



Response to Home Office consultation “Re-engagement of Senior Fire Officers post-retirement”

1 The Association of Local Authority Chief Executives and Senior Managers (ALACE) welcomes the opportunity to submit a response to this consultation paper. ALACE is the only union that represents exclusively local authority chief executives and senior managers. Its members include some senior officers in Fire and Rescue Authorities who could be affected by the proposals in the consultation paper.

Summary

2 **ALACE does not support the proposed amendments to the Fire and Rescue National Framework.** The proposals are unnecessary, and we feel discriminate against senior fire officers when their employing authorities agree arrangements that can reduce staffing costs. The arrangements that are made comply fully with the pension regulations. If the Government no longer supports the flexibilities in the regulations, then it should consult on amending the regulations rather than seeking to constrain authorities’ actions through the National Framework.

3 The proposals seem to ALACE potentially to represent discrimination on grounds of age as, inevitably, only officers of a certain age are eligible to retire and potentially be re-employed. We therefore seek confirmation that the Home Office has undertaken an equality impact assessment in respect of the proposals and, if it goes ahead with them, confirmation that the assessment will be published.

4 ALACE does not support a requirement for all principal fire officer posts to be open to competition nationally. It is well-established in legislation relating to principal local authorities that they must advertise senior posts only if they do not propose to appoint one of their existing members of staff. This allows an authority the option of avoiding the cost of an external recruitment process (advertisement, candidates’ costs including relocation costs etc), if it believes that it has one or more suitable internal candidates to consider. The Local Authorities (Standing Orders) Regulations 1993 do not bite on fire and rescue authorities. However it is inappropriate that the Government should seek to use the National Framework to apply greater limitation on local decision-making by fire and rescue authorities than is found in the legislation which applies to principal authorities.

Detailed responses to questions

Question 1

ALACE strongly disagrees that the practice of senior fire officers retiring from post and subsequently being re-employed should be discouraged.

Question 2

ALACE believes that the proposals are unnecessary and interfere in legitimate local decision-making by fire and rescue authorities. The Firefighters Pension Scheme 1992

provides that an individual may retire, receive his or her pension benefits and be re-employed by the authority. This usually involves a cost reduction for the authority as it will no longer have to make pension contributions for the individual, and thus promotes effective use of resources. We are surprised that the Government would want to constrain use of such options against the background of very significant reductions in resources for fire and rescue authorities.

We also resent the implication in paragraph 4 of the consultation paper that senior fire officers are not obeying the spirit of the pension regulations and are able to “circumvent the intention of the regulations”. With respect, it is not individual employees who are required to obey the regulations but employing authorities themselves. The flexibilities under the regulations are available to all members of the pension scheme. They are not reserved to senior fire officers although we can understand why it is perhaps more likely that retirement and re-employment is an option in senior leadership and “office-based” roles rather than in roles that provide front-line operational response to incidents and fires.

The proposal seeks to discriminate against senior fire officers when their employing authorities agree arrangements that can reduce staffing costs. The arrangements that are made comply fully with the pension regulations. If the Government no longer supports the flexibilities in the regulations, then it should consult on amending the regulations for all fire-fighters rather than seeking to constrain authorities’ actions through the National Framework.

Question 3

ALACE strongly disagrees that an addendum to the National Framework is the best way to discourage the practice of senior fire officers returning from post and subsequently being re-employed.

Question 4

As set out in our answer to Question 2, we do not consider that the Framework is the appropriate vehicle for delivering this approach. ALACE is not advocating amendment of the pension regulations but that would seem a more suitable way of delivering change.

Question 5

ALACE strongly disagrees that re-employment of senior fire officers should have to be justified in exceptional circumstances in the interests of public safety.

Question 6

ALACE does not support the suggestion that re-employment should have to be justified “where necessary in the interests of public safety”. No such test exists in the pension scheme and the suggestion that it should be applied for re-employment of senior officers creates a two-tier approach, as there would be no such constraint in respect of more junior posts.

ALACE is comfortable that fire and rescue authorities should have transparent decision-making about re-employment of senior officers. It believes strongly that such decisions are for each authority to take and be accountable for, and that they can legitimately be taken for a range of reasons that go far beyond public safety. For example, a prime motivation might be to retain the services of an excellent leader, who is delivering transformation and improvement, but at lower cost than current arrangements. While any senior officer’s performance can have direct or indirect impacts on public safety, we doubt that this represents a sensible sole criterion for re-employment.

Question 7

No.

Question 8

ALACE believes that none of the measures as drafted should be included. Detailed reasons are set out in answer to question 9.

Question 9

ALACE believes all the measures as drafted should be excluded, although we identify some elements that could be included if desired.

FRAs must not re-appoint principal fire officers after retirement to their previous (or a similar) post, save for in exceptional circumstances when such a decision is necessary in the interests of public safety	Exclude: see comments in answers to questions 2 and 6
Any such appointment must be transparent, justifiable and time limited	Exclude as drafted. However we agree that re-appointment decisions should be transparent and justifiable. There is no basis on which to set time limits for re-appointment, now that there is no longer a mandatory retirement age, and we believe that this could constitute age discrimination.
In the exceptional circumstance that a re-appointment is necessary in the interests of public safety, this decision should be subject to agreement by a vote of the elected members of the fire and rescue authority	Exclude as drafted. ALACE does not support justification by reference to public safety: see answer to question 6. We do not object to decisions on re-appointment being taken by a vote of elected members, so long as this applies to any re-appointment (i.e. not just those of senior officers).
FRAs must publish the reason why the re-appointment was necessary in the interests of public safety and alternative approaches were deemed not appropriate.	Exclude as drafted: see answer to question 6. However we do not object to the reason(s) for re-appointment being published.
The officer's pension must be abated until they cease to be employed by a FRA.	<p>Exclude. This is confusing and not precisely worded. Fire and rescue authorities should comply with any rules on abatement set out in the pension scheme, as applicable to the individual.</p> <p>The 1992 scheme rules provide for abatement of pension on re-employment. This is somewhat different from the provision in the 2015 pension scheme which provides for flexible retirement, whereby someone can draw down pension benefits and continue in employment.</p>
All principal fire officer posts must be open to competition nationally.	Exclude: see comment in paragraph 4 of our response above.

	<p>We would not object to a requirement for a principal fire officer post to be advertised if an authority does not propose to appoint one of its existing members of staff. This would align with the arrangements that apply in principal authorities.</p>
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