature" after one month, with protection of the pension protected age (see below) if abatement is applied.

Protected Pension Age

- 2.9 Members of the Firefighters Pension Scheme 1992 have a right to retire from 50 provided they have 25 or more years of pensionable service. The right to retire at an age below 55 (Minimum Pension Age) is protected and on retirement members will receive a 'protected pension age'. However, members of this scheme should be aware that this protection can be lost. Specifically, from the 6 April 2010 those employees who have not already retired and taken their pension benefits before the age of 55 became subject to significant tax penalties if they are subsequently re-engaged in the same or a similar role with the Fire and Rescue Service. The pension benefit is taxed at a rate of 40% and a sanction charge is payable. The pension commutation sum also being taxable at a rate of 40%.
- 2.10 The HMRC have confirmed that the definition of 're-employment' applies to situations in which employees who hold dual contracts (ie both whole-time and retained contract) prior to retirement fall within the scope of the new regulations applied. This means that employees who retire from their whole-time contract but continue employment in a retained contract are subject to taxation on their pension benefits as set out above. Employees in this position are strongly advised to seek further advice from an independent taxation advisor prior to retirement.
- 2.11 This provisions of paragraph 2.8 will not apply if the role is materially different and if abatement is applied from the commencement of the new employment (see 1.7 above).
- 2.12 For this reason, the Service will not employ retired members of the pension scheme, within six months of their retirement, into an operational role or broadly similar role. This will include employment on the Retained Duty System even where the employee has been previously employed on a dual contract basis before retirement.
- 2.13 Whilst members of the Personnel section can provide information about pension benefits, they are not able to offer financial advice or recommend a particular course of action.

Pre-retirement course

- 2.14 All employees will be given the opportunity to attend a Pre-Retirement course prior to their retirement. Employees may attend the course even if they have retired from Service and may be accompanied by a partner. Employees are strongly advised to attend these courses, which are free of charge, as they provide valuable information about benefits in retirement, financial management and lifestyle changes. Further details of the course are available from the Human Resources Department.

3 Application

Normal or employee initiated early retirement

- 3.1 Employees may choose to take normal retirement from age 50 with 30 years service (92 scheme) or from age 60 (2006 scheme) or early retirement under the provisions of their respective occupational pension scheme. Notification procedures will be those set out in employment contracts. In general, written notice of retirement will be one month for roles up to and including Station Manager, two months for Group Managers, three months for Area Managers and six months for Brigade Managers.
- 3.2 To assist with workforce planning, the Service may write to employees prior to the age that they could take normal retirement under the provisions of their respective pension scheme to indicate their likely intentions regarding retirement and to deal with any queries that they may have. This does not obligate the employee in any way. Employees must notify the Human Resources Department of their intention to retire in line with the notice requirements of their contract.
- 3.3 Information about Firefighter Pension Scheme retirement benefits will be provided by the Pensions section at Leicestershire County Council directly to the employee. Their contact email address is: firepensions@leics.gov.uk
- 3.4 The lump sum is paid by the NFRS Payroll section as soon as possible after the retirement date following information being received from the Pension Section.
- 3.5 Pension payments commence one month after the retirement date and are paid on the last day of the month.
- 3.6 Enquiries about pension payments should be directed to the Pensions Section at Leicestershire County Council: . firepensions@leics.gov.uk.
- 3.7 Appeals against decisions regarding the application of pension scheme provisions will be dealt with through the Internal Disputes Resolution Procedure. Please note that under the provisions of the Fire-fighter's Pension Scheme (1992) and Fire-fighter's Pension Scheme (2006) appeals in relation to medical decisions will be dealt with under Rule H2 of the relevant pension scheme. Further details about the appeals process can be obtained from the Human Resources Department.

Retirement on the grounds of the efficiency of the service

- 3.8 Under Regulation 6 of the New Firefighters' Pension Scheme 2006, members may be required by the Fire Authority, where they are aged over 55 (but not aged 60), to retire from the service on the grounds of the economical, effective and efficient management of service functions.
- 3.9 In all cases involving employer initiated early retirement, the employee will have a right of appeal against the decision. The appeal to be heard at Area Manager or equivalent level.

Ill Health Retirement

- 3.10 The provisions of the respective occupational pension scheme will apply to members of those schemes. The provisions are complex and an HR Business Partner will advise individuals of the benefits applicable at the time that a decision to retire the employee from service is made.
- 3.11 Further information can be obtained in the Service's Management of Long Term Ill Health Policy which can be found on the intranet at: Reference library>policies and procedures>policies>management of long term ill health

4 Role & Responsibilities

The Human Resources Department will be responsible for implementing the Retirement Policy

The Payroll section will liaise with the Pension section regarding the payment of pension benefits

The Pensions section will administer the payment of pension benefits and provide advise to members of occupational schemes.

5 Monitoring - Audit & Review

The Policy will be reviewed and updated by the Head of HR Services in line with changes to legislation and to pension scheme regulations.

6 Related Documents.

Equalities Impact Assessment

Firefighter's Pension Scheme (1992)

Firefighter's Pension Scheme (2006)

Management of long-term ill health policy

Internal Disputes Resolution Procedure

RELEVANT LEGISLATION

Employment Equalities (Age) Regulations 2006

Employment Equality (Repeal of Retirement Age Provisions) Regulations

2011

Nottinghamshire Fire and Rescue Service
Headquarters
Bestwood Lodge
Arnold
Nottingham
Tel: 0115 9670880
Fax: 0115 9261081
Email: HumanResources@notts-fire.gov.uk

Your Ref:
Our Ref:
Please Ask For: Rachel Rodda
Direct Line/Ext: 225
Date:

Dear

Thank you for your letter dated in which you inform me of your intention to retire from the Service with effect from after completing year's service with the Nottinghamshire Fire and Rescue Service.

As always there are a few administrative points to clarify in respect of your retirement. A pension pack will be sent to you directly from Leicestershire County Council. Forms should be completed as soon as possible and returned to Leicestershire County Council Pensions Section as the Pensions Section/Payroll Department cannot pay you your pension until these are received.

All leave including any outstanding bank holidays should be taken prior to your leaving date with the approval of your Line Manager.

If you have not already taken advantage of attending a Pre-Retirement Course, the HR Section can arrange a place for you on the next course. You can also ask for the opportunity of a leaver's interview with a member of the HR Section. Both of these will assist you with any queries you may have regarding your impending retirement and if you decide that you wish to attend any one of these, do not hesitate to contact them on (0115) 9675946.

I confirm that your membership of Westfield will unfortunately cease with effect from and therefore your monthly subscription and any subsequent benefits will also cease from this date. The HR Section will automatically inform Westfield of your leaving date. Should you wish to continue with Westfield on a personal basis, you should contact the HR Section who will provide you with the necessary information.

I would also ask that you ensure the return of the following items to your Line Manager (if applicable), prior to your leaving date:

- Identity card
- Fire kit
- Mobile phone/pager
- Keys
- Fireground radio
- Business Cards

We would like to carry out an exit interview with you before you leave. Please complete the enclosed questionnaire prior to your Line Manager contacting you in the near future to arrange a meeting.

Protected Pension Age

Members of the Firefighters Pension Scheme (1992) have a right to retire from 50 provided they have 25 or more years of pensionable service. The right to retire at an age below 55 (Minimum Pension Age) is protected and on retirement members will receive a 'protected pension age'. However, members of this scheme should be aware that this protection can be lost.

As a member of the Firefighters Pension Scheme (1992) I need to advise you that from 6th April 2010, those employees who have not already retired and taken their pension benefits before the age of 55 became subject to significant tax penalties if they are subsequently re-engaged in the same or a similar role with the Fire and Rescue Service. The pension benefit is taxed at a rate of 40% and a sanction charge is payable. The pension commutation sum also being taxable at a rate of 40%.

Please note that the Service will therefore prohibit re-employment within six months of retirement into roles which may be construed as similar in nature to roles undertaken by members of the Firefighter Pension Scheme. Members of the FPS (1992) may be re-employed into a role which is not deemed to be of a "similar nature" after one month, with protection of the pension protected age if abatement is applied.

The HMRC have confirmed that the definition of 're-employment' applies to situations in which employees who hold dual contracts (ie both wholetime and retained contract) prior to retirement fall within the scope of the new regulations applied. This means that employees who retire from their wholetime contract but continue employment in a retained contract are subject to taxation on their pension benefits as set out above. (paragraph dual only)

Employees in this position are strongly advised to seek further advice from an independent taxation advisor prior to retirement before undertaking any future employment in the public sector. Further advice can be sought from an HR Business Partner.

It only remains for me to pass on my best wishes to you from your colleagues within the service and, on behalf of Nottinghamshire Fire and Rescue Service, to recognise and thank you for the years of loyal service which you have given to the people of Nottinghamshire. I hope that you have a long, happy and rewarding retirement and that you will take with you some good memories of your time with the Fire Service.

Yours sincerely

Tracy Crump
Head of HR Services