

RESERVE FORCES TRAINING AND MOBILISATION POLICY

1. POLICY STATEMENT OF SUPPORT

The council recognises the valuable contribution that members of the Reserve Forces make to the UK Armed Forces, their communities and the civilian workplace. The council further acknowledges that the training undertaken by Reservists enables them to develop skills and abilities that are of benefit to both the individual and their employer.

This document provides a policy framework for the support of council employees who are members of the Reserve Forces and sets out the obligations that the council has towards Reservists and vice versa in relation to training and mobilisation commitments.

2. TYPES OF RESERVISTS

There are two main types of Reservist:

Volunteer Reservists – civilians recruited into the Royal Naval Reserves, Royal Marines Reserves, Army Reserve and Royal Auxiliary Air Force.

Regular Reservists – ex-regular service personnel who may retain a liability to be mobilised depending on how long they have served in the Armed Forces.

3. LEGAL CONSIDERATIONS

The Reserve Forces (Safeguard of Employment) Act 1985¹ provides Reservists who have a liability to be mobilised with two types of protection:

Protection of Employment – the Act provides protection 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; and

Rights to Reinstatement – the Act provides Reservists with a legal right to reinstatement to their former job, subject to certain conditions.

The Reserve Forces Act 1996² which sets out the call-out powers under which reservists can be mobilised for full-time service.

¹ <https://www.legislation.gov.uk/ukpga/1985/17>

² <https://www.legislation.gov.uk/ukpga/1996/14/contents>

4. RESERVE STATUS NOTIFICATION

In order for the council to provide the appropriate level of support, Reservists are required to inform the Council that they are a member of the Reserve Forces and the specific force to which they belong.

In any circumstance, Reservists will not be disadvantaged as a result of notifying the council of their reserve status.

Reservists are also required to grant permission for the Ministry of Defence (MoD) to write directly to the council by way of an Employer Notification which confirms their reservist status to the council and the benefits, rights and obligations that apply to both parties. The notification also includes details of the financial assistance available if an employee is mobilised and where possible, it will provide details of any annual training commitments.

If an employee, who is currently a Reservist, is considering renewing their Reservist commitment or is an employee who is interested in joining the Reserve Forces, it is expected that they should discuss the matter with their line manager prior to taking any action.

5. TRAINING COMMITMENTS AND TIME OFF

The average training commitment for reservists varies according to the reservist force to which they are attached.

Training will normally take place in evenings and at weekends but there is an expectation that reservists attend an Annual Training Camp in respect of which the council will grant reservists up to a maximum of 10 days paid special leave each year to attend.

Evidence of the training camp and special leave requirements must be submitted to the employee's line manager in advance of the period of leave. All other training requirements should be discussed with their manager over the most appropriate approach (very much on a case by case basis), which could be made up of a mixture of annual leave, unpaid leave, and temporary flexible working to accommodate the request and subject to the nature of their role at the Council.

Reservists should submit details of annual training requirements to their line manager as soon as they receive notice of such. In this regard, there is an expectation that the council will be informed of the reservist annual training plan at least 3 months before the start of the training year in April of each year.

Permission to attend training once given will not be rescinded unless there are exceptional circumstances.

6. MOBILISATION

Mobilisation is the process of calling reservists into full-time service with the Regular Forces in order to make them available for military operations.

Notice

While there is no statutory requirement for a minimum period of notice of mobilisation, the MoD aims to give at least 28 days' notice of mobilisation for contingency (short notice) operations and at least 90 days' notice for pre-planned operations.

Call-Out Notification

Call-out papers will be issued as formal notification of a reservist's mobilisation. Both the reservist and the council should receive a call-out pack from the MoD. The documentation will include the call-out date (when the reservist must report for duty at a specified mobilisation centre) and the anticipated timeline.

On receiving notice of mobilisation, if it is believed that the absence of a reservist will cause serious harm to the business of an employer, the employer has a right to seek exemption, deferral or revocation of the mobilisation for one of the following reasons:

- a. loss of sales, markets, reputation, goodwill or other financial harm;
- b. impairment of the ability to produce goods or provide services; or
- c. harm to the research and development of new products, services or processes

(which could not be prevented by the granting of financial assistance under sections 83 and 84 of the Reserve Forces Act 1996)

Where the council wishes to seek exemption, deferral or revocation of mobilisation, application must be made to the adjudication officer within 7 days of receipt of the call out notice. Where the application is not granted, the council can appeal to the Reserve Forces Appeals Tribunal within 5 days of receipt of the adjudicator's decision. If the tribunal reject the application, the council will be required to release the reservist for mobilisation.

Duration

The maximum period of mobilisation will depend on the scale and nature of the operation and is typically no longer than 12 months. It will include medical and pre-deployment training, the operational tour and post-operational tour leave.

Keeping in Touch

Wherever possible the council is encouraged to keep in touch with Reservists during mobilisation. The Reservist's line manager should discuss the method and frequency of contact prior to mobilisation. It is particularly important that contact is maintained during periods of organisational change where there may be implications for a Reservist's post.

7. TERMS AND CONDITIONS OF EMPLOYMENT DURING MOBILISATION

The contracts of employment of reservists mobilised for Reserve Service will continue during periods of mobilisation and there will be no loss of continuous service or service related benefits as a consequence.

Pay

Reservists will be granted special unpaid leave for the duration of their mobilisation during which time the MoD will assume responsibility for their salary. The basic salary payment made by the MoD will be based on the reservist's military rank. If this payment is less than the salary that the reservist would otherwise receive from the council, it is the reservist's responsibility to apply to the MoD for the difference to ensure that they suffer no loss of earnings. This is known as a 'Reservist Award'.

Pension Contributions

During a period of mobilisation, the council will calculate a notional pay figure for the Reservist so that he/she continues to build up a pension as if they were still at work. The council however does not pay an employer contribution to the Pension Fund on the notional pensionable pay figure.

The council advises the Reservist and the Ministry of Defence (MoD) of the notional pensionable pay and the appropriate employee and employer contribution due. The MoD deducts the employee contribution from the Reservist and pays that contribution together with the employer contribution, directly over to the Pension Fund.

Accrual of Leave

Reservists accrue leave with the MOD whilst they are in full-time service. When they demobilise, reservists will get a period of post-operational leave when they will continue to be paid by the MOD. Post-operational leave is accrued based on the number of days spent in operational theatre, at the rate of around 2.5 days per month.

Reservist employees will not accrue annual leave with the council whilst mobilised. Annual leave will be calculated pro-rata based on full calendar months from the time the employee returns from mobilisation.

Sick Pay

Should a reservist become sick or injured during mobilisation they will be covered by the Defence Medical Services and any financial assistance will continue to be received (including pay) until demobilised. If the sickness or injury continues and results in early demobilisation, the reservist will remain covered by the Defence Medical Services until the last day of paid military leave.

After this time, the reservist will be covered by the council's sickness pay arrangements in line with relevant national terms and conditions and the council's Managing Sickness Absence Policy.

8. RETURN TO WORK

Both the Reservist and the Council have obligations under the Reserve Forces (Safeguarding of Employment Act) 1985 regarding the return to work process.

Council

The council has an obligation under Reserve Forces (Safeguarding of Employment Act) 1985 to reinstate the Reservist, where possible to their former role, and if not, to a mutually acceptable role on the same terms and conditions prior to mobilisation.

Reservist

The Reservist must write to the council by the third Monday after their last day of military service making their request to return to work and suggesting a date which should fall within 6 weeks of their last day of full-time service. The council cannot ask a Reservist to return to work early, however the Reservist may ask to do so.

Where an offer of alternative employment is not considered to be suitable by the Reservist he/she must write to the council stating why it is not acceptable. If a Reservist believes that the council's response to their application denies their rights under the Safeguard of Employment Act, an application can be made to a Reinstatement Committee² for assessment. The Reinstatement Committee will consider the Reservists application and can make an order for reinstatement and/or compensation.

A post deployment report will be provided to the council detailing the Reservist's achievements during deployment and any qualifications or skills they have gained during training.

Line managers should provide returning Reservists with appropriate support and training to allow the Reservist to easily make the transition back into the workplace.

9. FINANCIAL ASSISTANCE

Financial assistance for employers in the event of an employee who is a Reservist being mobilised is governed by the Reserve Forces (Call out and recall) (Financial Assistance) Regulations 2005³. These cover additional costs above the normal earnings of the called-up Reservists associated with replacing that employee. Details of costs recoverable and the timescales for making an application are provided within supporting guidance to this policy.

³ <https://www.legislation.gov.uk/uksi/2005/859/contents/made>