

Reserved and Cadet Forces Employment Protocol

1. Introduction

Midlands and Lancashire Commissioning Support Unit (hereafter referred to as the CSU) by signing the Armed Forces Covenant has pledged its support to employees who are members of the Armed Forces community. This includes Reserve or Cadet Forces and military spouses and partners. The organisation recognises the valuable contribution that Reservists and Cadet Force Adult Volunteers (CFAV) make to the Armed Forces and their civilian workplace.

The Reserve Forces consist of the Royal Naval Reserve (RNR), the Royal Marines Reserve (RMR), Army Reserve and the Reserve Air Forces (RAFR and RAuxAF).

The Cadet Forces consist of adult volunteer instructors that provide training to Cadets within Sea Cadets, the Army Cadet Force, the Air Cadets and Combined Cadet Force.

Employees who are in the Reserve Forces may be subject to call up and mobilisation. These staff members also require regular time off for training to maintain their skills and readiness for deployment.

The [mandate from the government to Health Education England: April 2014 to March 2015](#) states that there are clear advantages to the NHS, its staff and the Armed Forces for healthcare professionals and other staff contributing to the armed services as Reservists.

The CSU acknowledges that training undertaken by Reservists or CFAV enables them to develop skills and abilities that benefit both the individual and the organisation.

2. Legal framework

This guidance defines the obligations towards members of the Reserve or Cadet Forces and states that the organisation will not disadvantage any Reservist or CFAV who has notified of their status or who are made aware directly by the Ministry of Defence (MoD) through reserve status notification.

The CSU's relationship with a Reservist member of staff will 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.

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.

Reservists are required to inform the CSU that they are a member of the Reserve Forces, allowing the organisation to provide the relevant support. As the organisation also recognises the additional skills that being a Reservist brings to the civilian workplace it is therefore useful to understand where these particular skill sets are within the workforce.

The Ministry of Defence (MoD) provides an employer notification each year in the form of a written confirmation that the employee is a Reservist. The letter will also provide detail of mobilisation obligations, rights as an employer and employee, details of financial assistance available upon mobilisation and where possible, details of any annual training commitments. A follow up letter will be sent each year confirming these details. It is the Reservist's responsibility to ensure that the employer details are correct.

3. Support for training

Training commitments for Reservists vary but are usually between 9 and 27 days a year, and typically include:

- Weekly training – around two and half hours for one evening a week at a local reserve centre.
- Weekend training – expected to attend a couple of training weekends spread throughout the year.
- Annual training – two-week continuous training camp that takes place each year, either in the UK or abroad.

The CSU is committed to granting additional paid leave of 5 days per annum (pro rata for part time employees) to enable Reservists to attend their annual camp training commitments.

The CSU is committed to granting additional paid leave of 5 days per annum (pro rata for part time employees) to enable CFAV to attend their annual camp or cadet training.

Additionally, 5 days of unpaid leave per annum (pro rata for part time employees) or annual leave from the employee's normal annual allocation may be granted for short periods of training, provided adequate notice is given and where such training cannot be undertaken in off-duty time.

Line managers will as far as possible make the necessary cover arrangements in their teams to allow attendance for annual camp and other training commitments, e.g. weekly training sessions.

Reservist and CFAV employees are required to give as much notice as possible to allow appropriate planning for absences. This should include detail of all planned military training that will require absence from the workplace at the beginning of each year. Permission will be granted where possible in line with service needs. Once given, permission will not be rescinded except in exceptional and extreme circumstances.

Any disputes should be referred to the HR Team in the first instance for further advice and support with the aim to resolve the issue informally. Employees who remain dissatisfied may use the CSU Grievance procedure.

4. Mobilisation

Mobilisation is the process of calling Reservists into full-time service. This can be with the Regular Forces on military operations or to fulfil their part of the UK's defence strategy or humanitarian operations. 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.

Where mobilisation occurs, the employee will be given special unpaid leave of absence.

Mobilisation will normally be for between 3 and 12 months, depending on the Reservist's role and specialism. For operational reasons the Ministry of Defence is unable to give the employer a precise return date. Subject to the severity of the crisis there would normally be a minimum of 28 days' notice of the date that a Reservist will be required to report for mobilisation, although there is no statutory requirement for a warning period prior to mobilisation.

An employee who wishes to volunteer for mobilisation must seek prior agreement of their employer via the designated contact and line manager. Any such request will be considered within 5 days.

Where there are multiple requests in a single department these will be referred to the appropriate senior manager.

A period of mobilisation comprises three distinct phases:

- medical and pre-deployment training
- operational tour
- post-operational tour leave.

The Call-out papers for mobilisation are sent by post to the CSU or sometimes delivered in person by the Reservist to their line manager. The documentation will include:

- notification of the expected return date and likely duration of mobilisation
- details of employers' and Reservists' statutory rights and obligations
- information about financial assistance
- information about exemption and deferral

Where there is compulsory mobilisation of any employee, the employer is entitled to apply for deferral, revocation or exemption from the call out. Suitable and timely evidence will need to be provided to support an application to defer, revoke or seek exemption from the call out.

The employer can also apply for financial assistance, if they believe that the loss of their employee would have an exceptionally severe impact on their ability to provide services.

5. Financial assistance for employers

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 2005. These cover additional costs above the normal earnings of the called-up Reservist associated with replacing that employee. There are 3 types of award available:

One-off costs

- Agency fees, if a recruitment agency or employment agency is used to find a temporary replacement; or advertising costs
- No financial cap on claims, but any claim must be supported by relevant documentation

Recurring costs

- Overtime costs, if other employees work overtime to cover the work of the Reservist [by the amount that such costs exceed earnings of the Reservist]
- Costs of temporary replacement [by the amount that such costs exceed earnings of the Reservist]

The maximum claim available is £110 per day (£40,000 per annum). Claims can be made for every normal working day that the Reservist is away on service. An application for one off costs and recurring costs must be made within 4 weeks of the end of full time Reservist Service.

6. Terms and Conditions during mobilisation

6.1 Pay

The MoD will assume responsibility for the Reservist's salary for the duration of their mobilisation. They will pay a basic salary according to the Reservist's military rank. If this basic element is less than the Reservist receives from the CSU, 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.

The CSU is not required to pay the Reservist's salary during the period of mobilisation. 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.

Any excess salary paid after the date of mobilisation will be recoverable when the individual returns to work. The line manager must ensure that the HR team is notified that the employee is being mobilised and the date when their pay should stop.

6.2 NHS pension whilst on active service

A Reservist who is called-up is entitled to remain a member of the NHS Pension Scheme. The MoD will pay the employer's pension contributions whilst the individual is mobilised provided they continue to pay their individual contributions.

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.

6.3 Annual leave

Reservist have no entitlement to accrue annual leave or unpaid leave whilst mobilised and should be encouraged to take any accrued leave before mobilisation. 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.

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.

6.4 Pay progression & appraisals

The organisation will continue to treat the contracts of employment of employees mobilised for Reserve Service as operable throughout the period of such service, which 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 employee's return and backdated to their normal incremental date.

Line managers who carry out appraisal meetings with a Reservist should recognise that the Reserve Forces activities undertaken by an individual (either through training or mobilisation) bring essential skills into the workplace such as leadership, communication, team working and organisational ability, which ultimately lead to improved performance in the workplace.

It is therefore good practice that the organisation and managers acknowledge these skills and abilities in an individual's appraisal meeting and 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.

6.5 Dismissal/Redundancy

A Reservist's employment cannot be terminated on the grounds of their military duties or their liability to be mobilised. To do so would be a criminal offence under s.17 of The Reserve Forces (Safeguarding of Employment) Act 1985. Reservists can be included in the redundancy pool if this is necessary due to organisational changes. However, all employees should be treated consistently, and redundancy criteria should not discriminate against Reservists on the grounds of their Reserve service or call up liability.

6.6. Sick Pay

Should a Reservist become sick or injured during mobilisation they will be covered by Defence Medical Services and any financial assistance will continue to be received (including pay) until demobilised. If the sickness or injury continues and this results in early demobilisation, the Reservist will remain covered by Defence until the last day of paid military leave. After this time, The Reservist will be covered by the CSU sickness arrangements in line with the Attendance Management Policy. If the Reservist becomes ill post mobilisation, and a notional return to work date has been agreed, they will be covered by the CSU Attendance Management Policy.

7. Support on return to work (demobilisation)

Demobilisation with a Reservist returning to work after a period in deployment requires smooth reintegration into the workplace/team, including the following considerations:

- 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 if required.

Members of the reserve forces who have been compulsorily mobilised (or who have volunteered and been accepted for mobilisation) have the right to be reinstated in their former job on terms and conditions no less favourable to them than those that would have prevailed but for their enforced absence from their civilian occupation. That right exists regardless of the period of time mobilisation has lasted. Under the Act, a

Reservist will lose the right to reinstatement after 6 months of their last day of paid military service if no application has been made for reinstatement. The Reservist should be reinstated within six weeks of the last day of their full-time service as part of mobilisation.

To enable the employer to plan for their return to work after their military service has ended, Reservists must advise their line manager in writing, 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.

8. Military Spouses/Partners

An employee who is a spouse or partner of active service personnel including Reservists is encouraged to contact their line manager in the event of mobilisation. The CSU endeavours to provide support during any transition of mobilisation/deployment, this support is also extended to post mobilisation. The type of support given may vary depending in the requirements of the employee. Where possible, the CSU will accommodate counselling provisions, flexibility with shift patterns/working hours at key times during deployment. This may be at the time of deployment or a return from tour of duty.

9. Useful sources of help

- [DRM \(Defence Relationship Management\)](#) provides support for employers of Reservists, veterans, cadet force adult volunteers and military spouses and families. Helpline: 0800 389 5459 Email: employerrelations@rfca.mod.uk
- [Royal Navy Reserves](#)
- [Army Reserves](#)
- [Royal Air Force Reserves](#)
- [The Cadet Forces GOV.UK](#)
- [Sea Cadets](#)
- [Army Cadet Force](#)
- [Air Training Corps](#)
- [Combined Cadet Force](#)

10. Equality Statement

In applying this Protocol, the CSU will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, sex, gender

reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.