

Dear Colleague

CEL 42 (2009)

21 October 2009

**NHSSCOTLAND RESERVE FORCES TRAINING AND MOBILISATION
POLICY**

1. This letter is to advise colleagues that a Reserve Forces Training and Mobilisation policy has been developed for NHSScotland.

Background

2. NHSScotland employ a number of staff who are in the Reserve Forces and who may be subject to call up and mobilisation in areas of conflict. These staff also require regular time off for training to maintain their skills and readiness for deployment.

3. There was no national policy on this issue within NHSScotland and, although it was previously addressed under Whitley terms and conditions, it was not included in the Agenda for Change agreement.

4. The attached policy statement has been developed by a short life working group comprising of representatives of NHSScotland and Scottish Government Health Department, and was produced in consultation with SaBRE.

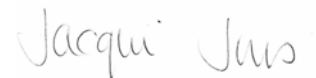
5. This policy is based on the model policy developed by SaBRE and has been modified to reflect the specific arrangements that apply to NHSScotland

6. In developing this policy, the group has consulted the HRD Executive Forum and the Management Steering Group (MSG), and the policy has received approval from the Scottish Terms and Conditions Group (STAC).

Action

7. Boards are asked to implement the policy at Annex A.

Yours sincerely



Jacqui Jones
The Scottish Government
Health Workforce Directorate

Addresses

For action

Chief Executives, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Human Resources, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)

For information

Employee Directors, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Members, Scottish Partnership Forum
Members, Scottish Terms and Conditions Committee
Members, Scottish Workforce and Governance Group

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St Andrew's House
Regent Road
Edinburgh EH1 3DG

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Annex A



NHS SCOTLAND

RESERVE FORCES

TRAINING and MOBILISATION POLICY

Implementation Date:

Review Date:

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Reserved Forces – Training and Mobilisation Policy

1. General Introduction

- 1.1 NHS Scotland supports employees who are members of or wish to join the Volunteer Reserve Forces. These consist of the Royal Naval Reserve (RNR), the Royal Marines Reserve (RMR), the Territorial Army (TA) and the Reserve Air Forces (RAFR and RAuxAF). This policy will also apply to Regular Reservists, who are ex-regulars who may retain a liability to be mobilised.
- 1.2 Employees who wish to take advantage of the provisions contained within this policy must inform their employer that they are a Reservist by contacting the individual identified at Appendix 2 for their Board. The designated contact for each Board will keep a register of all employees who are members of the volunteer forces and will ensure that the individual's line manager is aware of their membership of the volunteer forces and the implications of this.
- 1.3 This policy will also apply to High Readiness Reserves (HRR) and Civil Contingency Reaction Forces (CCRF), both of whom must inform their employer of their status given the relatively short notice of deployment. High Readiness Reserves will also require written consent from their employer if they work more than two days per week before they are able to hold this status.
- 1.4 The training undertaken by Reservists enables them to develop skills and abilities that can be of benefit to them as employees, and to the employer in terms of service delivery.
- 1.5 A greater understanding of the training and skills development carried out in the Reserve Forces will assist managers in conducting PDP procedures.

2. The Legal Framework

- 2.1 In most instances an employer's relationship with a Reservist member of staff should be like that of any other employee. However, there are areas where a Reservist's status may affect the operations of the

organisation. Legislation exists to define the rights and liabilities that apply to both parties.

2.2 There are two main pieces of legislation relating to employers and the Volunteer Reserve Forces.

- The Reserve Forces Act 1996 (RFA 96) which provides the powers under which Reservists can be mobilised for full-time service.
- The Reserve Forces (Safeguard of Employment) Act 1985 (SOE 85) which provides protection of employment for those liable to be mobilised and reinstatement for those returning from mobilised service.

3. Practical Support for Training

3.1 Paid leave of two weeks per year will be made available to Reservists to attend annual camp or equivalent continuous training.

3.2 Additional unpaid leave or annual leave from the employees normal annual allocation of up to 3 days will be granted for short periods of training, provided adequate notice is given and where such training cannot be undertaken in off-duty time. Attendance at weekend camps, which cannot be undertaken during off-duty, will be subject to the same arrangements.

3.3 Line managers will as far as possible facilitate work rosters to allow attendance for annual camp and other training commitments, e.g. weekly or weekend training sessions.

3.4 Reservist employees should give as much notice as possible to allow appropriate planning for absences. Permission will be granted where the notice exceeds one month and should normally be granted in other circumstances. Permission once given will not be rescinded except in exceptional and extreme circumstances.

3.5 Any disputes should be referred to the designated contact in the first instance. Employees who remain dissatisfied may thereafter use the grievance procedure.

4. Mobilisation

- 4.1 Mobilisation is the process of calling reservists into full-time service. (i) With the Regular Forces on the military operations (ii) To fulfil their part of the UK's defence strategy. The Reserve Forces Act 1996 provides the legal basis for mobilisation. In the past this has usually been done on a voluntary basis with the prior agreement of employers but can involve compulsory mobilisation of selected personnel. Subject to the severity of the crisis there would normally be a minimum of 30 days' notice. Mobilisation will normally be for between 3 and 12 months. For operational reasons the MOD are unable to give the employer a precise return date.
- 4.2 An employee who wishes to volunteer for mobilisation must seek prior agreement of their employer via the Board contact and line manager. Any such request will be considered within 48 hours.
- 4.3 Where there are multiple requests in a single department/unit these will be referred to the appropriate Senior Manager.
- 4.4 Where there is compulsory mobilisation of any employee the employer (following a similar process to 4.2 above) will decide whether to seek exemption or deferral. The grounds of exemption are strictly limited and would have to show serious harm to the employer's ability to provide services. The employer would only seek exemption in very exceptional circumstances.
- 4.5 Additional information regarding exemption and deferral from mobilisation is contained in Appendix 1.

5. Financial Assistance for Employers

- 5.1 Where an employee's mobilisation results in additional costs the employer may seek compensation from the MOD e.g.
- Overtime costs if another employee is used to cover the work of the Reservist.

- Any costs of hiring a temporary replacement that exceeds the Reservist's earnings.
- Advertising for replacement or agency costs.
- Training costs for any training the employee needs as a result of having been mobilised (the MOD will not pay for training that we would have carried out anyway) when they return to work to carry out their duties properly.

5.2 While the Reservist is mobilised, the employer is not obliged to pay them earnings. However, staff who are mobilised will receive their full salary from the employer from the time of the call-up until the first full monthly salary has been paid by the MoD. This is to ensure that the individual is provided with sufficient time to put their financial affairs in order and provide the MoD with sufficient time to process the respective salary entitlement. The excess salary paid after the date of mobilisation will be recoverable when the individual returns to work. The designated contact for the Board should ensure that the pay department is notified that the employee is being mobilised and the date when their pay should stop.

5.3 In order to claim financial assistance the employer will provide the Ministry of Defence with appropriate supporting documentary evidence e.g. invoices.

5.4 The latest date for submitting claims for financial assistance, other than for training, is within four weeks of the date the Reservist is demobilised.

6. NHS Pension Whilst on Active Service

6.1 A Reservist who is called out is entitled to remain a member of the NHS Pension Scheme. The Ministry of Defence (MOD) will pay the employer's pension contributions whilst the individual is mobilised provided they continue to pay their individual contributions. Where mobilisation occurs the employee will be given special unpaid leave of absence. The employee's pension contributions would be calculated and held over until the employee returns. These would then be recovered monthly from salary and over the same period as the employee was absent. The employer will continue, on request of

the employee, to pay employer's contributions to the NHS Pension Scheme for the period of mobilisation and invoice the MOD to recover this amount. Advice on the NHS Pension Scheme can be sought from SPPA.

7. Annual Leave Whilst Mobilised

- 7.1 Reservists have no entitlement to accrue annual leave whilst mobilised and on unpaid leave.
- 7.2 Reservists will have a period of 'post tour' leave which they accrue at the rate of 2.5 days per month of service from the MOD. This leave will be taken before the individual is demobilised.

8. Carry Over of Annual Leave

- 8.1 All annual leave untaken up to the date of mobilisation may be carried over into the following leave year. The "up to a maximum of 5 days" rule associated with untaken annual leave being carried forward is waived in the case of a reservist.

9. KSF Gateway Review & Annual PDP Review

- 9.1 Where an employee is absent from work following mobilisation, the service will be considered continuous and an employee will not be penalised if it coincides with their pay band gateway. This would be completed on the employees return and backdated to the employee's normal incremental date.
- 9.2 Line managers who carry out PDPR meetings with a reservist should be made aware that the Volunteer Reserve Forces activities undertaken by an individual (either through training or mobilisation) bring essential skills into the workplace such as leadership, communication, teamworking and organisational ability, which ultimately lead to improved performance in the workplace. It is therefore good practice that we recognise these skills and abilities in an individual's PDPR meeting and acknowledge that the activities can be regarded as evidence of achievement or in some circumstances contribute towards an individual being in a position to evidence

application of knowledge and skills at the next level of a KSF Dimension. These principles will also apply to reservists not employed on Agenda for Change terms and conditions.

10. Support on Return to Work (Demobilisation)

10.1 Demobilisation may be a difficult time, with a Volunteer Reservist returning to work after a challenging period in deployment. Helping to ensure a smooth re-integration into the workplace/team will require consideration:

- The need to update them on changes and developments in the organisation.
- The need to offer specific refresher training where it is sought/considered necessary.
- Where the job duties have changed since mobilisation a period of skills training may be required to assist them with new aspects of the job.
- Whether the Reservist can meet up with colleagues informally or socially (if appropriate) before or after return to work to prevent any feeling of dislocation, if this is sought.
- Reasonable time off to seek therapeutic treatment.

10.2 When an employer is advised by a Reservist that they want to return to work, the employer is obliged to employ them in their old job as stated in The Reserve Forces (Safeguard of Employment) Act 1985. Where this is not possible, they must be offered an equivalent position with the same terms and conditions of service. The right to return to work lasts for six months after demobilisation.

10.3 To enable the employer to plan for their return to work after their military service has ended, Reservists must advise the designated Board contact in writing, copied to their line manager, the date they will be available to start work. This communication should be made no later than the third Monday after the completion of military service.

- 10.4 The employer must be advised as soon as possible, if, due to illness or some other reasonable cause, the employee is unable to start work on the agreed date.

11. Review

- 11.1 This policy will be monitored and reviewed every two years or sooner in light of any legislative changes and in line with NHS changes.

12. Useful Sources of Help

SABRE (Supporting Britain's Reservists and Employers) Helpline for Reservists and Employers

Tel: 0800 389 5459

www.sabre.mod.uk

Scottish Public Pension Agency (SPPA)

7 Tweedside Park

Tweedside

GALASHIELS

TD1 3TE

Tel: 01896 893100

www.sppa.gov.uk

Appendix 1

1. Exemption and Deferral from Mobilisation

- 1.1 The employer has the right to ask for exemption from, or deferral of, mobilisation if it is considered that the organisation will suffer serious harm because of their absence.
- 1.2 The definition of ‘serious harm’ varies from case to case, but the broad guidelines laid out in CORFA 05 specifically mention:
 - Serious loss of sales, markets, reputation, goodwill or other financial harm
 - Serious impairment of the ability to produce goods or provide services
 - Demonstrable harm to research and development of new products, services or processes, provided that the harm could not be prevented by the employer receiving financial assistance under CORFA 05
- 1.3 To be considered for exemption or deferral, the Reservist, or the employer, must make an application, within seven days of the Reservist being served with a mobilisation notice, to the Service Adjudication Officer (SAO) for the Service in which the Reservist will serve. Late applications can only be made with the permission of the SAO appointed by the MOD. A serving officer or MOD official normally holds this post.

Address: Army Adjudication Officer
TA and Reserves Manning & Career Management
Divisions (Mail Point 295)
Army Personnel Centre
Kentigern House
65 Brown Street
GLASGOW
G2 8EX
Fax: 0141 224 8746
E-mail: taresmcm@khinf.demon.co.uk

Royal Naval and Royal Marines Adjudication Officer
Fleet Headquarters
Leach Building (MP 3 – 4)
Whale Island
PORTSMOUTH
PO2 8BY
E-mail: fleet-npsrnrmadjudication@mod.uk

RAF Adjudication Officer
Room 255/G106
HQ Personnel and Training Command
RAF Innsworth
GLOUCESTER
GL3 1EZ
Fax: 01452 510949
E-mail: gcrestores@ptc.raf.mod.uk

- 1.4 The following information must be provided when applying for exemption or deferral:
 - Personal details including full name, address, payroll and National Insurance number
 - Details of the job or role they perform within the Board
 - The effect that their absence would have on the Board and/or departmental business and/or service delivery
 - Justification for exemption in terms of the serious harm to the Board and department.
- 1.5 Once received, the application will be examined by the SAO who will decide if the case for exemption or deferral is acceptable. In making this decision, the SAO will seek to balance the needs of the Board and employing department against the operational needs of the Armed Forces for which the Reservist has been mobilised.
- 1.6 An appeal can be made to the Reserve Forces Appeal Tribunal if the Board is unhappy with the decision of the SAO. The SAO will provide information on making an appeal.

- 1.7 Reserve Forces Appeal Tribunals are independent of the MOD, with appointments made by the Secretary of State for Constitutional Affairs and Lord Chancellor. Each tribunal consists of a legally qualified chairperson and two lay-members drawn from a list held by the Employment Tribunals Service.
- 1.8 Appeals must be lodged with the office of the Secretary to the Tribunal no more than five working days after the SAO's decision is received. Appeals can be faxed or posted first-class.

Address Reserve Forces Appeal Tribunals
Directorate of Reserve Forces & Cadets
Assistant Secretary
Ministry of Defence
Level 8, Zone E, Desk 12
Main Building, Horse Guards Avenue
Whitehall
LONDON, SW12 2HB
Tel: 020 7218 6854
Fax: 020 7218 5612

- 1.9 The employer will be advised of the date, time and place of the hearing of the appeal. Where considered necessary, employers may be asked to provide the Tribunal with additional information in support of their case. Appeals are normally heard within 28 days of receipt of the appeal, during which time the Reservist will not be deployed outside the United Kingdom.
- 1.10 Appeals are normally held at the office of the Employment Tribunal Service nearest to the Board

Address: Employment Tribunal Service
Eagle Building
215 Bothwell Street
Glasgow, G2 7TS
Tel: 0141 204 0730
Fax: 0141 204 0732
E-mail: glasgowet@ets.gsi.gov.uk

Appendix 2

Designated Board Contacts

It will be the role of the Designated Board Contact to ensure that they are fully aware of the provisions of this policy and are therefore able to advise employees of the support available to them. Board contacts should also maintain an up to date database of all Reservists working in their Board area. They should be available to work with both their employee and the employee's line manager to ensure the provisions of the policy are available.

While an employee is mobilised Designated Board Contacts should also aim to maintain contact with the employee to ensure they are kept informed about their Board area. This may be through the provision of a staff newsletter, update e-mails, briefing notes etc.

Each Board has a responsibility to identify their Designated Contact, however, for the purposes of this policy the responsibility will be that of each Board's Director of Human Resources.