

**South Tyneside Council****Human Resources Manual**

Reserve Forces Policy

Introduction

South Tyneside Council recognises the valuable contribution that members of the Reserve Forces (Reservists) can make to the UK Armed Forces, their communities and the civilian workplace.

This policy has been designed to support both employees who are Reservists and their managers and sets out how the Council will support them whilst employed by the Council. The Council will ensure that employees who are Reservists do not suffer any detriment during employment, those who are mobilised and return to work will be reemployed in line with section 6.9.

This policy applies to all employees of South Tyneside Council, including school based employees where the governing bodies of individual schools have adopted the policy.

What is a Reservist?

Volunteer Reservists supplement the Regular Forces whenever operational demands require it. Reservists make up around 14% of the nation's total defence capacity which in turn makes them an essential part of our defence strategy. They are called upon as individuals for their specific skills or as ready-formed units to serve alongside the Regular Forces whenever required.

There are two main types of reservists:

- Volunteer Reservists - civilians recruited into the Royal Naval Reserves, Royal Marines Reserves, Army Reserves and Royal Air Force Reserves;
- Regular Reservists - ex-regular personnel who may retain a liability to be mobilised depending on how long they have served in the Armed Forces.

Some Reservists hold High Readiness Reserve (HRR) status. These individuals have specific skills and are liable to be deployed at short notice. Any employee who wishes to sign up for HRR status should approach their Head Teacher in the first instance to discuss the implications as the Reserve Forces require individuals to obtain written consent from their employer before volunteering to hold this status.

Reservists undergo extensive military training and gain experience of dealing with a diverse range of people from all walks of life, nationalities and cultures. The Reservist training programme teaches individuals a range of skills, such as communication, leadership, team work, decision making, working under pressure and increases their diversity awareness.

Notification requirements

The School asks that new recruits who are already Reservists or existing employees who become Reservists inform their Head Teacher as soon as possible that they are, or intend to become, a Reservist so that the necessary support can be given and any practical implications can be addressed.

Employees should complete the Reserve Forces Notification Form and forward this to their Head Teacher. Once the form has been signed the Head Teacher should scan a copy and email to hr.operations@southtyneside.gov.uk

If at any time the employee ceases to be a Volunteer Reservist, it is their responsibility to notify their Head Teacher of this change through the completion of the Reservist Forces Notification Form. Once the form has been signed the Head Teacher should scan a copy and email to hr.operations@southtyneside.gov.uk

Commitment

The period for which a Reservist commits varies between the different Reserve Forces but is usually for 3 years or more.

Training

Reservists are typically committed to around 30 days training per year, which tends to take place one evening per week and over various weekends throughout the year. In addition, there is also a requirement to attend a continuous mandatory period of training, usually lasting two weeks, known as annual camp.

Mobilisation

Mobilisation is the process of calling a Reservist into full time military service in support of military operations.

Reservists are only mobilised when absolutely necessary and this takes place under the 1996 Reserve Forces Act. The maximum period of mobilisation will depend on the scale and nature of the operation but is typically for no less than three months and no longer than 12 months in a five year period and the period will cover training, deployment, and recuperation after service.

Reservists will receive Call-out papers from the Reserve Force informing them of their Call-out date and the anticipated length of mobilisation. Their Head Teacher will also receive an information pack notifying them of the mobilisation which will either come directly from the Reserve Force or delivered by the employee.

Whenever possible, the MoD aims to give at least 28 days' notice of the date that the Reservist will be required to report for mobilisation, although there is no statutory requirement for a warning period prior to mobilisation. Reservists who hold HRR status can be mobilised with seven days' notice or less.

Time off for Reservist activities**Training**

The Council provides Reservists or Cadet Force Adult Volunteers with up to 2 weeks leave with pay per rolling year (pro-rata for part-time employees) to enable them to attend their annual camp.

Paid leave is not provided for weekly and weekend training requirements as these are likely to fall outside of an employee's normal working hours. However, if an employee's work pattern includes evening or weekend working, Head Teachers should consider whether it is operationally feasible to temporarily adjust their working pattern, upon request.

Any training which exceeds 2 weeks leave per rolling year (pro-rata for part time employees) will require Reservists to take the time off as unpaid.

Employees can request additional unpaid leave or use existing annual or flexi leave for short periods of training where it is not possible to undertake this outside of working hours.

To request paid/unpaid time off for training, employees must complete the Reserve Forces Leave of Absence Request Form (available via the intranet) and present this to their Head Teacher.

Requests will be considered in line with operational requirements and cannot be guaranteed, therefore it is essential that as much notice as possible is provided to allow Head Teachers to plan for the absence.

Once the form has been signed and authorised the Head Teacher should scan a copy and email to hr.operations@southtyneside.gov.uk

Mobilisation

The Reserve Forces (Safeguard of Employment) Act 1985 (SOE 85) provides Reservists who have a liability to be mobilised with two types of protection:

- **Protection of employment** – from unfair dismissal and makes it a criminal offence for an employer to terminate a Reservist's job without their consent solely or mainly because they have a liability to be mobilised
- **Rights to reinstatement** – provides a legal right to reinstate the Reservist to their former job, subject to certain conditions

To inform the School of intended Mobilisation dates, Reservists should complete the Reserve Forces Leave of Absence Request Form and present this to their Head Teacher. Once signed, the Head Teacher should scan a copy and email to hr.operations@southtyneside.gov.uk

When a Head Teacher is notified that an employee in their School is to be mobilised as a Reservist they should arrange to meet with the employee to discuss the mobilisation instruction as soon as possible using the Template Mobilisation Letter. The Head Teacher will need to discuss the employee's entitlements during their period of mobilisation along with the operational impact of the employee's absence in order to make appropriate arrangements for the handover of their work, the return of any equipment and to agree how they will keep in touch.

Part 1 of the Mobilisation Checklist, at Appendix C, should be completed by the Head Teacher and the employee during this meeting.

The Mobilisation Checklist should be **retained** by the Head Teacher until arrangements are made for the Reservist Forces employee to return to work at which point Part 2 of the Mobilisation Checklist should be completed. (See section 4 for guidance).

The Mobilisation Letter should be scanned and emailed to hr.operations@southtyneside.gov.uk

Salary

There is no requirement for the School to pay the employee during their absence on military operations. During this period the Reservist will receive service pay from the Ministry of Defence (MoD), along with a standard award to make up any difference between their service pay and normal average earnings.

In addition to covering the Reservist's salary and contractual benefits during mobilisation, the MoD will also cover additional costs incurred by the employer (up to a maximum amount). This includes reimbursement for overtime costs incurred by other employees covering the work of the Reservist, the cost that a temporary replacement exceeds the earnings of the Reservist and agency fees or advertising costs to find a temporary replacement for the Reservist. Details of how to claim this will be included in the information pack provided to the Head Teacher from the MoD.

Pension – Local Government Pension Scheme (LGPS)

Reserve Forces Service Leave:

If an employee is on Reserve Forces Service Leave (and, if eligible to be in the Armed Forces Pension Scheme during that period, has elected to remain a member of the LGPS) the employer must calculate the Assumed Pensionable Pay (APP) for the period they are on leave and enter that into their pensionable pay record so the person continues to build up a pension as if they were still at work.

APP is calculated using the 3 complete month's pensionable pay the member receives before the date they commenced Reserve Forces Service Leave.

The Council will not pay any employer contribution to the Fund on the Assumed Pensionable Pay. Instead, the Council would notify the Reservist and, via the Reservist, the Ministry of Defence (MoD) of both the Assumed Pensionable Pay figure and the employee and employer contribution rate due on that amount. The MoD would deduct the employee contribution from the Reservist and pay both the employee and employer contributions directly over to the Pension Fund.

If the Council pays the Reservist any pay whilst they are on Reserve Forces Service Leave, neither employee or employer contributions are payable on that pay and the pay is not added into the person's cumulative pensionable pay figure, instead the Assumed Pensionable Pay is added into the cumulative pensionable pay.

If the employee is paying additional contributions i.e. Additional Voluntary Contributions (AVCs), Additional Regular Contributions (ARCs), Additional Pension Contributions (APCs) or Shared Cost APCs, please contact Tyne and Wear Pensions Team on 0191 424 4141 (or email pensions@twpf.info for more information).

If a Reservist contributes to the Teachers' Pension Scheme or NHS Pension Scheme, please contact the relevant pensions department to discuss how being a Reservist will affect your pension.

Further information can be found at:

NHS Pension: <http://www.nhsbsa.nhs.uk/Pensions/2735.aspx>

Teachers' Pension: <https://www.teacherspensions.co.uk/public/contact-us/member-contact-us.aspx>

Continuity of employment

The continuity of an employee's period of employment will not be broken by a period of mobilisation as long as they are reinstated to their former employment within six months of demobilisation. However, in terms of any calculations based on continuous service e.g. sickness or maternity entitlement, the period of mobilisation would not be included.

Annual leave

Annual leave entitlement with the Council will not accrue during the period of mobilisation, as Reservists accrue annual leave entitlement with the MoD during full time service and this is factored into the mobilisation period.

Wherever possible, Reservists should make arrangements with their Head Teacher to take any accrued annual leave before their mobilisation. Upon their return to work, the employee's annual leave will be calculated pro-rata for the annual leave year, taking into account their period of absence due to mobilisation.

Sickness

Should a Reservist become sick or injured during mobilisation they will remain mobilised until they reach a certain level of fitness, as assessed by the military medical teams. During this period, the Reserve Force will continue to pay the Reservist until they are demobilised. Depending on the extent of the injury, the demobilisation date may be earlier or later than originally anticipated.

Keeping in touch

The frequency and methods of keeping in touch will depend on the length of mobilisation and Head Teachers should note that there may be sustained periods during which it may not be possible to remain in regular contact. However, it is likely that Reservists will have access to messages sent through the British Forces Post Office and email.

Employees are encouraged, where possible, to provide updates of their mobilisation and Head Teachers should ensure that they keep the Reservist updated with what is going on at work, as this will help with their reintegration.

Demobilisation

Reservists do not return to their employer directly following a tour of duty, they are taken to their demobilisation centre where, as well as post-operative administration procedures, they will undergo a series of medical assessments and receive briefings on stress, their return to work, welfare guidance and advice.

Once the Reservist has been formally demobilised, they are then able to start their period of post-operational leave to enable them to fully readjust and prepare for a return to civilian life. This leave is paid for by the Reserve Force and is in addition to any annual leave or public holidays accrued during mobilisation.

The School will be notified by the Reserve Force of the Reservist's demobilisation date and, once their leave has been calculated, of their last day of military service.

Head Teachers should be aware that regular contact with the employee during their post-operational leave will help ease their transition back to work.

Exemptions and deferrals

In all cases of mobilisation, the School will release the Reservist to report for duty unless there are exceptional circumstances where the employee's absence would be considered to cause serious

harm to service delivery. In such circumstances the/School has the right to seek exemption, deferral or revocation.

Whilst the expectation is that the Head Teacher supports the release of the employee for mobilisation, details of how the Head Teacher can seek an exemption, deferral or revocation and potential financial compensation are included in the Call-out information pack.

The Reservist also has the right to apply for exemption or deferral if the Call-out papers arrive at a difficult time.

If an unsatisfactory decision is received following the application for a deferral, the School can appeal for a hearing by the Reserve Forces Appeals Tribunal. If the Tribunal rejects the application for exemption or deferral, the Council/School will be required to release the employee for mobilisation.

Return to work

Regardless of the length of military service, the mobilised Reservist has the right to be reinstated in their job within six months of demobilisation to their post, with no less favourable terms and conditions, upon their return from service.

The employee must write to their employer, to state their readiness to return to work by no later than the 3rd Monday following their last day of paid military service, although Reservists are encouraged to contact their Head Teacher informally to discuss a return to work as soon as possible.

The start date for the employee's return to work should usually be within 6 weeks of their last day of paid military service, unless circumstances such as illness or injury prevent their return to work during the initial period. The Reservist forfeits their right to return to work with the Council if they fail to do so within 26 weeks of demobilisation.

The Head Teacher should acknowledge and respond to informal and/or formal contact from the Reservist, agree a return to work date and arrange a return to work meeting – a Template Return to Work Acknowledgement Letter is available at Appendix E.

At the return to work meeting the Head Teacher and employee should complete part 2 of the Mobilisation Checklist.

Once the employee has been reinstated, the Council is obliged to continue to employ them in the same occupation and on the same terms and conditions for a minimum period of time, depending on their length of service prior to mobilisation:

- If previously employed for up to 13 weeks, they should be re-employed for no less than 13 weeks upon their return;
- If previously employed for between 13 and 52 weeks, they should be re-employed for no less than 26 weeks;
- If previously employed for at least 52 weeks, they should be re-employed for no less than 52 weeks.

If it is not possible to reinstate the Reservist to their former job, the Council must offer them a suitable alternative post with the most favourable terms and conditions possible.

Head Teachers should ensure the Return to Work Acknowledgement Letter (Appendix E) is scanned and emailed to hr.operations@southtyneside.gov.uk as soon as possible to ensure that the Reservists salary is reinstated.

Support

Some Reservists may need refresher training on their return to work or be given time to re-familiarise themselves with processes and procedures in the workplace.

Financial assistance from the MoD is available for retraining that is required as a direct result of the employee's mobilisation. Applications cannot be made for routine training courses which would have taken place anyway. There is no cap on the amount that can be claimed, but evidence of the cost must be provided along with evidence that they could not reach the required standard by any other means, such as workplace experience. Further information about how to make a claim for financial assistance can be found in the Call-out information pack.

During mobilisation Reservists acquire extremely useful transferrable skills and knowledge which may be of particular use in the workplace. On their return, where appropriate, Head Teachers should discuss how any new skills and knowledge acquired could be utilised in their return to work.

Head Teachers should also be aware that Reservists may have a delayed response to what they have seen and experienced during mobilisation. If there is concern that a Reservist may be

experiencing issues as a result of their deployment, they should be encouraged to seek advice or help by consulting their unit, GP or through the Council's Occupational Health Service.

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